



SPECIFICATIONS, INSTRUCTIONS AND BID SHEETS

FOR

**INVITATION TO BID #21239**

**PURCHASE OF SCHOOL BUSES**

FOR THE

CLEVELAND MUNICIPAL SCHOOL DISTRICT

DBA: CLEVELAND METROPOLITAN SCHOOL DISTRICT  
BOARD OF EDUCATION, 1111 SUPERIOR AVENUE E, SUITE 1800  
CLEVELAND, OHIO 44114

UNDER THE DIRECTION OF THE TRANSPORTATION DIVISION FOR THE BOARD OF EDUCATION  
OF THE CLEVELAND METROPOLITAN SCHOOL DISTRICT CUYAHOGA COUNTY, OHIO

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## Section I: Notice of Invitation to Bid #21239

Separate Sealed bids for the requirement set forth below will be received via hand delivery in the Cashier's Office of the Cleveland Metropolitan School District located at 1111 Superior Avenue E, 1<sup>st</sup> Floor Welcome Center, Cleveland, Ohio 44114 or via mail delivery to Cleveland Metropolitan School District located at 1111 Superior Avenue E, Suite 1800, Cleveland, Ohio 44114 until **1:00 p.m. current local time on February 16, 2018**. This ITB will be opened immediately following the Bid cutoff time in Conference Room 1911 at 1111 Superior Avenue E, Cleveland, Ohio 44114.

### PURCHASE OF SCHOOL BUSES

Copies of Instructions to Bidders, Specifications, and Drawings may be obtained directly from the District's Webpage. Go to [clevelandmetroschools.org/purchasing](http://clevelandmetroschools.org/purchasing) and click on the ITB number. If you require assistance, please email [seletha.thompson@clevelandmetroschools.org](mailto:seletha.thompson@clevelandmetroschools.org) or **(216) 838-0413**.

There will be a Pre-Bid Conference for this Invitation to Bid on **February 2, 2018 at 10:00 a.m.** The Pre-Bid Conference will be at Transportation Department Office located at 3832 Ridge Rd., Cleveland, OH 44144. Attendance at the Pre-Bid Conference is encouraged but not mandatory.

All questions and correspondence related to this ITB must be submitted in writing **ONLY** by **12:00 p.m. on February 6, 2018** at the email address given above. All questions with corresponding answers will be sent to every prospective vendor and posted on the website no later than **February 12, 2018**. Any errors and/or omissions reported will be addressed via Addenda.

A certified check for 10% of the total amount of the bid payable to the Treasurer of the Cleveland Metropolitan School District, or a satisfactory bid bond executed by the bidder and a Surety company shall be submitted with each bid on a form supplied by the bondsman. The Surety Company must be licensed to do business in the State of Ohio and acceptable to the Chief Financial and Administrative Officer. The successful bidder will be required to furnish a satisfactory performance bond amounting to 100% of the contract amount.

No bid may be withdrawn for at least sixty (60) days after the deadline for submittal.

The Cleveland Metropolitan School District reserves the right to reject any and all Bids, to waive any and all informalities or irregularities, and to disregard all non-conforming responsive conditional Bids.

The Cleveland Metropolitan School District does not discriminate in educational programs, activities or employment on the basis of race, color, national origin, sex, age, religion or disability.

Bidders on this work shall be required to comply with all applicable requirements pertaining to fair labor, state and local government.

M. Angela Foraker  
Executive Director, Procure to Pay  
**January 26, 2018**

## Section I: Letter to Bidders

Date: January 26, 2018  
Subject: PURCHASE OF SCHOOL BUSES

To All Vendors:

In order to be considered, all bids must be received via hand delivery in the Cashier's Office of the Cleveland Metropolitan School District located at 1111 Superior Avenue E, 1<sup>st</sup> Floor Welcome Center, Cleveland, Ohio 44114 or via mail delivery to Cleveland Metropolitan School District located at 1111 Superior Avenue E, Suite 1800, Cleveland, Ohio 44114 on or before **1:00 p.m., February 16, 2018**. All bids must be submitted in a sealed envelope or package. One (1) original, with blue ink signatures, two (2) copies of the bid, and one (1) electronic format bid on a USB flash drive including supporting documentation, must be submitted. The **Bid Name** and **Bid Number** must be stated on the exterior of the submission envelope(s), including shipping labels.

Written questions will be accepted via e-mail **12:00 p.m. on February 6, 2018**. No telephone calls will be permitted. Send questions via e-mail to: [seletha.thompson@clevelandmetroschools.org](mailto:seletha.thompson@clevelandmetroschools.org). Bid number and title must be included. All questions/concerns with corresponding answers will be sent to every prospective vendor. Any errors and/or omissions reported will be addressed via Addenda which will be issued no later than **February 12, 2018**.

Under no circumstances should any person or firm interested in providing services identified in this Bid, their designees, or any affiliated with their firm, contact any other District employee or official during the Bid process in an attempt to lobby or influence the selection of a vendor pursuant to this Bid.

Bids will be opened immediately following the deadline in Conference Room 1911 at 1111 Superior Ave, Cleveland, Ohio 44114. After all submissions have been reviewed, the final evaluations of the committee will determine the lowest responsive and responsible awarded vendor. Vendors will be notified, in writing, of award and non-award status upon receipt of an approved resolution.

A certified check for 10% of the total amount of the bid payable to the Treasurer of the Cleveland Metropolitan School District, or a satisfactory bid bond executed by the bidder and a Surety company shall be submitted with each bid on a form supplied by the bondsman. The Surety Company must be licensed to do business in the State of Ohio and acceptable to the Chief Financial and Administrative Officer. The successful bidder will be required to furnish a satisfactory performance bond amounting to 100% of the contract amount.

The Cleveland Metropolitan School District has a Diversity Business Enterprise and Affirmative Action Program in effect. Information about this program and forms for compliance are enclosed. All firms submitting a bid must complete the appropriate forms and submit same with their bid. While the District no longer certifies DBE companies, we accept any company certified through the City of Cleveland, Cuyahoga County, or the State "EDGE" program.

The Cleveland Metropolitan School District accepts no obligations for costs incurred by bidder in preparing or submitting a bid and reserves the right to reject any and all bids received.

Sincerely,  
M. Angela Foraker  
Executive Director, Procure to Pay



## Part 1: Required Purchasing Division Documents and Instructions

### Section II: Instructions to Bidders

#### PURCHASE OF SCHOOL BUSES

1. All Bids shall be made upon the Bid Form(s) furnished. All information requested in the bid and in the bid package must be filled in legibly and completely with blue ink signatures, or the bid may be considered non-responsive. No oral, telephonic or telegraphic bids or modifications will be considered. The **Bid Name** and **Bid Number** must be stated on the exterior of the submission envelope(s), including shipping labels.
2. Bids are due at the Cashier's Office of the Board of Education, Cleveland Metropolitan School District, Administration Building, 1111 Superior Avenue E, Suite 1800, Cleveland Ohio, 44114, on or before **1:00 p.m.** current local time on **February 16, 2018**. Bid will be opened publicly.
3. All submissions must include **One (1) original, with blue ink signatures, two (2) copies, and one (1) electronic format bid on a USB flash drive.** Vendors not complying with this requirement will be notified that they have twenty-four (24) hours in which to comply with this requirement or their Bid will be **disqualified**. This applies to **copies only**.
4. No Bid may be withdrawn for at least sixty (60) days after receipt of bids at **1:00 p.m.** current local time, on **February 16, 2018**.
5. Written questions may be directed to the Purchasing Division via email to: **seletha.thompson@clevelandmetroschools.org**. The District will **NOT ACCEPT** any telephone calls regarding any of the submittals and/or "short lists." Under no circumstances should any firm interested in providing the services identified in this Bid, their designees, or anyone affiliated with their firm, contact any other District employee or official during the Bid process, in an attempt to lobby or influence the selection of a vendor pursuant to this Bid. No oral, telephonic, telegraphic, or electronic modifications will be considered. All materials submitted are as is.
6. The Cleveland Metropolitan School District reserves the right to reject any and all Bids, to waive any and all informalities or irregularities, and to disregard all non-conforming responsive conditional bids.
7. Bidder understands and agrees that subsequent to submission of the Bid, any District resolution authorizing the award of a contract or agreement does not vest any contractual rights in the bidder.
8. Bidder understands and agrees that any such District resolution operates only to encumber funds necessary for the project and does not create a binding contract.

9. Bidder further acknowledges and agrees that any such District resolution may be revoked, at any time prior to execution of a formal, written contract.
10. Bidder acknowledges and agrees that it has no vested contractual right until such time as a purchase order and contract have been issued.
11. Bidder further acknowledges and agrees that execution of a contract and issuance of a purchase order is not a ministerial function, but is a formal requirement for acceptance of the bid.
12. Bidder must present evidence to the District, upon request, that they are fully competent and have the necessary facilities, equipment and financial resources to perform the work required in the Specifications within the time frame required.
13. Each and every page must have the bidder's company name in the header or footer.
14. No binding of any kind should be used: use only binder clips. No staples, No paper clips, No binders, No tabs should be used; use colored paper to separate Sections. Failure to comply with submission formation may result in the submittal being disqualified.
15. Any and all changes must be initialed by the bidder.
16. The District reserves the right to award the bid in whole or in parts, by item, by group of items, to a single vendor; or to multiple vendors, where such action serves the best interests of the District.
17. This Bid should be submitted before **1:00 p.m.** current local time, **February 16, 2018** to the Cleveland Metropolitan School District, Cashiers Office of the Cleveland Metropolitan School District, 1111 Superior Avenue E, Suite 1800 Cleveland, Ohio 44114, the submission to include **One (1) original, with blue ink signatures, two (2) copies, and one (1) electronic format bid on a USB flash drive** of the following:
  - a. Completed Bid Form including evidence of State certification to perform the work required.
  - b. Signed Acknowledgement for Instructions to Bidders.
  - c. Completed and notarized Bidder's Qualification Form.
  - d. Signed Conflict of Interest Form
  - e. Completed and notarized Non-Collusion Affidavit.
  - f. Completed and notarized EOA Compliance Declaration documents.
  - g. Completed and notarized Diversity Business Enterprise Participation Forms.

- h. Properly executed Affidavit and/or Company Board of Directors Resolution authorizing certain person to sign legal documents such as the Bid Form, Bidder's Qualification Form, etc.
- i. Completed Debarment Form
- j. A certified check for 10% of the total amount of the bid payable to the Treasurer of the Cleveland Metropolitan School District, or satisfactory bid bond executed by the bidder and a Surety company shall be submitted with each bid on a form supplied by the bondsman

**18.** Bidder shall not include Ohio Sales Tax in the price quoted. The Cleveland Metropolitan School District will provide tax exempt certificate to the successful Bidder upon request.

**19. SECURITY**

Vendor's workmen, foremen, other personnel, and subcontractors on CMSD sight will be required to meet Cleveland Metropolitan School District security requirements. Contractor must issue personnel I.D. badges. Any worker not complying with CMSD security requirements will immediately be ordered off project and without prejudice or recourse to CMSD.

- Vendor agrees to successfully complete background checks on all of its employees, agents, and subcontractors who provide services under this Agreement to CMSD facilities. Vendor agrees to warrant that it will not at any time hire or utilize any individual to provide services under this Agreement on CMSD premises where such person has been convicted of, or pleaded guilty to, any criminal offense enumerated in O.R.C. 3319.39(B).

**20. INSURANCE**

The successful company, their subcontractors and suppliers of labor and/or materials for providing Repair Services for the Cleveland Metropolitan School District, including organizations having personnel, equipment and vehicles on District property, shall provide evidence of insurance as follows:

- |  |   |   |
|--|---|---|
| a. Commercial General Liability<br>\$1,000,000.00 Limit of Liability | - | including limited contractual liability<br>(per occurrence)                     |
| b. Automobile Liability<br>\$1,000,000.00 Limit of Liability         | - | including non-owned, and hired<br>(per occurrence)                              |
| c. Workers Compensation  | - | Workers compensation and employer's<br>Insurance to the full extent as required |
| d. Professional Liability<br>\$1,000,000/ \$3,000,000                | - | By applicable law<br>per occurrence/in the aggregate                            |

This requirement must be fulfilled by the successful vendor providing the Purchasing Office of the CMSD with a current Certificate of Insurance (standard ACORD form), showing the Board of Education of the Cleveland Municipal School District as an additional insured (Certificate Holder does not constitute being an additional insured), within five (5) days of Notice of Intent to Award Agreement. The certificates of insurance shall contain a provision that the policy or policies shall not be canceled without thirty (30) days' prior written notice to the District.

The required insurance must be provided by a company licensed by the State of Ohio, which company must be financially acceptable to the Administration of the Cleveland Municipal School District

The District is not liable for vandalism which results in damage(s) to the property or vehicles of the Vendor. The school District will not reimburse for private insurance deductibles for such vandalism.

