

DIVIDE ISD

120 Divide School Road
Mountain Home, TX 78058
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Chris Yeschke –Superintendent
Katherine Antes –Business Manager
Callie Hough – Principal

John Seymour. - Board President
Jimmy Dreiss - Vice President
Rafael Aranda - Secretary
Mark Hurt –Member
Portia Leuba – Member

Wednesday, August 28, 2024

Divide ISD Request for Qualifications (RFQ) Architectural Services for Renovation and New School Building Project (“RFQ 2024-0828”) issued pursuant to Section 2254.004 of the Texas Government Code.

Project Overview: Divide Independent School District (Divide ISD) is seeking qualified architectural firms to provide services for the renovation of an existing structure and construction of a new school building located at 120 Divide School Road, Mountain Home, TX 78058 (“the Projects”). The primary objective of this project is to provide a safe and secure learning environment for the students of Divide ISD. The architectural services sought aim to create a modern, functional, and resilient school facility that prioritizes student safety, well-being, and academic success

Scope of Services:

1. Assess the current condition of the existing structure and provide recommendations for renovation.
2. Develop architectural designs for the renovation and new school building in compliance with all relevant codes and regulations.
3. Prepare construction documents, including detailed drawings and specifications.
4. Assist in the bidding process and provide support during construction administration as will be further defined by the resulting contract.

Submission Details and Dates: Interested firms should physically submit their qualifications in a sealed envelope to Chris Yeschke, Superintendent, Divide ISD at PO BOX 1567, Leakey, TX 78873 by 4:00 pm, October 22, 2024. Physically delivered, paper sealed proposals shall include three (3) complete bound paper copies and one (1) electronic copy on USB Flash Drive. Proposals must be plainly marked on the cover of the envelope with the name of the Proposer, the RFQ number, the Project name, and the date and time of deadline for submission. Late submissions will not be considered.

Proposal Issue Date: August 28, 2024 at 12:00 PM Local time

SELECTION SCHEDULE

| | |
|---|---|
| Issue RFQ | 08/28/2024 |
| Publish Advertisement of RFQ | 09/10/2024 |
| Deadline to ask Questions | 9/30/2024 at 4:00 PM |
| Questions Answered by the District | 10/15/2024 at 4:00 PM |
| Deadline for Responses to RFQ | 10/22/2024 at 4:00 PM |
| Ranking of Firms | Tenative Board Meeting 10/24/2024 |
| Notification of Top Ranked Firm/Commencement of Contract Negotiations | Immediately after announcement of ranking |

Questions & Clarifications: Questions must be directed to chris.yeschke@divideisd.org. Email questions must contain the subject line [RFQ 2024-0828– Proposer Question]. No other contact with the District is permissible.

Responses to inquiries which directly affect an interpretation or change to this RFQ will be issued in writing by the District as an addendum and emailed to all parties recorded by the District as interested. All such addenda issued by the District prior to the time that qualifications are received shall be considered part of the RFQ. Only those inquiries to which the District replies by written addenda shall be binding. Oral and other interpretations or clarifications will be without legal effect.

Proposals received after the specified date and time for submission shall not be considered and will be filed unopened. Proposals submitted by facsimile or any other method other than the United States Postal Service, hand-delivery, or courier will not be accepted. It shall be the responsibility of the firm submitting a Response to ensure that it has been properly received by the deadline. If the Response is not legible, the District may determine that the submission is non-responsive. All submissions will become the property of the District. All information, documents, or other materials submitted in response to this solicitation are considered non-confidential and non-proprietary and are subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552) after a contract is awarded. The District strictly complies with all statutes, court orders, and opinions of the Texas Attorney General with respect to disclosure of RFQ information.

This RFQ does not obligate Divide ISD to award any contract or pay any costs incurred by the Respondent in the preparation and submittal of a Response to the RFQ. Respondents dedicate their time and resources to responding voluntarily and no reimbursement for the same shall be sought or considered by the District.

Respondents to this RFQ shall not contact District staff, Trustees or Administrators in reference to the RFQ except via the designated contact method provided for questions and clarifications provided herein.

The Board of Trustees may, but is not required to, interview firms evaluated and recommended by the Divide ISD Administration from those responding to the RFQ. The Board will determine the highest ranked Architect. If in the Board's discretion one firm is able to demonstrate superior competence over all others, the Board reserves the right to select and rank firms on the Response submitted without conducting interviews.