- Vandalism damage is defined as damage resulting from criminal conduct for which an individual may (but not necessarily be processed under the Ohio Revised Code

## **21. DIVERSITY BUSINESS GOAL**

The Diversity Business and Vendor Contract Compliance Programs shall make every good faith effort to ensure that certified diversity business enterprises in the Cleveland Metropolitan School's relevant geographic market area shall be afforded the maximum opportunity to compete for contracts, services, and purchases. The general goals for diversity business participation are: 15% service, 20% goods and supplies, and 30% maintenance, construction/repair.

Non-diversity vendors will have their diversity business participation counted toward their goal attainment only with minority vendors who are certified and demonstrate previous experience in the respective business classification of the prime contractor. Only direct participation in the subcontract will be counted toward diversity business enterprise goal attainment.

The diversity business goal for this ITB is: **30% for maintenance, construction/repair**

## **22. ADVERTISING**

In submitting a bid, Vendors agree, unless specifically authorized in writing by an authorized representative of CMSD on a case by case basis, that it shall have no right to use, and shall not use, the name of Cleveland Metropolitan School District, its officials or employees, (a) in any advertising, publicity, promotion, nor (b) to express or imply any endorsement of Agent's services.

**23.** The term of this agreement will begin immediately upon selection, approval and contract execution through completion to the lowest responsive and responsible vendor. The Contract Documents consist of the following:

- a. All Purchasing Documents set forth in Part I herein;
- b. Certified Purchase Order or Supplier Contract to be issued to Lowest Responsive and Responsible Bidder;
- c. Specifications herein;
- d. Notice to Bidders;
- e. Instructions to Bidders;
- f. Bid Form;
- g. Bid Guaranty;
- h. All applicable addenda, attachments, and exhibits hereto.

The awarded Bidder shall perform all Work described in the Contract Documents, including without limitation, all terms and conditions of the specifications contained herein or otherwise stated in the bid documents and reasonably inferable therefrom by the Bidder as necessary to produce the results intended thereby for specifications and scope of work requested herein by the District.

Bids will be evaluated, first, as responsive or non-responsive to the Bid specifications. A preliminary review will be conducted of all bids submitted on time to ensure the bid adheres to the mandatory requirements specified in the Bid. Bids that do not meet the mandatory requirements will be deemed non-responsive and may be rejected. CMSD reserves the right to select the bid which most closely meets the requirements specified in the Bid. Second, the bids will be evaluated based on the information presented in the bid. The Bid will be awarded to the lowest responsive and responsible vendor

CMSD reserves the right to reject all bids and deviate from this purchasing process to utilize other purchasing mechanisms available to the district under Ohio Law. Scope review and follow-up discussions with the apparent low bidder may be requested. CMSD reserves the right to interview or to seek additional information related to criteria already specified in the Invitation to Bid after opening the bids prior to issuance of a certified Purchase Order or Supplier Contract.

## Section II: Acknowledgement

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(Name of Company)

Hereby Acknowledges receipt of this Bid and the reading of these Instructions to Bidders. We further agree that if awarded the contract, we will submit the required Performance Bond, if applicable, and/or Insurance Certificate within five (5) days of written notification that the District has adopted a resolution authorizing the encumbrance of funds for the project. We understand, however, that a formal written contract, similar to the one contained in the Bid Package, will need to be executed and purchase order issued by the District before we have any vested contractual rights. We agree to commence the work as required herein and timely complete the project pursuant to the Specifications by the date stated in the Notice to Proceed.

By: \_\_\_\_\_  
(Name and Title)

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

## Section II: Vendor Request Form

### VENDOR INFORMATION

VENDOR NUMBER  
(IF APPLICABLE) \_\_\_\_\_

VENDOR NAME \_\_\_\_\_

ADDRESS LINE 1 \_\_\_\_\_

ADDRESS LINE 2 \_\_\_\_\_

CITY \_\_\_\_\_

STATE \_\_\_\_\_

ZIP \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

FAX NO \_\_\_\_\_

*Area Code*    *Number*

*Area Code*    *Number*

E-MAIL ADDRESS \_\_\_\_\_

PRIMARY CONTACT PERSON \_\_\_\_\_

### REMIT TO (IF DIFFERENT FROM ABOVE)

VENDOR NAME \_\_\_\_\_

ADDRESS LINE 1 \_\_\_\_\_

ADDRESS LINE 2 \_\_\_\_\_

CITY \_\_\_\_\_

STATE \_\_\_\_\_

ZIP \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

FAX NO \_\_\_\_\_

*(Area Code)*    *Number*

*(Area Code)*    *Number*

PRIMARY SERVICE, PRODUCT, OR SPECIALTY:

|  |
|--|
|  |
|--|

**NOTE: VENDOR NAME AND TAX ID NUMBER MUST BE AS FILED WITH THE INTERNAL REVENUE SERVICE.**

**PLEASE INDICATE WHERE APPLICABLE**

DIVERSITY BUSINESS ENTERPRISE:    YES     NO

MINORITY BUSINESS ENTERPRISE:

FEMALE BUSINESS ENTERPRISE:



## Section II: No Bid Form

ITB # 21239

**THIS FORM ONLY NEEDS TO BE COMPLETED ONLY IF VENDOR IS NOT SUBMITTING A BID**

To all Prospective Bidders/Proposers:

Each company or person receiving this packet has at some point in time requested to be placed on the Bid list of the Cleveland Metropolitan School District for this product and/or service.

It is the intent of the District to update this list subsequent to the bidding cycle. Please note the following and take action accordingly.

If you are making a bid/proposal this cycle, disregard the remainder of this letter. Your name will remain on the active bidder list.

\_\_\_\_\_ **(1) If you are not making a bid/proposal this cycle, but want to remain on the active bidder's list for future bids, place a check mark in the box to the left. Complete the name and address Section below and return this letter to Purchasing at the address below.**

\_\_\_\_\_ **(2) If you do not wish to remain on the active bidder's list, place a check mark to the left. Complete the name and address Section below and return this letter to Purchasing at the address below.**

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

Company Representative: \_\_\_\_\_

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

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

Telephone Number: \_\_\_\_\_

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

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

## Section II: Conflict of Interest Form

### Statement of Potential Conflicts of Interest

|              |                  |
|--------------|------------------|
| Vendor Name: | Primary Contact: |
| Address 1:   | Telephone #:     |
| Address 2:   | Fax #:           |
| City:        | Email:           |
| State, Zip:  | Website:         |

Cleveland Metropolitan School District (CMSD) adheres to Ohio Ethics Law and strictly follows the opinion of the Ohio Ethics Commission. As such, each vendor is requested to submit this statement declaring any potential conflicts of interest in doing business with the District. Please answer the following two questions providing all requested information.

1. Are any current Cleveland Metropolitan School District (CMSD) employees, Cleveland Board of Education members, or any of their immediate family members, also members of the vendor's board of directors, hold any officer position with the vendor, or own any shares of any stock issued by the vendor?

Yes \_\_\_\_\_ No \_\_\_\_\_

If **Yes**, and if the CMSD employee, CMSD board member, or immediately family member is a member of the vendor's board of directors or holds an office with the vendor, please state the person's name and position with the vendor.

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

Position: \_\_\_\_\_

If **Yes**, and if the CMSD employee, CMSD board member, or immediate family member owns share of any stock in the vendor organization or company, state the percentage of all outstanding company shares owned by the CMSD employee or board member.

\_\_\_\_\_ %

2. Are any current CMSD employees, CMSD board members, or any immediate family members also employees of the vendor?

Yes \_\_\_\_\_ No \_\_\_\_\_

If **Yes**, please state the person's name and provide a description of their job duties for the provider:

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

Job Duties: \_\_\_\_\_

If **Yes**, please describe the contact that the vendor will have with the CMSD employee or CMSD board member in the course of providing services to the District:

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

**CERTIFICATION**

I do hereby certify that the foregoing statements are true and accurate, and that my signature below attests to the authenticity of my identity as the person actually signing this form. This document is not a contract. In order for a binding Agreement to exist, a signed Agreement will be required prior to any legally binding commitment by the District.

**NOTARIZED STATEMENT**

\_\_\_\_\_ being duly sworn and deposes says

that he/she is the \_\_\_\_\_ of  
(title)

\_\_\_\_\_, and answers to all the  
(organization)  
foregoing questions and all statements therein contained are true and correct.

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

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Notary Public: \_\_\_\_\_

My commission expires: \_\_\_\_\_

## Section II: Certificate of Debarment



### Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211). Copies of the regulations are available from local offices of the U.S. Small Business Administration.

#### (BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

Business Name \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_  
Name and Title of Authorized Representative

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

## Section II: Certificate of Debarment Pg. 2

- 2 -

### INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the ineligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

## Section II: Addendum Acknowledgement Form

**ITB #21239  
PURCHASE OF SCHOOL BUSES**

Having read and examined the Invitation to Bid Documents, including the specifications, prepared by the Cleveland Metropolitan School District for the above-referenced Project, and the following Addenda:

Addendum Number

Date of Receipt

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Proposer: \_\_\_\_\_

The undersigned Vendor proposes to perform all work for the applicable contract, in accordance with the contract document for the proposed sums.

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

### Section III: Bidder Qualifications Form

Bidder must answer all questions or attach a written explanation for each question.

BIDDER NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

TITLE: \_\_\_\_\_

TELEPHONE: (    ) \_\_\_\_\_ TOLL FREE: (    ) \_\_\_\_\_

TAXPAYER IDENTIFICATION NUMBER: \_\_\_\_\_

1. What type of organization? (i.e. corporation, partnership, etc.)
  
2. How many years has your organization been in business?
  
3. How many years has your organization been in business under its current name?
  
4. List any other aliases your organization has utilized in the last two years and the form of Business
  
5. If you are currently a corporation, list the following:
  - a. State of incorporation
  
  - b. Date of incorporation
  
  - c. President's name
  
  - d. Secretary's name
  
  - e. Treasurer's name
  
  - f. Statutory agent's name

- g. Name of shareholders, if less than 10
  - h. Principal place of doing business
6. If you are currently in a partnership, list the following:
- a. Name and address of all general and limited partners.
  - b. Original name and date of organization's inception
7. If you are neither a corporation nor a partnership, please describe your organization and list principals.
8. Are you legally qualified to do business in the State of Ohio?
9. Are you legally qualified to do business in Cuyahoga County and licensed by the City of Cleveland?
10. Has your organization ever been (i) declared by a customer to be in default under a contractor and/or (ii) sued by a customer for failure to completely a contract or properly perform services in a timely manner? If yes, please state where, when, and why.
11. Has your organization ever been cited by a local, county, state, or federal authority for violation of a regulation or statute or failing to timely complete a contract in accordance with specifications? If yes, please state date, agency, and final disposition.
12. Has your organization ever filed for bankruptcy? If yes, please state where, when and why?
13. On a separate sheet, list the major customers for whom your organization has provided this type of equipment or service in the past five years. Include owner's name and type of work performed.
14. Has your organization ever been sued by a supplier for failure to timely pay for materials or equipment provided? If yes, please provide details.

15. What is the dollar limit of your firm's General (CLS) Liability Insurance?

Name of insuring company: \_\_\_\_\_

Policy number: \_\_\_\_\_

16. What is the dollar limit of your firm's Automotive Liability Insurance?

Owned vehicles \_\_\_\_\_

Non-Owned vehicles \_\_\_\_\_

Name of insuring company \_\_\_\_\_

Policy number \_\_\_\_\_

17. List the name and address of every person having an interest in this ITB.

18. Has any federal, state or local government entity ever cited or taken any action against your organization or any of its principals for failure to pay or remit any taxes including but not limited to income, withholding, sales, franchise, or personal property taxes? If yes, please give name of agency, date and amount of taxes overdue and resolution of the issue.

19. Is your organization and its' principals current in payment of personal property taxes?

20. The prospective lower tier participant certifies, by submission of this ITB, that neither it nor its principals is presently debarred, suspended, proposed, for debarment or suspension, declared ineligible, or voluntarily excluded from participation in this transaction by any State and/or Federal Department or Agency.

21. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this ITB.

## Section III: Bidder's Qualifications Form

### Notarized Statement

\_\_\_\_\_ being duly sworn and deposes says  
that he/she is the \_\_\_\_\_ of  
(title)

\_\_\_\_\_, and answers to all the  
(organization)  
Foregoing questions and all statements therein contained are true and correct.

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

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Notary Public: \_\_\_\_\_

My commission expires: \_\_\_\_\_

**Section III: Sample of Ohio Insurance**

**S A M P L E**

**STATE OF OHIO**

**DEPARTMENT OF INSURANCE**

---

**CERTIFICATE OF COMPLIANCE**

As Superintendent of Insurance of the State of Ohio, I

do hereby certify that \_\_\_\_\_

a corporation located at \_\_\_\_\_

in the State of \_\_\_\_\_

with the laws of this state applicable to it, and is

authorized to transact in this state its appropriate

business of insurance as prescribed under Section 3941.02.

of Ohio, including Fidelity Insurance.

From \_\_\_\_\_ 20\_\_\_\_, until \_\_\_\_\_

In witness whereof, I have hereunto  
subscribed my name and caused my  
seal to be affixed at Columbus, Ohio  
this day and date.

Superintendent of Insurance of Ohio

## Section III: Sample Certificate of Liability Insurance



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| PRODUCER                      | CONTACT NAME: _____<br>PHONE (A/C, No. Ext): _____ FAX (A/C, No): _____<br>E-MAIL ADDRESS: _____  |                               |        |             |  |             |  |             |  |             |  |             |  |             |  |
|-------------------------------|---|-------------------------------|--------|-------------|--|-------------|--|-------------|--|-------------|--|-------------|--|-------------|--|
| INSURED                       | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width: 20%;">NAIC #</th> </tr> <tr> <td>INSURER A :</td> <td></td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table> | INSURER(S) AFFORDING COVERAGE | NAIC # | INSURER A : |  | INSURER B : |  | INSURER C : |  | INSURER D : |  | INSURER E : |  | INSURER F : |  |
| INSURER(S) AFFORDING COVERAGE | NAIC #  |                               |        |             |  |             |  |             |  |             |  |             |  |             |  |
| INSURER A :                   |   |                               |        |             |  |             |  |             |  |             |  |             |  |             |  |
| INSURER B :                   |   |                               |        |             |  |             |  |             |  |             |  |             |  |             |  |
| INSURER C :                   |   |                               |        |             |  |             |  |             |  |             |  |             |  |             |  |
| INSURER D :                   |   |                               |        |             |  |             |  |             |  |             |  |             |  |             |  |
| INSURER E :                   |   |                               |        |             |  |             |  |             |  |             |  |             |  |             |  |
| INSURER F :                   |   |                               |        |             |  |             |  |             |  |             |  |             |  |             |  |

**COVERAGES**

**CERTIFICATE NUMBER:**

**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR  | TYPE OF INSURANCE   | ADDL | SUBR | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS   |                     |       |                    |    |                            |    |                             |    |
|---|---|------|------|---------------|-------------------------|-------------------------|--|---------------------|-------|--------------------|----|----------------------------|----|-----------------------------|----|
|   | GENERAL LIABILITY<br><input type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC |      |      |               |                         |                         | EACH OCCURRENCE \$<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$<br>MED EXP (Any one person) \$<br>PERSONAL & ADV INJURY \$<br>GENERAL AGGREGATE \$<br>PRODUCTS - COMPI/OP AGG \$  |                     |       |                    |    |                            |    |                             |    |
|   | AUTOMOBILE LIABILITY<br><input type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS<br><input type="checkbox"/> HIRED AUTOS<br><br><input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> NON-OWNED AUTOS   |      |      |               |                         |                         | COMBINED SINGLE LIMIT (Ea accident) \$<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$  |                     |       |                    |    |                            |    |                             |    |
|   | UMBRELLA LIAB<br><input type="checkbox"/> EXCESS LIAB<br><input type="checkbox"/> RETENTION \$  |      |      |               |                         |                         | EACH OCCURRENCE \$<br>AGGREGATE \$   |                     |       |                    |    |                            |    |                             |    |
|   | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below   | Y/N  | N/A  |               |                         |                         | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">WC STATUTORY LIMITS</td> <td style="width: 50%;">OTHER</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$</td> </tr> </table> | WC STATUTORY LIMITS | OTHER | E.L. EACH ACCIDENT | \$ | E.L. DISEASE - EA EMPLOYEE | \$ | E.L. DISEASE - POLICY LIMIT | \$ |
| WC STATUTORY LIMITS   | OTHER   |      |      |               |                         |                         |  |                     |       |                    |    |                            |    |                             |    |
| E.L. EACH ACCIDENT  | \$  |      |      |               |                         |                         |  |                     |       |                    |    |                            |    |                             |    |
| E.L. DISEASE - EA EMPLOYEE  | \$  |      |      |               |                         |                         |  |                     |       |                    |    |                            |    |                             |    |
| E.L. DISEASE - POLICY LIMIT   | \$  |      |      |               |                         |                         |  |                     |       |                    |    |                            |    |                             |    |
| DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required) |   |      |      |               |                         |                         |  |                     |       |                    |    |                            |    |                             |    |

**CERTIFICATE HOLDER**

**CANCELLATION**

|  |  |
|--|--|
|  | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
|  | AUTHORIZED REPRESENTATIVE  |

## Section IV: Non-Collusion Affidavit

This Affidavit must be executed and shall accompany the bid in order for the bid to be considered.

**NON-COLLUSION AFFIDAVIT**  
**State of Ohio, Cuyahoga County**

\_\_\_\_\_, being first duly sworn, deposes and says that

he/she is \_\_\_\_\_ of \_\_\_\_\_

of the party making the foregoing bid; that such bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any bidder or person, to put in a sham bid, or that such other person shall refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or any other bidder, to fix any overhead, profit or cost element of said bid price, or of that of any bidder, or to secure any advantage against the Board of Education of the Cleveland Metropolitan School District, or any person or persons interested in the bid; and that all statements contained in said bid are true; and further that such bidder has not, directly or indirectly, submitted this bid, or the contents thereof, or divulged information or data relative thereto to any Association or to any member or agent thereof.

\_\_\_\_\_  
Affiant

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for Cuyahoga County, Ohio

My commission expires: \_\_\_\_\_

## Section V: Diversity Business Enterprise Participation Forms

### Part I: The District's DBE Program

#### PROGRAM OVERVIEW

It is the goal of the Diversity Business Enterprise (DBE) program to ensure the firms owned and/or controlled by minorities and women have the opportunity to compete for any expenditure of funds including but not limited to contracts, lease purchase, requisitions, and all forms of equipment, work services, materials, construction, etc.

The DBE program shall make every good faith effort to ensure that certified DBE's in the relevant Cleveland Municipal School District geographic market have the maximum opportunity to bid for contracts. The Cleveland Municipal School District geographic market is Cuyahoga, Summit, Lake, and Lorain counties.

The District has established goals for DBE participation in all contracts that it awards. The goals range from 15 to 30 percent and vary by the type of contract awarded:

- 15% Service Contracts
- 20% Goods and Supplies
- 30% Maintenance/Construction Repair

A Diversity Business Enterprise encompasses Minority Business Enterprises (MBEs) and Female Business Enterprises (FBEs).

A DBE is an enterprise in which minorities, African Americans, Native Americans, Hispanic or Latin Americans, Asian Pacific Islander Americans, and/or women own at least 51% of the shares of stock or controlling interest.

A FBE is a female-owned enterprise with at least 51% of the shares of stock or controlling interest, which is held by female.

A company may be in compliance with the District's DBE program although the applicable numerical goal is not met if a company makes a good faith commitment to comply with DBE regulations. The Purchasing Director determines whether a company has made a good faith commitment.

DBE requirements under certain circumstances can be waived by the district with convincing proof of good faith efforts.

## **TERMS AND CONDITIONS OF NOTICE AND REQUIREMENTS TO ENSURE DIVERSITY BUSINESS ENTERPRISE (DBE) OPPORTUNITY**

### Definition of DBE: A Diversity Business Enterprise (DBE)

“Small Diversity business concern” means a small business concern that is at least fifty-one (51) percent unconditionally owned by one or more individuals who are both socially and economically diverse, or a publicly owned business that has at least fifty-one (51) percent of its stock unconditionally owned by one or more socially and economically diverse individuals and that has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least fifty-one (51) percent unconditionally owned by an economically diverse Indian tribe or Native Hawaiian Organization, or a publicly owned business that has at least fifty-one (51) percent of its stock unconditionally owned by one of these entities, that has its management and daily business controlled by members of an economically diverse Indian tribe or Native Hawaiian organization.

1. “Socially diverse individuals” means individuals who have been subjected to racial or ethnic prejudice or culture bias because of their identity as a member of a group without regard to their qualities as individuals.
2. “Economically diverse individuals” means socially diverse individuals whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially diverse. Individuals who certify that they are members of named groups (African Americans, Hispanic Americans or Latin Americans, Native Americans, Asian-Pacific Islander Americans, Subcontinent Asian Americans) are to be considered socially and economically diverse.

### Definition of FBE: Female Business Enterprise (FBE)

“Female-owned small business concern” means a small business concern:

1. Which is at least fifty-one (51) percent owned by one or more women; or, in the case of any publicly owned business, at least fifty-one (51) percent of the stock of which is owned by one or more women and;
2. Whose management and daily business operations are controlled by one or more woman.

## **TERMS**

1. DBE participation will be counted toward meeting the goals outlined in the notice as follows:
  - a. The total dollar value of a correct contract or subcontractor indirect subcontract awarded toward a certified DBE will be counted toward the applicable goal.
  - b. In the case of a joint venture, certified by the Cleveland Municipal School District, the portion of the total dollar value of the contract equal to the percentage of the ownership and control of the DBE partner in the joint vendor will be counted toward the applicable goal. (PLEASE RETURN DBE FORM E)
  - c. Only expenditures to DBE that perform a commercially useful function in the work of a contract or subcontract or indirect subcontract will be counted toward DBE goals. A DBE is considered to perform a commercially useful function when it is responsible for

execution of a distinct element of work of a contract or subcontract and carries out its responsibilities by actually performing, managing, and supervising the work involved. If a DBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE is presumed not to be performing a commercially useful function. The DBE may present evidence to rebut this presumption.

- d. The total dollar value of materials and supplies obtained from DBE suppliers and manufacturers will be counted toward DBE goals if the DBE assumes the actual and contractual responsibility for the provision of the materials and supplies.
2. A bidder who fails or refuses to complete and return this Notice may be deemed a non-responsive bidder.
  3. The contractor's goals as set forth in this Notice shall express the contractor's commitment to the percentage of DBE utilization during the term of this contract. The contract shall be deemed to have met its commitment for DBE utilization if the DBE utilization rate of the contractor meets the goals established by this Notice.
  4. The contractor must receive the approval of the District before making substitutions for any subcontractors listed in the Notice. Substitution of DBE is not allowed unless the contractor receives District approval.
  5. The contractor's commitment to a specific goal is to meet the DBE objectives and is not INTENDED and shall not be used to discriminate against any qualified company or group or companies.
  6. The contractor's commitment to a specific goal for DBE utilization as required by this Notice shall constitute a commitment to make every good faith effort to meet such goal by a subcontracting to or undertaking to joint venture with DBE firms. If the contractor fails to meet the goal, it will carry the burden of furnishing sufficient documentation as part of the bid response of its good faith efforts to justify a grant of relief from the goals set forth in this Notice. Such justification will take the forms of a detailed report which will document at least the following information:
    - a. Attendance at the pre-bid meeting, if any, scheduled by the District to inform DBE's of Subcontracting opportunities under a given solicitation.
    - b. Advertisement in general circulation media, trade association publications, and minority-focus media for at least twenty (20) days before bids or proposals are due. If twenty (20) days are not available, publication for a shorter reasonable time is acceptable.
    - c. Written notification to DBE that their interest in the contract is solicited, and follow-up contact to determine whether the DBE's were interested.
    - d. Efforts made to select portions of the proposed work to be performed by DBE in order to increase the likelihood of achieving the stated goals.
    - e. Efforts to negotiate with DBE for specific sub-bid, including at a minimum:
      - i. The names, addresses, and telephone numbers of DBE's that were contacted.
      - ii. A description of the information provided to DBE regarding the plans and

specifications for portion of the work to be performed; and

- iii. A statement of why additional agreements with DBE were not reached.
  - iv. Completion of (Form E) if DBE's are not involved in the ITB.
  - f. Concerning each DBE the supplier/contractor contacted but rejected as unqualified, the reasons for the supplier's/contractor's conclusion.
  - g. Efforts made to help the DBE's contacted that needed assistance in obtaining required bonding, lines of credit, or insurance.
  - h. Use of the services of minority community organizations, minority contractor's groups, governmental minority business assistance offices, and other organizations that assist in the recruitment and placement of DBE's.
7. Suppliers/contractors that fail to meet DBE goals and fail to demonstrate sufficient good faith efforts are not eligible for contract awarded.
  8. The District, through its Diversity Officer will review the contractor's minority business enterprise involvement efforts during performance of this contract. Such review will include, but not be limited to, contractor's quarterly statement of income from the District and what portion of said income went to the DBE enterprise(s) as evidenced by affirmation of the DBE enterprise(s) which the contractor hereby agrees to supply each quarter during the term of its contract with the District. If the contractor meets its goal or if the contractor demonstrates that every reasonable effort has been made to meet its goal, the contractor shall be presume to be in compliance. Where the Diversity Officer finds that the contractor shall be presume to be in compliance. Where the Diversity Officer finds that the contractor has failed to comply with the requirements of this Notice, said Diversity Officer shall inform the Purchasing Director who shall immediately notify the contractor to take corrective action. If the contractor fails or refuses to comply promptly, then the Purchasing Director, upon approval of the District, shall issue an order shopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made subject of claim for extension of time or for excess costs or damages by the contractor. When the District proceeds with such formal action it has the burden of proving that the contractor has not met the requirements of coming forward and showing that it has met the good faith requirements of the Notice, specifically including paragraph 7 hereof. Where the contractor is found to have failed to exert every good faith effort to involve DBE in the work provided, the District may declare that the contractor is ineligible to receive further District funds, whether as a contractor, subcontractor, or as a consultant, for a period of up to three (3) years.
  9. The contractor will keep records and documents for three (3) years following performances of this contract to indicate compliance with this Notice. These records and documents, or copies thereof, will be made available at reasonable times and places for inspection by any authorized representative of the District upon request together with any other compliance information which such representative may require.
  10. Bidders and contractors are bound by all requirements, terms and conditions of this Notice.
  11. Nothing in this Notice shall be interpreted to diminish the present contract compliance review.