All Responses shall be evaluated and ranked on the criteria identified herein, and final selection will be based upon the Architect's demonstrated competence in comparison to the needs of the District, the quality of the documents provided, and factors that any entity would consider in selecting an Architect in compliance with Texas Government Code Chapter 2254. Fees will NOT be considered in evaluation of demonstrated competence of responding Architect firms and must NOT be included in the Response to this RFQ. The District will seek to negotiate a contract with the top-ranked Respondent. If a contract cannot be successfully negotiated with the top-ranked Respondent, the District will cease negotiations and may proceed to enter negotiations with the next highest ranked Respondent.

Evaluation Criteria:

Selection of the Architect will be made pursuant to Section 2254.004 of the Texas Government Code.

The qualifications information submitted in response to this RFQ shall be organized, assessed, and weighted as follows:

| Assessment Criteria | Weight |
|---|-------------------|
| Experience assisting Texas school districts with construction projects similar in size and scope to the subject Project | 30 points maximum |
| References/Reputation of the Firm | 30 points maximum |
| Ability to Provide Services to the District | 10 points maximum |
| Experience with the District | 5 |
| Credentials of Key Personnel | 15 points maximum |

General Qualifications: The architectural firm is expected to be involved with the initial assessment, cost estimating, and development of preliminary concept drawings related to the Projects. It is intended that the selected architectural firm shall be responsible for full design and administration, in conjunction with other professionals retained by the District for the Projects. The Architect should have extensive experience with planning, designing, and administering construction projects for Texas school districts, preferably including experience serving as an independent architect in relation to public works projects for Texas school districts.

Time is of the essence. The District intends to rank and select an architectural firm and to approve the contract with the selected firm at the August 28, 2024, board meeting. The Architectural firm who contracts with the District for the services set out herein must be capable of beginning work with the District immediately on the Projects.

Specific Qualifications/Questionnaire:

All interested and qualified architects are invited to submit a statement of their competence and qualifications, consisting of the following. At a minimum, responses to this Request for Qualifications (RFQ) questions 1-18 must be submitted with supporting documentation:

1. Name of Architectural Firm
2. Business address
3. Contact individual's name, title, direct telephone, and e-mail address
4. Type of organization (i.e., partnership, corporation, etc.)
5. General statement of qualifications
6. History of firm and principals including:
 - Years in business—if less than five (5) years, previous experience of principals is critical
 - Years in business under present name
 - The former names, if any, your organization has operated under
 - Experience of business principals
 - Past relationship with District and scope of engagement
7. Key personnel proposed to be assigned to the Projects (include resumes, CVs, or similar detailed statement of credentials)
8. Registrations, licenses, and certifications
9. General experience and expertise related to construction projects for Texas school districts or other public facilities of similar size and complexity; include a list and brief description of all major projects for which the firm has performed in the last five years. If the Architectural firm proposed to perform the services, is not a firm with a local office, indicate the means in which it acquired experience in the Divide area and knowledge of local construction practices, codes, procedures, regulations, soil and environmental conditions. Also indicate the means by which a non-local Architectural firm will communicate and collaborate with the District, its other retained professionals, and general contractor

in performing meeting the needs of the district during design and construction given the distance from the architect's office to the District.

10. Include the following information for five (5) recent project references. Please note that the District will likely contact these provided references.
 - Name of project
 - Name of Owner
 - District contact
 - Mailing address of District
 - Telephone number of District contact
 - Description of project
 - Project construction budget
 - Size in square footage of project
 - Date of completion, and note if completion was delayed and by how long
 - Project manager name
11. List and explain claims and litigation involving the firm in the last five (5) years, including mediation and arbitration proceedings, including:
 - Whether your organization has ever failed to complete any work awarded to it. If so, please explain to the extent permitted under law;
 - If there are any judgments, claims, or mediation/arbitration proceedings, or suits outstanding against your organization or its officers? If so, please explain to the extent permitted under law;
 - If your organization has filed any lawsuits or requested mediation or arbitration with regard to projects within the last five (5) years. If so, please explain to the extent permitted under law;
12. Provide a statement of insurance policy types and limits currently held by Architect that will or may cover work provided (General Liability, Professional Liability, Umbrella, etc.)
13. Provide statement regarding the ability of the firm to provide the following:
 - Bank References
 - Insurance certificates, including Professional Liability Insurance.
 - Audited financial statements
14. Fill out and submit the most recent copy of the Conflict of Interest Form CIQ, Conflict of Interest Questionnaire, promulgated by the Texas Ethics Commission.
Attachment A.
15. Fill out and submit the most recent copy of the Form 1295 Form, **Attachment B.**
16. Fill out Felony Conviction Notification, included as **Attachment C.**

17. Provide a statement of any potential conflicts of interest, if applicable.
18. List any professional certifications or licenses held by members of your firm who will provide services for the Projects.