**Part II: DBE Form A**

Name of Firm: \_\_\_\_\_

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

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

Telephone Number: \_\_\_\_\_

Type of Business (Product or Service): \_\_\_\_\_

\_\_\_\_\_

Date of Proposed Contract Award: \_\_\_\_\_

Amount of Proposed Contract Award: \_\_\_\_\_

Diversity Business Enterprise Subcontractor(s):

\_\_\_\_\_

Dollar Amount Subcontract Award: \_\_\_\_\_

Percent of Subcontract Award: \_\_\_\_\_

D.B.E. Participation: \_\_\_\_\_ \$ \_\_\_\_\_

F.B.E. Participation: \_\_\_\_\_ \$ \_\_\_\_\_

Name of EEO Officer: \_\_\_\_\_

\_\_\_\_\_

(Signature of owner, partner, or authorized officer)

Name: \_\_\_\_\_ Dated: \_\_\_\_\_

(printed)

Title: \_\_\_\_\_

**DO NOT COMPLETE BELOW THIS LINE**

\_\_\_\_\_ Compliant    \_\_\_\_\_ Compliance Pending    \_\_\_\_\_ Non-Compliant

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

\_\_\_\_\_

(signature, DBE Department)

\_\_\_\_\_

(date)

## Part II: DBE Form B

### NOTICE OF REQUIREMENT TO ENSURE DIVERSITY BUSINESS ENTERPRISE (DBE) OPPORTUNITY

Note: All eligible bidders for award of the contract should comply with the Requirements, Terms, and Conditions of this Notice.

The undersigned bidder hereby agrees that the goal it has established for DBE participation in this project through either subcontracting or entering into a joint Venture with DBEs in conformity with the Requirements. Terms and Conditions of this Notice is a goal of thirty (30%) percent for a construction/repair/ maintenance contract, twenty (20%) percent for a supply contract, and fifteen (15%) for a service contract of the total contract amount of this project. In no event will the absence of goals as stated above be deemed as compliance with the requirements, terms and conditions of this notice.

In addition, the undersigned will complete and attach hereto the DBE (Form C) Schedule for DBE participation, showing all DBE/FBE that will participate as subcontractors or joint ventures in this contract and a DBE (Form D), DBE Letter of Intent form for each DBE/FBE listed on the Schedule.

Bidder: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

#### Definition of DBE: A Diversity Business Enterprise (DBE)

"Small Diversity business concern" means a small business concern that is a least (51) percent unconditionally owned by one or more individuals who are both socially and economically diverse, or a publicly owned business that has at least (51) percent of its stock unconditionally owned by one or more socially and economically diverse individuals and that has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least (51) percent unconditionally owned by an economically diverse Indian tribe or Native Hawaiian Organization, or a publicly owned business that has least (51) percent of its stock unconditionally owned by one of these entities, that has its management and daily business controlled by members of an economically diverse Indian tribe or Native Hawaiian Organization.

**Part II: DBE Form C**

**SCHEDULE MBE/FBE PARTICIPATION**

Project Name: \_\_\_\_\_

Name of Non-DBE Contractor: \_\_\_\_\_

Identification Number: \_\_\_\_\_

Location: \_\_\_\_\_

Name of Minority Contractor: \_\_\_\_\_

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

City, State, Zip: \_\_\_\_\_

Type of work to be performed and work hours involved:

\_\_\_\_\_

Projected commencement and completion dates for work:

\_\_\_\_\_

Agreed price in dollars or percentage:

\_\_\_\_\_

The undersigned will enter into a formal agreement with DBE for work listed in this schedule conditioned upon execution for a contract with the Cleveland Municipal School District

**TO BE RETURNED WITH THE BID**

\_\_\_\_\_  
Signature of Non-DBE Prime Contractor

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

**Part II: DBE Form D**

**DBE LETTER OF INTENT**

To: \_\_\_\_\_  
*Non-DBE Prime or General Bidder*

Project: \_\_\_\_\_

**NON-DBE PRIME OR GENERAL BIDDER**

The Undersigned intends to perform work in connection with the above-referenced project as (check one):

an individual       a corporation       a partnership       a joint venture

DBE status of the undersigned is confirmed in the Cleveland Municipal School District's DBE file of bona fide enterprises with a certification date of: \_\_\_\_\_

The Undersigned is prepared to perform the following described work in connection with the above referenced project. Specify in detail particular work items or parts thereof to be performed:

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

at the following price or percent of contract: \$ \_\_\_\_\_

You have projected the following commencement date of such work, and the undersigned is projecting completion of such work as follows:

**Items** \_\_\_\_\_

**Projected Commencement Date** \_\_\_\_\_

**Projected Completion Date** \_\_\_\_\_

\_\_\_\_\_ % (percent) of the dollar value of the subcontract will be sublet and/or awarded to NON-DBE contractor (s) and/or NON-FBE SUPPLIERS. The undersigned will enter into a formal agreement for the above work with you conditioned upon your execution of a contract with the Cleveland Municipal School District.

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Name of DBE Firm (where applicable)**

\_\_\_\_\_  
Signature of DBE (where applicable)

\_\_\_\_\_  
Signature of MBE Firm

(TO BE RETURNED WITH ITB)

\_\_\_\_\_  
**Name of FBE Firm**

\_\_\_\_\_  
**Signature of FBE Firm**

**Part II: DBE Form E**

**DBE Unavailability Certification**

I, \_\_\_\_\_, \_\_\_\_\_  
*Name Title*

Of \_\_\_\_\_, certify that on \_\_\_\_\_  
*Date*

I contacted the following DBE to obtain a Bid for work items to be performed on:

Board Project: \_\_\_\_\_

Minority Contractor: \_\_\_\_\_

Work Items Sought: \_\_\_\_\_

Form of Bid Sought: \_\_\_\_\_

Female Contractor: \_\_\_\_\_

Work Items Sought: \_\_\_\_\_

Form of Bid Sought: \_\_\_\_\_

To the best of my knowledge and belief said minority business enterprise was unavailable (exclusive of the unavailability due to lack of agreement on price) for work on this project or unable to prepare a bid for the following reason (s):

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

\_\_\_\_\_  
*Signature, Non-DBE prime Bidder*

\_\_\_\_\_  
*Date*

\_\_\_\_\_ was offered an opportunity to bid on the above-referenced work on \_\_\_\_\_ by \_\_\_\_\_  
*Date Non-DBE Prime Bidder*

\_\_\_\_\_  
*Signature, Non-DBE Prime Bidder*

The above statement is a true and accurate account of why I did not submit a Bid on this project.

\_\_\_\_\_  
*Signature, Non-DBE prime Bidder*

**Part II: Non-Minority Prime Affidavit for DBE**

STATE OF            }  
COUNTY OF        } SS.

**AFFIDAVIT**

The undersigned swear that the foregoing statements are correct and include all material information necessary to identify and explain the items and operation of our subcontract and the intended participation by each party in the undertaking. Further, the undersigned covenant and agree to provide to the Cleveland Municipal School District current, complete, and accurate information regarding actual subcontract work and the payments thereof, and any proposed changes in any of the subcontract arrangements and to permit the audit and examination of the books, records and files of the subcontract or those of each party relevant to the subcontract, by authorized representatives of the Cleveland Municipal School District. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal and state laws concerning false statements.

Name of Firm: \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

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

STATE OF            }  
COUNTY OF } SS.

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me appeared

\_\_\_\_\_, to me personally known, who being duly sworn, did execute the foregoing affidavit, and did state that they were properly authorized by

\_\_\_\_\_ to execute the affidavit and did so as their free act and deed.

(Seal)

Notary Public \_\_\_\_\_

Commission expires \_\_\_\_\_

## Part II: DBE Form F

(This form need not be completed if all joint venture firms are diversity business enterprises)

1. Name of Joint Venture: \_\_\_\_\_
2. Address of Joint Venture: \_\_\_\_\_
3. Phone Number of Joint Venture: \_\_\_\_\_
4. Identify the firms which comprise this joint venture. (The DBE partner must complete DBE Form A or have current DBE Certification)

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- a. Describe the roll of the DBE firm in the joint venture: \_\_\_\_\_

---

- b. Describe briefly the experience and business qualifications of each non-DBE Joint Venture: \_\_\_\_\_

---

5. Nature of Joint Venture's Business: \_\_\_\_\_

---

6. Provide a copy of the Joint Venture Agreement.

7. What is the percentage of DBE Ownership? DBE \_\_\_\_\_% FBE \_\_\_\_\_%

8. Ownership of Joint Venture: (This need not be completed if described in the Joint Venture agreement provided in response to question 6).

- a. Profit and loss sharing: \_\_\_\_\_

---

- b. Capital contributions, including equipment: \_\_\_\_\_

---

- c. Other applicable ownership interest: \_\_\_\_\_

---

9. Control of and participation in this contract. Identify by name, race, and "firm" those individuals and their titles who are responsible for day-to-day management and policy decision making, including, but not limited to, those prime responsibility form:

a. Financial decisions: \_\_\_\_\_  
\_\_\_\_\_

b. Management decisions, such as:

i. Estimating: \_\_\_\_\_

ii. Marketing and Sales: \_\_\_\_\_

iii. Hiring and firing of management personnel: \_\_\_\_\_  
\_\_\_\_\_

iv. Purchasing of major items or supplies: \_\_\_\_\_  
\_\_\_\_\_

c. Supervision of field operations: \_\_\_\_\_  
\_\_\_\_\_

Note: If after complete the DBE Form B and before the completion of the joint venture's work on any contract awarded, there is any significant change in the information submitted, the joint venture must inform the Cleveland Municipal School District, either directly or through the non-DBE prime subcontractor if the joint vendor is a subcontractor.

**Part II: Non-Minority Prime Affidavit (Joint Venture)**

**STATE OF OHIO**

**CUYAHOGA COUNTY**

**AFFIDAVIT**

The undersigned swear that the forgoing statements are correct and include all material information necessary to identify and explain the items and operation of our subcontract and the intended participation by each joint venture in the undertaking. Further, the undersigned covenant and agree to provide to the Cleveland Municipal School District current, complete, and accurate information regarding actual joint venture work and the payments thereof and any proposed changes in any of the subcontract arrangements and to permit the audit and examination of the books, records and files of the joint venture or those of each party relevant to the joint venture, by authorized representatives of the Cleveland Municipal School District. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal and state laws concerning false statements.

\_\_\_\_\_  
*Name of Firm (Prime)*

\_\_\_\_\_  
*Name of Firm (DBE)*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Name and Title*

\_\_\_\_\_  
*Name and Title*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

STATE OF \_\_\_\_\_ ] COUNTY OF \_\_\_\_\_ ]SS.

On this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_, before me appeared \_\_\_\_\_, to me personally known, who being duly sworn, did execute the foregoing affidavit, and did state that they were properly authorized by \_\_\_\_\_ to execute the affidavit and did so as their free act and deed.

(Seal)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission expires

## Section VI: EOA Contractual Declaration Forms

### Part III: CMSD Affirmative Action Program Vendor Contract Compliance, Procedures and Guidelines

**Note: Please read carefully all of the information contained in these documents.**

Pursuant to the Affirmative Action Policy Adopted by the Cleveland Municipal School District, the following guidelines and procedures will be implemented to ensure that all vendors doing business with the District are in compliance with Equal Employment Opportunity Standards.

#### **A. SUBMISSION OF VENDOR EMPLOYMENT PRACTICE REPORT**

All vendors and contractors who propose to provide goods, services, supplies, and equipment through formal bids, informal bids, and contract term agreements are required to submit a Vendor Employment Practice Report with each Bid. Approved status by the Vendor Employment Practice Report includes the following documents which must be completed in their entirety and returned with the bid.

Please note, compliance approval consists of both DBE and Vendor Contract Compliance approval.

1. General Information Sheet (Form 1): Provides basic information on the vendor.

1a. SMSA/OR RECRUITMENT AREA: Indicates the relevant labor area in which your facility is located. Designate the Standard Metropolitan Statistical Area, county, or city from which the facility can draw applicants or recruit for most positions.

In making relevant labor area determinations, examine the statistics on racial, ethnic, and gender composition of the Standard Metropolitan Statistical Area, county, or city surrounding your organization, as well as other appropriate adjacent areas.

The relevant labor area should be the SMSA county or city with the highest population of minorities and women.

1b. DEFINITION: As defined by the U.S. Bureau of the Census, SMSA is: "Except in the New England States, a county or group of contiguous counties which contains at least one city of 50,000; in addition contiguous counties if they are socially and economically integrated within the central city; in the New England States towns and cities instead of counties. Each SMSA must include at least one central city."

2. **Compliance Declaration Form** (Form 2) - The Agreement indicating the vendor is in compliance with Equal Employment Opportunity requirements, will take affirmative action, and will comply with all Fair Labor Standard practices.

3. **Current Employment Data Form** (Form 3) – Current personnel data indicating employees in each job category classified by gender and race.

4. **Existing Affirmative Action Program** – If any and copies of any agreement between the vendor and the Equal Employment Opportunity Commission, Office of Federal Contract Compliance Program or court order pertaining to equal employment opportunity.

## **B. EVALUATION OF COMPLIANCE DATA**

1. The Diversity Officer will evaluate data submitted by vendors who are recommended to receive District bids and contracts. Vendors found in compliance with the District's Equal employment opportunity standards (Affirmative Action and DBE Program) will be placed on the approved vendor's list.
2. In the event that a vendor is found not in compliance with the District's equal employment opportunity standards, the Diversity Officer will inform the Purchasing Director of the Reason(s) and ask that the Purchasing Director not award the contract or bid to the vendor pending compliance. The Purchasing Director or Manager of Diversity will inform the vendor of reason(s) for non-compliance. Vendors found not in compliance will be given ten (10) business days from the time of notification by the Purchasing Director or Manager of Diversity to submit an acceptable affirmative action program to the Diversity Officer.
3. If the vendor which has been found not in compliance submits an acceptable affirmative action plan to the Diversity Officer within ten (10) business days of notification, the vendor may be given conditional approval.

## **C. AFFIRMATIVE ACTION PLAN**

1. Vendor found not in compliance with the District's equal employment opportunity standards are expected to develop and implement affirmative action programs if they expect to be eligible to successfully propose for District contracts.
2. While it is the vendor's responsibility to develop an affirmative action program which will result in equal employment opportunity for persons from all sectors of the community, the Officer in Charge of the Diversity Program may refer prospective bidders to resources which may be of assistance in developing affirmative action programs.
3. In the event that a vendor who has been awarded a District contract does not make satisfactory progress toward goals in the affirmative action program, the District will not negotiate a new contract until the vendor assures the Diversity Officer that significant progress will be made.

## **D. CONDITIONS UNDER WHICH BIDS MAY BE REJECTED OR CONTRACTS TERMINATED ON EQUAL EMPLOYMENT OPPORTUNITY GROUNDS**

1. Vendor fails to submit completed and signed EEO documents with bid or other requested information in a timely manner.
2. The vendor is found not to be in compliance with EEO laws, regulations and District policy, and does not have an acceptable Affirmative Action Program, or if the vendor has an acceptable Affirmative Action Program but the Diversity Officer determines the vendor has not made satisfactory progress toward goals in the plan and shows no promise of achieving the goals.
3. Any inconsistencies of misrepresentation of the facts in any of the requested information designed to portray the vendor in a more favorable position with respect to Equal Employment Opportunity Compliance will be grounds for cancellation of the contract by the Purchasing Director upon recommendation by the Diversity Officer and confirmation by the Cleveland Municipal School District.

**Form 1: Vendor Contract Compliance Form**

Name of Firm: \_\_\_\_\_

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

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

Telephone Number: \_\_\_\_\_

Standard Metropolitan Statistical Area: \_\_\_\_\_

Recruitment Area: \_\_\_\_\_

Type of Business (product or service): \_\_\_\_\_

Name of EEO Officer: \_\_\_\_\_

Signature of Owner, Partner, or Authorized Officer: \_\_\_\_\_

Name (type or print): \_\_\_\_\_

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

**Do not complete below this line**

---

Status of Vendor:

Compliance  Conditional Compliance

Non-Compliance  Compliance Pending

Comments: \_\_\_\_\_

\_\_\_\_\_

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



## DESCRIPTION OF JOB CATEGORIES

### **OFFICIALS, MANAGERS, AND SUPERVISORS**

Occupations requiring administrative personnel who set District policies, exercise overall responsibility of the places, and direct individual departments or special phases of a firm's operations includes: officials, executives, middle management, plant managers, department managers, and superintendents, salaried supervisors who are members of management, purchasing agents, buyers, and kindred workers.

### **PROFESSIONALS**

Occupations requiring either college graduation or experience of such kind and amount as to provide background. Includes: accountants and auditors, airplane pilots and editors, engineers, layers, librarians, mathematicians, natural scientists, personnel and labor relations workers, physical scientists, physicians, social scientists, teacher's and kindred workers.

### **TECHNICIANS**

Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through (about) two years of post high school education, such as that which is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: drafters, engineering aides, junior engineers, mathematical aids, nurses, photographers, radio operators, scientific assistants, surveyor of technical illustrators, technicians (medical, dental, electronic, physical sciences), and kindred workers.

### **SALES WORKERS**

Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and salespersons, insurance agents and brokers, real estate agents and brokers, stock bond salespersons, demonstrators, sales persons, sales clerks, and kindred workers.

### **OFFICE AND CLERICAL**

Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual, includes: bookkeepers, cashiers, collectors (bills and account), messengers and office clerks, office machine operators, shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators and kindred workers.

### **CRAFTWORKERS (SKILLED)**

Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the process involved in their work, exercise considerable independent judgment, and usually receive an extension period of training. Includes: the building trades hourly paid foremen who are not members of management, mechanics and repairers, skilled machine operators, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors and kindred workers.

### **OPERATIVE (SEMI-SKILLED)**

Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require limited training.

### **LABORERS (UNSKILLED)**

Workers in manual occupations which generally require no special training. Perform elementary duties that may be learned in a few days and require the application of little or no independent

judgment. Includes: garage laborers, car washers and greasers, gardeners (except farmers), ground-keepers, long-shore workers, craftsperson and stevedores, lumber's and wood chippers, laborers performing lifting, digging, mixing, loading, and pulling operations, and kindred workers.

**SERVICE WORKERS**

Workers in both protective and non-protective service occupations. Includes: attendants (hospital and other instruction, professional and personal service), barbers, and cleaners, cooks, guards, door keepers, stewards, janitors, police officers and detectives, porters, food services, and kindred workers.

**APPRENTICES**

Persons employed in a program including work training and related instruction to learn a trade or craft which is traditionally considered an apprentice, regardless of whether the program is registered with a Federal or State agency.

### Part III: Employment Data Form

Please note this data may be obtained by visual survey or post-employment record. Neither visual surveys nor post-employment records are prohibited by any federal, state or local law. All specified data is required to be filled in by District policy.

| Job Categories                | All EMPLOYEES               |       |         | MALES                                   |   |   |   |          | FEMALES                                 |   |  |   |          |
|-------------------------------|-----------------------------|-------|---------|---|---|---|---|----------|---|---|--|---|----------|
|                               | TOALS<br>MALES &<br>FEMALES | MALES | FEMALES | WHITE<br>(NOT OF<br>HISPANIC<br>ORIGIN) | BLACK<br>(NOT OF<br>HISPANIC<br>ORIGIN) | ASIAN<br>AMERICAN<br>OR PACIFIC<br>ISLANDER | AMERICAN<br>INDIAN OR<br>ALSKAN<br>NATIVE | HISPANIC | WHITE<br>(NOT OF<br>HISPANIC<br>ORIGIN) | BLACK<br>(NOT OF<br>HISPANIC<br>ORIGIN) | ASIAN<br>AMERICAN<br>OR PACIFIC<br>ISLANDE | AMERICAN<br>INDIAN OR<br>ALSKAN<br>NATIVE | HISPANIC |
| OFFICIALS, MGRS & SUPERVISORS |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| PROFESSIONALS                 |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| TECHNICIANS                   |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| SALES WORKERS                 |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| OFFICE/CLERICAL               |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| CRAFTWORKERS (SKILLED)        |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| OPERATIONS (SEMI-SKILLED)     |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| LABORERS (UNSKILLED)          |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| SERVICE WORKERS               |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| APPRENTICES                   |                             |       |         |   |   |   |   |          |   |   |  |   |          |
| TOTAL                         |                             |       |         |   |   |   |   |          |   |   |  |   |          |

Additional information (optional):

Describe any other actions taken which show that all employees are recruited, hired, or trained or promoted without regard to their race, religion, color, sex, handicap, age or national origin. Use second sheet if additional space is needed:

The undersigned certifies that they are legally authorized by the bidder to make the statements and representations contained in this report, and that they have red all of the foregoing statements and representations which are true and correct to the best of their knowledge and belief.

FIRM OR CORPORATE NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

**SAMPLE: Construction Agreement**  
**DO NOT COMPLETE**

**CLEVELAND MUNICIPAL SCHOOL DISTRICT**  
**CONSTRUCTION AGREEMENT**

This Construction Agreement (the "Agreement") is made as of \_\_\_\_\_ by and between **THE CLEVELAND MUNICIPAL SCHOOL DISTRICT**, 1111 Superior Ave. E, Suite 1800, Cleveland, Ohio 44114 (the "District") and \_\_\_\_\_ (the "Contractor" and, together with District, the "Parties") and is for the purposes described below.

1. **CONTRACT PURPOSE.** The purpose of this contract is Collinwood Tunnel Slab (the "Project"). The Contractor shall perform all work ("Work") described in ITB \_\_\_\_\_. The bidding documents, drawings and specifications and the Contractor's bid are included in the contract terms and conditions as if rewritten herein.
2. **TERM.** This Agreement shall commence on the date first written above, and Contractor shall attain final completion of the Work not later \_\_\_\_\_ calendar days following issuance of a Purchase Order unless an extension is granted in writing by the District; provided, however, that the District may terminate this Agreement at any time without obligation and without cause by giving fourteen (14) days' written notice to the Contractor under the Termination for Convenience clause below. Contractor acknowledges that time is of the essence in this Agreement and that the Project shall be completed on or before the date set forth herein for final completion. If Contractor fails to complete the Project on or before the date set forth herein for final completion for any reason other than a default or delay caused by the District, the Contractor hereby agrees to pay the District, as liquidated damages, the sum of \$200.00 per day for each calendar day beyond the date set forth herein for final completion that the Contractor fails to complete the Project. The amount of liquidated damages is fixed and agreed on between the District and the Contractor because of the impracticality and difficulty of ascertaining the true value of damages that the District will sustain by failure of the Contractor to complete the Project on time. Contractor may work on the Project during ordinary business hours unless otherwise agreed to by the District.
3. **COMPENSATION.** This is a fixed-price contract. Subject to the terms and conditions of this Agreement, the District shall pay the Contractor the amount of \_\_\_\_\_ (the "Contract Sum"), based upon the Base Bid plus Alternate option on the bid form submitted by Contractor submitted by the Contractor on \_\_\_\_\_. The Contractor shall submit to the District, before the first invoice, a schedule of values, allocating the entire Contract Sum to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the District may require. This schedule, unless objected to by the District, shall be used in reviewing the Contractor's invoices. If all or part of any funds of the Contractor that are held by the District, whether it be retainage, escrowed funds or otherwise, should be attached, garnished or levied upon under any order of court, or if the delivery thereof shall be stayed or enjoined by any order of court, or if any other writ, order, judgment, or decree shall be made or entered by any court affecting the held funds, or any part thereof whether with or without jurisdiction, and in case District obeys and complies with any such writ, order judgment, or decree, District shall not be liable to the Contractor, its successors, or assigns, and Contractor shall indemnify and hold District harmless for its compliance with such writ, order, judgment or decree, notwithstanding that such writ, order, judgment or decree be subsequently reversed, modified, annulled, set aside, or vacated.

4. **COORDINATION OF THE WORK.** The Contractor is responsible for scheduling the Work and coordinating the subcontractors. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as other permits, fees, licenses, tests, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall give the District timely notice of when and where tests and inspections are to be made so that the District may be present for such procedures.
  
5. **PAYMENTS.** Subject to the retainage provisions of Ohio Revised Code Sections 153.12, 153.13 and 153.14, the Contractor will provide an invoice each month on or about the 15<sup>th</sup> day of the month containing a detailed summary of the Work completed by the Contractor for the previous month. Each invoice shall be accompanied by a certified payroll report as more specifically set forth in Article 37 herein. The District will render payment to Contractor within ninety (90) days after receiving such invoice. Contractor shall provide such documentation as requested by the District that the Work described in the invoice was actually provided. Failure to provide such documentation upon the District's request shall excuse the District from paying for the invoiced Work. Contractor will not submit invoices for materials stored off site unless the off-site storage has been approved by the District, which approval may be withheld in the District's sole discretion. The Contractor warrants that title to all Work covered by an invoice will pass to the District no later than the time of payment. The Contractor further warrants that upon submittal of an invoice, all Work for which payments have been received from the District shall be free and clear of liens, claims, security interests or other encumbrances adverse to the District's interests.