GENERAL CERTIFICATIONS, TERMS, AND CONDITIONS

The following General Terms and Conditions of this RFQ shall be incorporated into the contract with the successful Respondent, which is the "Contract" referred to in these Terms and Conditions. The term "Owner" refers to the District.

1. Public Information. All documentation and materials requested to be submitted in response to this RFQ are the property of the District and are subject to public disclosure under the Texas Public Information Act, Tex. Gov't Code, Chapter 552.001 et seq., after a contract is awarded.

Pursuant to Texas Government Code 552, Subchapter J, the proposer agrees to be bound by the following terms if the resulting Contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the District or if the Contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to this Contract that is in the possession or custody of the Contractor and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the Contractor that Contractor provide that information to the District.

The Architect must:

- .1 Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the District for the duration of the Contract;
- .2 Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Contractor upon request of the District; and,
- .3 On completion of the Contract, either:
 - .1 Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the Contractor; or
 - .2 Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.
 - .3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Architect agrees that the contract can be terminated if the Architect knowingly or intentionally fails to comply with the requirements of that subchapter.
 - .4 Further, under Texas Government Code Chapter 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.
 - .5 If an Architect fails to provide to the District the requested information, Texas Government Code Chapter 552.373 requires the District to notify the Architect in

writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Architect fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance.

2. Waiver of Claims Regarding RFQ Process. BY SUBMISSION OF A PROPOSAL IN RESPONSE TO THE REQUEST FOR PROPOSAL (RFQ), RESPONDENT WAIVES ANY CLAIMS IT HAS OR MAY HAVE AGAINST DIVIDE INDEPENDENT SCHOOL DISTRICT, ITS EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES AND TRUSTEES, CONNECTED WITH OR ARISING OUT OF THIS REQUEST FOR QUALIFICATIONS, INCLUDING THE ADMINISTRATION OF THE REQUEST FOR PROPOSALS, THE PROPOSAL EVALUATIONS, AND THE SELECTION OF THE RESPONDENT, AND AGAINST THE CONSTRUCTION MANAGER, ITS CONSULTANTS, AND THEIR RESPECTIVE EMPLOYEES, OFFICERS, MEMBERS DIRECTORS AND PARTNERS. SUBMISSION OF A PROPOSAL INDICATES THE RESPONDENT'S RECOGNITION THAT SOME SUBJECTIVE JUDGMENTS MUST BE MADE BY DIVIDE INDEPENDENT SCHOOL DISTRICT DURING THE EVALUATION PROCESS, AND RESPONDENT WAIVES ANY CLAIM IT HAS OR MAY HAVE AGAINST ANY OF THE ABOVE-NAMED PERSONS RELATING TO INFORMATION CONTAINED IN THE EVALUATIONS OF PROPOSALS.

3. No Contract with Prohibited Entity. Pursuant to Texas Government Code, Chapter 2252, Subchapter F, the District is prohibited from entering a contract with a company that is identified on a list prepared and maintained by the Texas Comptroller or the State Pension Review Board under Texas Government Code Sections 806.051, 807.051, or 2252.153. Pursuant to Section 2270.002 of the Texas Government Code, the District is, or may be, prohibited from entering into a contract with a company for goods or services if that company boycotts Israel or boycotts Israel at any time during the term of the contract. By submitting a Proposal in response to the RFQ, the Respondent certifies to the District that it is not a listed company under Texas Government Code Sections 806.051, 807.051, or 2252.153 and that, as applicable, does not boycott Israel, and will not during the term of this contract. Furthermore, Respondent verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Architect has misrepresented its inclusion on the Comptroller's list, such omission or misrepresentation will void this Contract. The Respondent hereby voluntarily and knowingly acknowledges and agrees that any contract resulting from its Proposal shall be null and void should facts arise leading the District to determine that the Respondent was a listed company at the time of this procurement or boycotted Israel at the time or procurement, or that Respondent became a listed company or boycotted Israel at any point during the term of the contract.