The Contractor shall pay in full all bills incurred by the Contractor for the Contractor's Work, and shall submit upon the District's request receipted invoices or waivers of lien as evidence of payment in full of Contractor's bills. The District reserves the right to withhold from any payment hereunder amounts claimed against the Contractor or the Contractor's surety company representing obligations arising out of the Contractor's Work, until Contractor provides to the District evidence of payment of such obligations. The District also reserves the right to withhold from any payment hereunder the amount of any expense, loss or damage that the District sustained or reasonably expects to sustain as a result of nonperformance or faulty or delayed performance by the Contractor under this Agreement. The District may apply such amount in payment of the expense, loss or damage sustained.

Final payment on this Agreement shall be payable within ninety (90) days after final completion of the Contractor's Work, the final acceptance thereof by the District, and receipt of a final invoice from the Contractor. No payment made shall be evidence of the performance of Contractor's Work, either in whole or in part, and no payment, including the final payment, shall be construed to be an acceptance of defective Work or improper materials used by the Contractor. Anything herein contained to the contrary notwithstanding, acceptance by the Contractor of the final payment shall constitute a full and final release by the Contractor of all claims against the District. As a condition precedent to the Contractor receiving final payment the Contractor shall also submit to the District (a) as-built drawings, (b) a complete list of Subcontractors and principal vendors on the Project, including addresses and telephone numbers, (c) an indexed, loose leaf binder containing complete installation, operation, and maintenance manuals, including all manufacturers' literature, of equipment and materials used in the Work, (d) an indexed, loose

leaf binder containing all inspection reports, permits, and temporary and final certificates of occupancy and licenses necessary for the occupancy of the project, and (e) any and all other items required pursuant to the Contract Documents. The making of final payment shall constitute a waiver of claims by the District except those arising from (1) liens, claims, security interests or encumbrances arising out of the Contract and unsettled; (2) failure of the Work to comply with the requirements of the Contract Documents; (3) terms of special warranties required by the Contract Documents; or (4) Contractor's indemnity obligations under this Agreement

The Contractor is not entitled to payment of the Contract Sum if the Work under this Agreement is no longer needed, required or requested by the District, or if this Agreement is terminated by the District with or without cause. The District is not liable in any manner for expenses incurred by the Contractor through its utilization of third-party vendors or contractors.

**6. FUNDING SOURCE.**

|                            |     |                    |  |                 |                            |                       |    |                |    |
|----------------------------|-----|--------------------|--|-----------------|----------------------------|-----------------------|----|----------------|----|
|                            | FD_ |                    |  |                 | FN                         |                       | SC |                | PG |
| <i>Fund</i>                |     | <i>Cost Center</i> |  | <i>Function</i> |                            | <i>Spend Category</i> |    | <i>Program</i> |    |
|                            |     |                    |  |                 |                            |                       |    |                |    |
| <i>Additional Worktags</i> |     |                    |  |                 | <i>Additional Worktags</i> |                       |    |                |    |

6. **INDEMNIFICATION AND HOLD HARMLESS.** The Contractor shall indemnify, defend, and hold harmless the District, all of its members, officers, employees, and agents, from and against any and all liability (whether real or asserted), claims, demands, expenses, costs (including legal fees) and causes of action of any nature whatsoever for injury or death of persons, or damage or destruction of property which may result from or arise out of the negligence or intentional misconduct of the Contractor or its employees, officers, or agents, in the course of the Contractor's performance of this Agreement or the Contractor's failure to perform. This indemnification and hold harmless obligation survives the term of this Agreement.

7. **INDEPENDENT CONTRACTOR STATUS.** Contractor and the District acknowledge and agree that Contractor is an independent contractor and has no authority to bind the District or otherwise act as a representative of the District. The District will provide **no** benefits such as health insurance, unemployment insurance, or worker's compensation insurance to the Contractor. Contractor will be responsible for payment of all federal, state and local income taxes, unemployment and workers' compensation coverage.

8. **CONFIDENTIALITY/OWNERSHIP.** The Contractor agrees that all information provided by the District or any information that the Contractor may acquire, directly or indirectly, if any, which relates to the District and which the District identifies to the Contractor as confidential will be kept confidential and not used by or released to any third party or parties without the prior written consent of the District.
9. **NO DAMAGES FOR DELAY.** The District shall not be held responsible for any loss, damage, costs, or expenses sustained by the Contractor as the result of any project delays, disruptions, suspensions, Work stoppages, or interruptions of any kind, whether reasonable or unreasonable or whether occasioned by changes ordered in the Work or otherwise caused by an act or omission of the District, its agents, employees, or representatives, or by any cause whatsoever beyond the control of the Contractor.
10. **FINDINGS FOR RECOVERY/ DEBARMENT OR SUSPENSION.** Contractor represents that it has no unresolved findings for recovery against it by the Ohio Auditor of State or any notice of debarment or suspension from any Federal Agency. The District may terminate this contract at any time if the vendor or any of its directors or officers is found at any time to have any unresolved findings for recovery by the Auditor of State or any notice of debarment or suspension from any Federal Agency. Certification from the Ohio Auditor of State's website and the Federal System for Award Management (SAM) website is attached to this Agreement as Exhibit B.
11. **CRIMINAL BACKGROUND CHECK.** Contractor shall perform or cause to be performed an Ohio Bureau of Criminal Investigation and Identification and Federal Bureau of Investigation criminal background check of the employees of Contractor or of any subcontractor that will perform Work or services or otherwise be present at the Project site within the proximity of students of the District. Prior to the performance of any services by such employees, the criminal background check shall be performed and completed at Contractor's sole cost and expense. No person shall be employed on site by Contractor or by any subcontractor who has been found guilty of any of the criminal offenses enumerated in Ohio Revised Code Section 3319.39 or any equivalent provisions under Federal law or the laws of any of the other states. Contractor shall remove (and shall cause its subcontractor to remove) any person from the Project site found (during the criminal background check or otherwise) to have violated any of the offenses listed in Section 3319.39 of the Ohio Revised Code or equivalent provisions thereof under Federal law or the laws of any of the other states. The foregoing shall not (i) be cause for any claim against the District for any reason, including without limitation, interference or delay, and (ii) excuse Contractor or any subcontractor from meeting the construction schedule.
12. **DISCRIMINATION.** Contractor agrees that (A) in the hiring of employees for the performance of Work under the contract or any subcontract, Contractor, by reason of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall not discriminate against any citizen of this state in the employment of a person qualified and available to perform the Work to which the contract relates; (B) Contractor or any subcontractor or person acting on behalf of Contractor or its subcontractors, in any manner, shall not discriminate against, intimidate, or retaliate against any employee hired for the performance of Work under the contract on account of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry; (C) Contractor shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code and shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the Department of Administrative Services; and (D) Any provision of a hiring hall contract or agreement which

obligates the Contractor to hire, if available, only employees referred to the Contractor by a labor organization shall be void as against public policy and unenforceable with respect to employment under any public improvement contract unless at the date of execution of the hiring hall contract or agreement, or within thirty (30) days thereafter, the labor organization has procedures in effect for referring qualified employees for hire without regard to race, color, religion, national origin, military status as defined in Revised Code Section 4112.01, or ancestry and unless the labor organization includes in its apprentice and journeyman's membership, or otherwise has available for job referral without discrimination, qualified employees, both whites and non-whites (including African-Americans).

13. **PERSONNEL.** Upon the District's request, and in its sole discretion, Contractor shall replace any personnel assigned to the Project by the Contractor.
14. **LABOR DISPUTE.** If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Agreement, the Contractor shall immediately give notice, including all relevant information, to the District.
15. **PROMPT PAYMENT DISCOUNT.** If the Contractor offers a prompt payment discount on any other contract, public or private, then the District shall be extended the same discount on this Agreement and shall be so notified of the existence of the discount and the terms thereof.
16. **DAMAGE TO BUILDINGS, EQUIPMENT, AND VEGETATION.** The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the District premises. If the Contractor's failure to use reasonable care causes damage to any District property, the Contractor shall replace or repair the damage at no expense to the District as the District directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.
17. **NOTICE OF BANKRUPTCY.** In the event that Contractor enters into bankruptcy proceedings, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic mail, written notification of the bankruptcy to the District office responsible for administering the contract. This notification shall be furnished within five (5) days of the initiation of proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of District contract numbers and contracting offices for all District contracts against which final payment has not been made. This obligation remains in effect until the District makes final payment under this Agreement.
18. **AVAILABILITY OF FUNDS.** The Parties acknowledge and agree that the District is a governmental entity and due to statutory provisions cannot commit to the payment of funds beyond its current fiscal year (July 1 through June 30). If funds are not allocated for the Project for any succeeding fiscal year during which this Agreement may continue, the District may terminate this Agreement at the end of the last fiscal period for which funds have been allocated without liability for any termination charges, fees, or penalties. The District shall be obligated to pay all charges incurred through the end of the last fiscal period for which funds were appropriated.
19. **RECORDS.** The Contractor shall maintain all records pertaining to this Agreement on file for not less than ten (10) years and until any audit issues are resolved. The Contractor shall make such records available to the District or any duly authorized representative of the District upon request. If this is a federally funded

contract, the Contractor shall comply with all federal records retention rules, regulations and laws and shall allow access to such records as required by federal law.

**20. TERMINATION BY THE OWNER FOR CAUSE.**

21.1 The District may terminate the Contract if the Contractor:

21.1.1 refuses or fails to supply enough properly skilled workers or proper materials;

21.1.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

21.1.3 disregards applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of a public authority; or

21.1.4 otherwise is guilty of breach of a provision of the Contract Documents.

21.2. When any of the above reasons exists, the District may, without prejudice to any other remedy the District may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the District may deem expedient. Upon request of the Contractor, the District shall furnish to the Contractor a detailed accounting of the costs incurred by the District in finishing the Work.

21.3 When the District terminates the Contract for one of the reasons stated in this Article 21, the Contractor shall not be entitled to receive further payment until the Work is finished.

21.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including expenses of the District made necessary thereby, and other damages incurred by the District and not expressly waived, such excess shall be paid to the Contractor to the extent of Work that was actually and satisfactorily performed by the Contractor. If such costs and damages exceed the unpaid balance, the Contractor and/or the Contractor's surety shall pay the difference to the District.

21. **WAIVER OF DEFAULT.** If the District consents to or waives the breach of any provision of covenant in this Agreement, such waiver shall not constitute a waiver of such provisions or covenant as to the future, and the District shall not be estopped from later enforcing any provision or covenant it may have previously waived or elected not to enforce; nor shall such waiver have any effect on the enforcement of any other provision of this contract.

22. **TERMINATION FOR CONVENIENCE OF DISTRICT.** The District may terminate this Agreement at its option without obligation upon fourteen (14) days written notice to the Contractor. The District may terminate this Agreement for any reason or no reason at all. Should the District terminate this Agreement for cause, but that cause be subsequently found to be insufficient to support termination, the termination shall be deemed one of convenience.

23. **EFFECT OF TERMINATION FOR CONVENIENCE.** If the District terminates this Agreement for its convenience, then the District shall only remit payment to the Contractor for Work satisfactorily performed up to the date of termination. In no event shall the Contractor be entitled to lost or anticipatory profits. Upon receipt of written notice from the District of a termination for convenience, the Contractor shall with respect to the Work that is terminated: (i) cease operations as directed by the District in the notice; (ii) take actions necessary, or that the District may direct, for the protection and preservation

of the Work; and (iii) except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

#### **24. MISCELLANEOUS**

- a. Contractor represents and warrants that it possesses the requisite qualifications and personnel to provide the services agreed to herein.
- b. Neither party may assign or sub-contract this Agreement or any right or interest herein without the prior written consent of the other party. The subcontract form between the Contractor and a subcontractor shall meet the applicable requirements of Ohio Administrative Code 153:1-3-01 and 153:1-3-02.
- c. This Agreement shall be binding upon and inure to the benefit of the Parties, their successors, and permitted assigns.
- d. In the event of inconsistencies within or between parts of the Contract Documents or between the Contract Documents and applicable standards, codes, and ordinances that are not clarified through a modification, the Contractor shall (i) provide the better quality or greater quantity of Work or (ii) comply with the more stringent requirement; either or both in accordance with the Owner's interpretation. Anything shown in the drawings and not mentioned in the specifications, or mentioned in the specifications and not shown on the drawings, shall have the same effect as if shown or mentioned respectively in both. Any Work shown on one drawing shall be construed to be shown in all drawings.
- e. The paragraph headings are for convenience only and shall not affect the interpretation of this Agreement.
- f. The validity and construction of this Agreement shall be determined in accordance with the laws of the State of Ohio, without regard to any conflict of law provisions. The Court of Common Pleas of Cuyahoga County, Ohio shall have exclusive jurisdiction over any action concerning this Agreement except that if the U.S. District Court is determined to have exclusive jurisdiction, then the forum shall be the U.S. District Court for the Northern District of Ohio.
- g. The Contractor and all subcontractors shall comply with all local, state and federal laws, rules, regulations and ordinances.
- h. No travel expense reimbursement is authorized unless specifically stated in this contract. If so stated, the meals, travel, and lodging are reimbursable only in strict compliance with the Ohio Auditor of State Technical Bulletins, Guidance and Rules and Regulations and, if this contract is federally funded in whole or in part, in strict compliance with all rules, regulations and guidance of the U.S. Office of Management and Budget and any other federal office or agency having jurisdiction over federally funded contracts.
- i. This document contains the entire Agreement between the parties with respect to the services to be provided hereunder. The Parties hereby represent that there are no representations, understandings

or agreements between the Parties related to the Project, whether oral or written, which are not included herein.

25. **CONFLICT OF INTEREST.** The Contractor represents that none of its employees, directors, officers or agents is an employee or board member of the Cleveland Municipal School District. The Contractor further represents that no employee or board member of the Cleveland Municipal School District has any ownership interest in or fiduciary duties to the Contractor or any of its affiliates. The District's signatory to this Agreement represents that neither he/she or any family member have any ownership interest in or fiduciary duties to the Contractor or any of its affiliates.
26. **TAXES.** The Contractor shall pay applicable sales, consumer, use and other similar taxes that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. District will provide to Contractor, upon request, a completed State of Ohio Sales and Use Tax Construction Contract Exemption Certificate.
27. **INSURANCE.** During the term of this Agreement, the Contractor shall, at its own expense, purchase and maintain insurance in no less that the following amounts and with the following conditions:
- a. Workers' Compensation and employers' liability insurance to the fullest extent required by applicable law;
  - b. Commercial general liability coverage for bodily injury and property damage, including stopgap employers' liability coverage, contractual liability coverage and an exception to any applicable pollution or asbestos exclusion. If a claims policy is used, it must have an unaltered extended discovery period provision, in not less than the following amounts:
    - i. General Aggregate Limit: \$2,000,000 CSL per location;
    - ii. Each Occurrence Limit: \$1,000,000 CSL per location; and
    - iii. Commercial automobile liability coverage, including non-owned and hired automobiles, in an amount not less than \$1,000,000; and
  - c. property insurance on an "all-risk" or equivalent policy form, including builder's risk. The amount of the insurance shall be equal to the Contractor's Contract Sum plus the value of subsequent modifications and cost of materials supplied and installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the District has an insurable interest in the property required by this Article to be covered, whichever is later. This insurance shall include interests of the District, the Contractor, Subcontractors and sub-subcontractors in the Project.
  - d. The Contractor shall provide the District with certificates of insurance evidencing the required coverages and amounts, including without limitation any certificates of renewal. Each policy required to be purchased or maintained by the Contractor, with the exception of the Workers' Compensation policy, shall name the District as an additional insured (for the purposes of this Agreement, being a certificate holder does not constitute being named as an additional insured). The certificates of insurance shall contain a provision that the policy or policies will not be cancelled without thirty (30) days' prior written notice to the District. Upon the District's request, the Contractor shall provide complete copies of any or all policies for the District to review. All

certificates must be received and approved by the District before any Work under this Agreement commences.

28. **PAYMENT AND PERFORMANCE BONDS.** If applicable, the Contractor shall furnish payment and performance bonds as required by Ohio Revised Code Section 153.54, in the form required by Ohio Revised Code Section 153.57 and 153.571, and shall provide the District with proof of such bonds at the time of entering into this Agreement.

29. **PROTECTION OF PERSONS AND PROPERTY.** The Contractor will take no action that would jeopardize the safety of the District's students, employees or guests. The Contractor will not take any action that would interfere with the District's activities without the District's prior written approval. The District reserves the right to require Contractor, its employees and agents to wear identification and stay in designated Work areas at all times while on the District's property. The District shall have the right to require Contractor to remove any of its employees or agents from the Project for failing to wear proper identification, being outside the designated Work area, fraternizing with or engaging in any improper behavior directed towards or in the vicinity of students, employees or guests of the District, or for any other good cause shown.

The Contractor shall take all reasonable safety precautions with respect to its Work and shall comply with all safety measures of the District and all applicable laws, ordinances, rules and regulations for the safety of persons or property in connection with the Contractor's performance under this Agreement. Contractor shall take any precautions necessary to protect the Work of other trades from damages cause by its operations.

30. **WARRANTY AND CORRECTION OF WORK.** Contractor warrants that (i) all materials and equipment furnished and incorporated by it in the Project shall be new, (ii) all materials, equipment and Work provided by it shall be of good quality, free from any faults and defects and (iii) all materials, equipment and Work provided by it shall be in conformity with all applicable laws, rules and regulations and with the Contract Documents. Contractor shall correct any Work that fails to conform with any applicable law, rule or regulation or with the requirements of the Contract Documents if such failure to conform appears during the progress of the Project. The Contractor agrees to assign to the District at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties.

In addition to, and not in limitation of the foregoing warranties, Contractor shall also remedy any defects due to faulty materials or workmanship which appear within a period of one (1) year from the date of completion of the Project. One month prior to the expiration of the one (1) year period, the Contractor shall attend a walk-through of the Project.

31. **ANTI-ABUSE OF DRUGS AND ALCOHOL.** The Contractor shall make a good-faith effort to ensure that no employee of the Contractor will purchase, transfer, use, possess or be under the influence of alcohol or illegal drugs or abuse legally-obtained drugs while on or about the Project. Except for the term "employee," terms in this paragraph are used as defined in Rule 123:1-76 of the Ohio Administrative Code.

32. **CHANGES TO THE PROJECT.** By appropriate modification, changes in the Project may be accomplished after execution of this Agreement. The District, without invalidating this Agreement, may order changes within the general scope of the Project consisting of additions, deletions or other revisions, with the Contract Sum and term of the Agreement being adjusted accordingly. Such changes in the Project shall be authorized by either (i) mutual agreement of the Parties through a written Change Order signed by the District and the Contractor, or (ii) in the absence of mutual agreement, by written Construction Change Directive signed only by the District.

In the case of a Construction Change Directive signed only by the District, adjustments in the Contract Sum shall be determined by calculating the Contractor's cost of additional labor, material and equipment and a reasonable allowance for overhead and profit, unless the Parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive, and the District will make an interim determination of the amount of payment due for purposes of certifying the Contractor's invoice for payment. When the District and Contractor agree on adjustments to the Contract Sum and/or the term of this Agreement arising from a Construction Change Directive, the District will prepare a Change Order. The Contractor shall proceed diligently with the performance of the changes in the Project following receipt of and as set forth in the Construction Change Directive pending resolution of a Change Order.

The District will have authority to order minor changes in the Project not involving adjustment in the Contract Sum or extension of the term of this Agreement and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the District and Contractor. The Contractor shall carry out such written orders promptly.

Agreement on any Change Order shall constitute a final settlement of all claims of the Contractor relating to the change in the Project that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the construction schedule.

33. **SUBMITTALS.** The Contractor shall review for compliance with the Contract Documents and submit to the District shop drawings, product data, samples and similar submittals required by the Contract Documents in such sequence as to allow the District reasonable time for review. By submitting shop drawings, product data, samples and similar submittals, the Contractor represents to the District that the Contractor has (1) reviewed and approved them; (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals. shop drawings, product data, samples and similar submittals are not Contract Documents. In the event of a conflict between submittals and the Contract Documents, the Contract Documents take precedence and govern the Work unless the variance in the submittals is accepted by Change Order.

34. **OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE.** Instruments of service, including drawings and documents that are required to be provided or prepared by the Contractor or Subcontractor pursuant to this Agreement shall become, upon payment of all undisputed payments due the Contractor, the property of the District whether or not the Project for which they are prepared is commenced or completed. The Contractor may retain copies, including reproducible

copies of such instruments of service for information and reference. Such instruments of service may be used by the District or others employed by the District for reference in any completion, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Contractor or Subcontractors. Such instruments of service shall not be given or sold by the District to be used by others on other projects except by agreement in writing and with agreed upon appropriate compensation to the Contractor or Subcontractor, as applicable. The Contractor shall not be held liable if (i) a third party receives the instruments of service and either modifies, changes or uses them for the Project in a way not originally anticipated when the documents were created, or (ii) the instruments of service are used by others not related to the Project without the involvement of the Contractor. If any event occurs for which the Contractor may be liable, the District shall notify the Contractor of such event as soon as practical after such event and shall provide access to the Project to the Contractor, Subcontractor and their representatives.

35. **COMMUNITY INCLUSION PLAN PROGRAM.** Contractor shall adhere to the requirements of the District's Community Inclusion Plan Program as detailed in the ITB and the District's goals with respect to its Diversity Business Enterprise Program and Workforce Participation Program.

36. **CLAIMS AND DISPUTES.**

37.1 The parties are fully committed to working with each other throughout the project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements.

37.2 Contractor and District will first attempt to resolve any dispute, disagreement, controversy or claim (including a claim that is not resolved in accordance with Section 37.1) through direct discussions. Upon the request of either party, Contractor and District shall meet as soon as possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between Contractor and District, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement. If the meeting does not occur within the thirty (30) day period, or if after meeting Contractor and District determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties may, within thirty (30) days thereafter, follow the process set forth in Section 37.3 herein.

37.3 Any dispute, disagreement, controversy or claim between District and Contractor arising out of or related to this Contract, or the breach thereof not resolved through the process set forth in Section 37.2, shall be settled by litigation as the method of binding dispute resolution. In addition, the Parties may, by written agreement, submit any disputes to non-binding mediation upon such terms as shall be mutually agreeable and such mediation shall take place at an agreed-upon location in Cuyahoga County, Ohio. The mediation may occur concurrently with or prior to litigation. This Article shall not prevent either party from bringing a third party claim in pending litigation for indemnity and/or contribution.

37. **MINIMUM WAGES.** Laborers and mechanics employed on the Project will be paid the full amount of wages and bona fide fringe benefits or cash equivalents thereof at rates not less than those contained in the applicable general wage determinations by the United States Department of Labor ("DOL") in accordance with the Davis-Bacon Act, 40 USC 3141 et seq. and 29 CFR, Parts 1, 3, 5, 6 and 7. The current DOL general wage determination is attached as Exhibit D. In the event that the class of work of any of the laborers or mechanics for the Project are not covered by the DOL's general wage determination, the Contractor shall use good faith efforts to obtain a classification and wage rate determination from the

DOL. In the event the Contractor is unable to obtain the classification and determination from the DOL, then the Contractor shall utilize the rate and classification for Cuyahoga County, Ohio as established in the applicable collective bargaining agreement for the Work, regardless of whether the Contractor is a party to the collective bargaining agreement. The District will not seek enforcement of the wage rates through the DOL or the mechanisms of 40 USC 3141 et seq. Rather, the District shall be entitled to rely upon the accuracy and completeness of certified payroll reports of compliance with the wage rate requirements submitted by Contractor. When submitting certified payroll reports, Contractor shall utilize the DOL Form WH-347 or equivalent form. Failure to pay the wage rates will be deemed non-compliance and a material breach of the terms and conditions of this Agreement.

[Signature Page Follows]

***CONTRACT MUST BE APPROVED BY CMSD LEGAL DEPARTMENT PRIOR TO SIGNATURE***

Approved as to form:

\_\_\_\_\_  
Law Department  
Cleveland Municipal School District

DATE: \_\_\_\_\_

\*\*\*\*\*

**NOTICE TO VENDORS**

**GOODS AND/OR SERVICES ARE NOT TO BE PROVIDED UNTIL AFTER THE CONTRACT HAS BEEN SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF CMSD AND A CERTIFIED PURCHASE ORDER HAS BEEN ISSUED TO THE VENDOR**

**THE CLEVELAND MUNICIPAL SCHOOL DISTRICT IS NOT OBLIGATED TO PAY FOR GOODS AND/OR SERVICES PROVIDED PRIOR TO THE DATE THIS CONTRACT HAS BEEN SIGNED BY AN AUTHORIZED CMSD REPRESENTATIVE.**

\*\*\*\*\*

*IN WITNESS WHEREOF*, the parties hereto have caused this Agreement to be executed by them or their authorized representatives as of the day and year first above written.

**[CONTRACTOR]**

**CLEVELAND MUNICIPAL SCHOOL DISTRICT**

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_



## **Part 2: Forms and Specifications**

**ITB #21239**

**PURCHASE OF SCHOOL BUSES**

FOR THE  
CLEVELAND METROPOLITAN SCHOOL DISTRICT

## Section A: Specifications

Cleveland Metropolitan School District

**ITB 21239 – Purchase of School Buses**

### Specifications

SPECIFICATIONS FOR:

**Model Year:** 2018  
**Quantity:** Up to 66 Buses  
**Seating for Minimum:** 59 Passengers  
**School Bus Body:** Conventional, Class C, GVWR must remain under 26,001 pounds.