4. Boycotting Energy Companies. Pursuant to Texas Government Code, Chapter 809, the District is prohibited from entering a contract with a company for goods and services if that company boycotts energy companies or will boycott energy companies at any point during the term of the contract. By submitting a Proposal, the Respondent certifies that it does not boycott energy companies and will not do so during the term of this contract, and Respondent hereby voluntarily and knowingly acknowledges and agrees that any contract resulting from its Proposal shall be null and void should facts arise leading the District to believe that the Respondent boycotted energy companies at the time of this procurement or that it boycotted energy companies at any time during the term of this contract.

5. Discrimination Against Firearm Entities. Pursuant to Texas Government Code, Chapter 2274, the District is prohibited from entering into a contract with a company for goods are services if that company discriminates against a firearm entity or a firearm trade association. By submitting a Proposal, the Respondent certifies that it does not discriminate against a firearm entity or a firearm trade association and will not during the term of this contract, and Respondent hereby voluntarily and knowingly acknowledges and agrees that any contract resulting from its Proposal shall be null and void should facts arise leading the District to determine that the Respondent

discriminated against a firearm entity or a firearm trade association at the time of this procurement or has done so any time during the term of this contract.

6. Certification Regarding Abortion Providers. The Proposer verifies by submission of this proposal that it is not an abortion provider or an affiliate of abortion providers.

7. Non-Collusion Certification. By submission of this proposal, the proposer certifies that:

- 1) This proposal has been independently arrived at without collusion with any other entity, bidder, or with any competitor;
- 2) This proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for the Projects, to any other bidder, competitor or potential competitor;
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to modify, submit, or not to submit a bid or proposal; and
- 4) The person signing this bid or proposal certifies that they are duly authorized to execute this proposal/contract on behalf of proposer and they have fully informed themselves regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the bidder as well as to the person signing in its behalf;

8. Authorized Representative. Pursuant to Texas Government Code § 2155.005, by submission of this bid or proposal, proposer certifies under penalty of perjury of the laws of the State of Texas that:

- (1) I am duly authorized to execute this proposal/contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (proposer/respondent) identified herein;
- (2) In connection with this proposal, neither I nor any representative of proposer has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- (3) In connection with this proposal, neither I nor any representative of the proposer has violated any federal antitrust law;
- (4) Neither I nor any representative of proposer has 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.

9. Applicable Law. Pursuant to Texas Business and Commerce Code § 272, which prohibits a construction contract, or an agreement collateral to or affecting the construction contract, from containing a provision making the contract or agreement, or any conflict arising under the contract or agreement, subject to another state's law, litigation in the courts of another state, or arbitration in another state. If included in Texas construction contracts, Proposer understands and agrees such provisions are voidable by a party obligated by the contract or agreement to perform the work.

10. Critical Infrastructure. Pursuant to Texas Government Code, Chapter 2274, certain public entities are prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant Architect direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by a customer for product warranty and support purposes. Architect certifies that neither it nor its parent company nor any affiliate of Architect or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country. For purposes of this certification, "critical infrastructure" means "a communication infrastructure

system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility.” Proposer certifies by submission of this proposal that it will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

11. Form CIQ Disclosure. Architect agrees that it has looked up, read, and understood the current version of Texas Local Government Code Chapter 176 which generally requires disclosures of conflicts of interests by proposer hereunder if proposer is awarded and proposer: (1) has an employment or other business relationship with a local government officer of our 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 our 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 our local governmental entity; (4) Any other financial, commercial, or familial relationship with our local government that may warrant reporting under this statute. Architect confirms that it has no reportable conflict of interest or has disclosed those conflicts through the “Conflict of Interest Questionnaire - Form CIQ.”

Unless proposer has previously delivered to the Owner a Certificate of Interested Parties Form 1295 relative to the resulting award, if any, Proposer hereby represents and warrants that it is either a publicly traded business entity (as described in Section 2252.908(c)(4), Texas Government Code) or a wholly owned subsidiary of a publicly traded business entity and, therefore, Architect is not required to deliver such Form related to this Agreement and may write N/A on the related attachment. Otherwise, Architect agrees to submit a Certificate of Interested Parties Form 1295 if awarded the Contract.

12. Discrimination Prohibited. In accordance with Federal civil rights law, all U.S. Departments, including but not limited to the USDA, USDE, FEMA, are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by federal funds (not all bases apply to all programs). Proposer certifies that proposer will comply with applicable Non-Discrimination and Equal Opportunity provisions set forth in the District’s policies and other regulations at the District, local, and state level. This school district and its Career and Technology Education Program does not discriminate on the basis of sex, disability, race, color, age or national origin in its educational programs, activities, or employment as required by Title IX, Section 504 and Title VI. Este distrito escolar y su Programa Educativo de Carrera y Tecnología no discriminan en base a sexo, discapacidad, raza, color, edad u origen nacional en sus programas educativos, actividades, o empleo como lo requiere el Título IX, Sección 504, y Título VI.

13. Felony Conviction Notice. Texas Education Code, Section 44.034, 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. By submitting its proposal, Proposer certifies that either: (1) My firm is a publicly held corporation; therefore, this reporting requirement is not applicable, or; (2) My firm is not owned nor operated by anyone who has been convicted of a felony. Otherwise, notification under this section is required to be included Respondent’s proposal documents. If disclosed, the District may seek additional related documentation and information.

14. Certification of Good Standing. By submission of this proposal, Proposer certifies that its entity is in good standing with all government entities and agencies, whether local, state, or federal, that regulate any aspect of Proposer’s field of work or business operations.

15. Certification Regarding Debarment. By submission of this proposal, Proposer certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

16. Preclusion of Automatic Renewal. By submission of this proposal, Proposer certifies that its contracts with the District shall not include any automatic renewal clauses and if any such automatic renewal clauses are included, they shall be considered null and void by the Parties.

17. Standard of Care. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Projects.

18. Professional Architectural and Engineering Services Architect shall certify that he has reviewed the standards contained in 19 Texas Administrative Code sections 61.1036 and used the best professional judgment and reasonable care consistent with the practice of Program Management in the State of Texas in executing the construction documents. The Architect shall also certify that the construction documents conform to the provisions of 19 Texas Administrative Code section 61.1036, except as indicated on the certification. The Architect's signature and seal on the construction documents shall certify compliance. The Architect shall perform a building code search under applicable regulations that may influence the Projects and shall certify that the design has been researched before it is final, as required by 19 Texas Administrative Code section 61.1036. Architect shall also certify that the facilities have been designed according to the provisions of 19 Texas Administrative Code section 61.1036, based on the educational program, long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District, as required by 19 Texas Administrative Code, section 61.1036. The Architect shall complete the Texas Education Agency's Certification of Project Compliance, located at www.tea.texas.gov/sites/default/files/cert_2004.pdf (or see Texas Education Agency website under Facilities Funding and Standards). In executing the certifications required under the provisions of this Section, the Architect shall exercise his or her best professional judgment and care consistent with the practice of Program Management in the State of Texas and applicable law. Architect shall design the Projects in such a manner that the Projects or each part of the Projects is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, federal regulations interpreting the American with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. If the Owner is using instruction facilities allotment funds for the Projects which are allotted to the Owner under Subchapter A or Chapter 46 of the Texas Education Code, then the Architect shall consider, in the design of the Projects, the required safety and security standards developed by the Texas School Safety Center. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which become effective prior to the date of Substantial Completion. Revisions or amendments to applicable codes or standards which become effective after the date of Substantial Completion shall be addressed by the Architect and shall be compensated as a change in service.

19. Relationship of the Parties. It is understood and agreed that Respondent is an independent contractor and neither Respondent nor any employees, volunteers, or agents contracted by Respondent shall be deemed for any purposes to be employees, volunteers or agents of the Owner. Respondent shall assume full responsibility for the action of such employees, volunteers, or agents while performing any services incident to this Contract, and shall remain solely responsible for their supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), workers' compensation, disability benefits and like requirements and obligations.

20. Funding. The contract resulting from the proposal, if any, is subject to the budgeting and appropriation of then currently available funds by the governing board of the Owner for the contract's purpose.

21. No Waiver of Immunity. Owner does not waive or relinquish any immunity or defense on behalf of itself, its trustees, officers, employees, and agents because of its execution of a contract pursuant to the RFQ and performance of the functions or obligations described herein.

22. Insurance and Indemnity. Unless otherwise negotiated by the Parties via final contract, the Architect selected shall maintain professional liability or errors and omissions insurance in the amount of at least \$4 million for each occurrence, and must provide workers' compensation insurance, as required by the Texas Labor Code. The District reserves the right to require additional coverage, as needed, depending on the size and scope of a particular project. All insurance costs shall be contemplated within the proposer's pricing submitted. The proposer shall not later increase their pricing or add a new line-item for insurance because Architect failed to include those costs in their original proposal pricing. **Respondent agrees to indemnify and hold harmless Owner, its trustees and employees against all losses, costs, expenses and liabilities, including but not limited to reasonable attorneys' and expert fees and court costs, to the extent they arise out of Respondent's negligent acts or omissions.**

23. Compliance with Laws and Board Policy. Respondent shall maintain any and all applicable license(s) and certification(s) necessary to perform any services contemplated by this Agreement. Respondent shall observe and comply with all Federal, State, County and local laws and regulations, and Owner's Board Policies that in any manner affect the provision of Services and performance of all obligations undertaken pursuant to this Agreement. Further, under no circumstances shall Respondent or any of its employees, sub-contractors, representatives or agents bring any illegal drugs, alcohol or tobacco products or any firearms or other dangerous weapons onto the Owner's property, whether on their person or in their vehicles.

24. No Assignment. No assignment of the Contract, or any duty or obligation of performance hereunder, shall be made in whole or in part by either party without the prior written consent of the other party.

25. Amendments. The Contract may be amended or modified by, and only by, a written instrument approved by the Owner in accordance with Owner's Board Policy.

26. Dispute Resolution. The parties shall attempt to resolve any dispute between them pursuant to non-binding mediation before a neutral third party before pursuing litigation. No arbitration shall be permitted under the contract.

27. Governing Law. This Agreement is made in Texas and shall be construed, interpreted, and governed by Texas law. The parties shall consent to the jurisdiction and venue of the State courts of the County where the Projects are located for any action under this Agreement.

28. Conditions Precedent. The District shall have no contractual obligation to any Respondent, nor will any Respondent have any property interest or other right in the contract or work being proposed unless and until the contract is unconditionally executed and delivered by all parties, and all conditions to be fulfilled by the Respondent have been fulfilled by the Respondent.

29. Criminal History Checks. Respondent will adhere to and cooperate with the Owner with respect to all applicable criminal history check requirements and restriction for contractors, subcontractors and their respective employees. If applicable to the services, Respondent must certify, on forms provided by the Owner, that for each employee of Respondent who (1) will have direct contact with students (substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional District employee), and (2) will have continuing duties related to the performance of the Services, the Respondent has obtained, as required by Texas Education Code Section 22.0834 and Texas Administrative Code Section 153.1101 and 153.1117:

- (a) National criminal history record information from a law enforcement or criminal justice agency for each employee of the Respondent hired before January 1, 2008; and
- (b) National criminal history record information from the Texas Department of Public Safety for each employee of the Respondent hired on or after January 2, 2008.

Respondent will also be required to obtain from each sub-contractor or independent contractor the form of certification relating to the employees of such sub-contractors and independent contractors. All Respondent and sub-contractor forms must be submitted prior to the commencement of work by the Respondent or the applicable sub-contractor/independent contractor, who will have direct contact with students. Covered contractors or subcontractors and employees thereof must not have been convicted of an offense identified in Texas Education Code Section 22.085, or any higher standard established by the Owner.

The criminal history records shall be obtained from the clearinghouse provided by § 411.0845 of the Texas Government Code. The Respondent shall assume all expenses associated with the background checks, and, including upon notification by the Owner, shall immediately remove any employee, agent or other person who was convicted or placed on deferred adjudication community supervision for an offense for which the person is required to register as a sex offender, or who has been convicted of a felony under Title V of the Texas Penal Code if the victim of the offense was under eighteen (18) years of age at the time the offense was committed or of an equivalent offense under federal law, Texas state law, or the laws of another state.

Respondent understands and agrees that any failure to comply with the requirements of this section may be grounds for non-award or termination of any awarded contract.

Please note that this RFQ is for qualifications only, and information regarding fees will not be considered at this stage and submission of the same may disqualify the proposer

Sincerely,

Christopher Yeschke
Superintendent
Divide Independent School District

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY

Date Received

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

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

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

Name of Officer

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

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

Yes No

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

Yes No

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

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

7

Signature of vendor doing business with the governmental entity

Date

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.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

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.

OFFICE USE ONLY

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 |
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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

FELONY CONVICTION NOTIFICATION

Texas Education Code 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.”

This notice is *not* required of a Publicly held Corporation.

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

Vendor's Entity Name: _____

Authorized Company Official's Name (Printed): _____

- a) My firm is a publicly held corporation; therefore, this reporting requirement is not applicable:

Signature of Company Official: _____

- b) My firm is not owned nor operated by anyone who has been convicted of a felony.

Signature of Company Official: _____

- c. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony (*attach additional pages if necessary*):

Name of Felon(s): _____

Details of Conviction(s): _____

Signature of Company Official: _____