**Suggested Manufacturers:** International CE, Blue Bird Vision, or Thomas Saf-T-Liner C2.

**Bids will be weighted as follows:** 30% - Meeting Specifications  
40% - Pricing  
30% - Warranty Serviceability

Bus chassis and bodies, when assembled and prior to delivery, must comply with all safety regulations, including the Ohio Department of Education, Ohio School Bus Standards as adopted by and with the consent of the Ohio Director of Highway Safety pursuant to Section 4501-5 and all relevant rules of the Ohio Revised Codes, all Federal Safety Standards and any pertinent provisions of law which are in effect at the date of construction.

## Section B: Bid Form

The undersigned proposes to provide **PURCHASE OF SCHOOL BUSES** for the Cleveland Metropolitan School District in accordance with the Specifications and to the entire satisfaction of, and acceptance by, the District and for the following prices. The vendor confirms that the offer below is good for a period of sixty (60) days from submittal due date. The term of this agreement will begin immediately upon selection, approval and contract execution through completion to the lowest responsive and responsible vendor. CMSD reserves the right to request additional pricing from the awarded Vendors for services not identified herein. Vendor shall provide the best rates for services later identified by CMSD based on the request and in accordance with the specifications and requirements outlined herein. The District does not guarantee utilization of services or make any comment as to minimum amount of services through the term of any awarded agreement.

A copy of this form (all pages) shall be returned with the Grid columns marked appropriately or the bid may be deemed non-responsive and rejected. Any exceptions taken to the following specifications or alternates provided must be listed on the bid form or a separate sheet attached to the Bid Form. If a list is not submitted with the Bid or a price not included for the non-standard options, the District will assume the price is included in the Standard Option Price.

The District is seeking “all-units” pricing. The price for each bus shall be equal to the least expensive volume tier listed below. Any optional discounts for volume purchases or all cash purchases shall be clearly defined in the space provided below or a separate sheet attached to the Bid Form.

| <u>Item No.</u>    | <u>Description</u>     | <u>Description</u>  | <u>Standard Option Y or N</u> | <u>Price If Not Standard 1-50 Buses</u> | <u>Price If Not Standard 51-66 Buses</u> |
|--------------------|------------------------|---|-------------------------------|---|--|
| <b><u>BODY</u></b> |                        |   |                               |   |  |
| 1.                 | <b>School Bus Body</b> | Conventional, all bus bodies must be built alike, <b>keyed alike (ignition, door, accessory panels)</b> , cloned units, down to each wire, switch and mounting hole. <i>Must meet Ohio Minimum Standards.</i> | _____                         | _____                                   | _____                                    |
| 2.                 |                        | Rear emergency door must have hinges with serviceable grease fittings and/or weather resistant mountings  | _____                         | _____                                   | _____                                    |
| 3.                 |                        | Entrance step assembly to be aluminum with a non-slip surface, or stainless steel with a non-slip surface.  | _____                         | _____                                   | _____                                    |
| 4.                 |                        | Air or electrically controlled entrance door. Outward movement only.  | _____                         | _____                                   | _____                                    |
| 5.                 |                        | Front hood shall be fiberglass easy-tilt with quick-disconnect wiring harness   | _____                         | _____                                   | _____                                    |

for easy removal.

- |                      |  |       |       |       |
|----------------------|--|-------|-------|-------|
| 6.                   | Emergency door must be aluminum.   | _____ | _____ | _____ |
| 7.                   | Entrance doors must be aluminum.   | _____ | _____ | _____ |
| 8. <b>Heating</b>    | All heater hoses to be of premium grade silicone construction, and must be wrapped in loom or insulation   | _____ | _____ | _____ |
| 9. <b>Lighting</b>   | All exterior lighting to be LED (diode).   | _____ | _____ | _____ |
| 10.                  | All marker and clearance lights to be set into the body panels, not extruding from the body  | _____ | _____ | _____ |
| 11.                  | All lines and electrical wiring that pass through metal parts of the body, or come into contact with any body panels or chassis components, must be protected with grommets and wire looms, to provide protection from abrasion or cutting.  | _____ | _____ | _____ |
| 12. <b>Mirrors</b>   | Inserts are not acceptable for mounting mirrors to fiberglass hoods or fenders. A steel backing plate must be attached to the back of all mounting points on the hood or fender.   | _____ | _____ | _____ |
| 13.                  | Mirror supports and brackets must be a heavy-duty stainless steel design. No plastic components are acceptable.  | _____ | _____ | _____ |
| 14. <b>Lettering</b> | Exterior lettering and numbering to be painted on.   | _____ | _____ | _____ |
| 15.                  | If painting is not available, then all exterior decals must be guaranteed against peeling or de-bonding for a minimum period of three years. Reflective tape and decals must be one part foil type (example-Reflexite); two-part tape with separate adhesive and reflective material bonded is not acceptable (sample available upon request). | _____ | _____ | _____ |

|   |   |       |       |       |
|---|---|-------|-------|-------|
| 16. <b>Rustproofing/<br/>Undercoating</b> | Rustproofing materials used on all surfaces and internal cavities of the bus shall be a non-hardening material that provides maximum adhesion to the surface and shall be equal to or better than Valvoline Tectyl 121 B, with a black dye to insure positive coverage. Include interior emergency and entrance doors, bulkhead, and interior cowl. | _____ | _____ | _____ |
| 17. <b>Seats</b>                          | All passenger seats will have seat belt ready frames and seat belts for all passengers.   | _____ | _____ | _____ |
| 18.                                       | All upholstery will be guaranteed against manufacturing defects for a period of three years   | _____ | _____ | _____ |
| 19.                                       | Acoustical ceiling- Full length.  | _____ | _____ | _____ |
| 20. <b>Safety<br/>Equipment</b>           | Safety equipment will be mounted forward of the passenger area. May mount on side panels or bulkhead. Fire extinguisher to be mounted on the floor only. No equipment is to be mounted behind driver's area.  | _____ | _____ | _____ |
| 21. <b>Flooring</b>                       | Flooring material to be constructed with marine grade plywood. Rubber floor covering must be bonded to plywood, flat without blisters or bubbles.   | _____ | _____ | _____ |
| 22.                                       | Seamless rubber floor covering (one piece rubber wall-to-wall).   | _____ | _____ | _____ |
| 23.                                       | Mounting of the bus body to chassis frame with re-enforcement of the stringer that it is attached to.   | _____ | _____ | _____ |
| 24. <b>Body<br/>Accessories</b>           | "No child left behind" electronics <b>not to be used.</b>   | _____ | _____ | _____ |
| 25.                                       | Minimum one accessory power port in   | _____ | _____ | _____ |

the driver area.

**CHASSIS**

|                               |  |       |       |       |
|-------------------------------|--|-------|-------|-------|
| 26. <b>Engine</b>             | Unleaded gasoline engine, to meet Ohio minimum standards.  | _____ | _____ | _____ |
| 27.                           | List in-line diesel alternative, 4, 6 or 8 cylinder, turbo powered, to meet Ohio minimum standards.  | _____ | _____ | _____ |
| 28.                           | List LPG (propane) alternative; to meet Ohio minimum standards.                                      | _____ | _____ | _____ |
| 29.                           | Engine must have petcock style oil drain (example-Fumoto).   | _____ | _____ | _____ |
| 30.                           | Minimum 5 year, 50,000 mile warranty on engine.  | _____ | _____ | _____ |
| 31. <b>Exhaust</b>            | Side out exhaust system.   | _____ | _____ | _____ |
| 32.                           | Stainless steel exhaust system.  | _____ | _____ | _____ |
| 33. <b>Chassis Electrical</b> | 12 volt electrical system with negative ground.  | _____ | _____ | _____ |
| 34.                           | 12 volt starter with over crank protection.  | _____ | _____ | _____ |
| 35.                           | 120 volt block heater, (diesel engine only).   | _____ | _____ | _____ |
| 36.                           | Alternator minimum 200 amps.   | _____ | _____ | _____ |
| 37.                           | All chassis wiring to be continuously numbered, and loomed, with grommets.                           | _____ | _____ | _____ |
| 38.                           | All wiring shall have moisture-proof connectors.   | _____ | _____ | _____ |
| 39.                           | Horns must be mounted in area unaffected by weather and road conditions (not in under chassis area). | _____ | _____ | _____ |

|                         |   |       |       |       |
|-------------------------|---|-------|-------|-------|
| 40.                     | Accurate wiring and component schematics and diagrams shall be provided, 3 complete sets.   | _____ | _____ | _____ |
| 41.                     | Dash gauges to include volts, oil pressure, coolant temp, transmission fluid temp, tachometer, fuel level, air pressure, speedometer, odometer. | _____ | _____ | _____ |
| 42. <b>Cooling</b>      | Heavy duty cooling system with extended life coolant, Dex-cool or similar (red).  | _____ | _____ | _____ |
| 43.                     | Viscous fan clutch.   | _____ | _____ | _____ |
| 44.                     | Radiator must have stainless steel, aluminum or brass tanks and cores and <b>remain free from leaks or defects for a minimum of five years.</b> | _____ | _____ | _____ |
| 45. <b>Transmission</b> | Allison 2500 automatic, similar or better, electronically controlled.   | _____ | _____ | _____ |
| 46.                     | External, spin-on transmission filter.  | _____ | _____ | _____ |
| 47.                     | Minimum 5 year, 50,000 mile warranty on transmission.   | _____ | _____ | _____ |
| 48. <b>Fuel System</b>  | 60 gallon minimum capacity fuel tank, frame mounted, with petcock style drain valve.  | _____ | _____ | _____ |
| 49.                     | Fuel tank shall be coated to prevent rust or corrosion, and shall remain free of rust or corrosion for a minimum of five (5) years.             | _____ | _____ | _____ |
| 50.                     | Visual alarm for low fuel condition.  | _____ | _____ | _____ |
| 51.                     | Heated fuel / water separator w/ dash light when service is needed (diesel engine only).  | _____ | _____ | _____ |
| 52. <b>Axles</b>        | Front axle minimum 8,000 lb rating.   | _____ | _____ | _____ |
| 53.                     | Rear axle minimum 17,000 lb rating.   | _____ | _____ | _____ |

|                           |   |       |       |       |
|---------------------------|---|-------|-------|-------|
| 54.                       | King pins must have brass bushings.   | _____ | _____ | _____ |
| 55. <b>Suspension</b>     | Front suspension to be leaf spring / shock absorber.  | _____ | _____ | _____ |
| 56.                       | Rear suspension to be leaf / air bag / shock absorber with leveling valve.  | _____ | _____ | _____ |
| 57.                       | Air dryer system with automatic drain and manual drain, and spin on desiccant filter.                                     | _____ | _____ | _____ |
| 58.                       | Front wheel bearings to have synthetic hard grease.   | _____ | _____ | _____ |
| 59. <b>Steering</b>       | Power steering.   | _____ | _____ | _____ |
| 60.                       | Tilt steering wheel.  | _____ | _____ | _____ |
| 61.                       | Steering shaft to have serviceable joints with grease fittings.   | _____ | _____ | _____ |
| 62. <b>Frame</b>          | Front and rear tow hooks.   | _____ | _____ | _____ |
| 63.                       | Full-width front and rear, heavy duty steel bumpers.  | _____ | _____ | _____ |
| 64.                       | Front crossing arm <b>not preferred</b> .   | _____ | _____ | _____ |
| 65. <b>Wheels / Tires</b> | 11R22.5 tires, Goodyear 662 steers, similar or better on the steer axle, lugged tires (all-weather tread) for drive axle. | _____ | _____ | _____ |
| 66.                       | Hub pilot steel wheels, painted black, at all positions.  | _____ | _____ | _____ |
| 67.                       | Lug nut indicators, fluorescent green, on all lug nuts.   | _____ | _____ | _____ |
| 68. <b>Brakes</b>         | 4 wheel disc, hydraulic brake system.   | _____ | _____ | _____ |
| 69.                       | Mechanically or electrically actuated park brake.   | _____ | _____ | _____ |
| 70.                       | ABS tone rings on all rotors to be  | _____ | _____ | _____ |

nickel-coated and corrosion resistant, same as or similar to Performance Friction 390.048.20; painted or paint type coatings are not acceptable; ABS tone rings must be guaranteed for a minimum of three years or until the rotor fails.

71. Corrosion resistant brake lines.

**OTHER**

72. **Manuals** Professional service manuals and/or computer CD's. Three (3) each shall be provided by the manufacturer, which will provide information on total body and chassis servicing and maintenance including complete electrical wiring manuals and CD's. Include special equipment manuals if equipped. Service software must also be provided, 3 copies for three separate laptops.

73. **Warranties** List all available extended warranty options, to include chassis, body, and power train (attach).

74. All warranty repair service either on the body or on chassis must be serviced by a dealership or designee for that manufacture not to exceed 30 miles. Mileage more than 30 miles will be the responsibility of the servicing dealer to pick-up and deliver vehicles at no expense to the District. In house servicing by dealership or manufacture must be prearranged. If the servicing dealership or manufacture cannot service equipment within a reasonable time (72 hours) they will be invoiced for repairs at the rate of \$75.00 per hour rate, not flat rate. This option will only apply if school district has available time and space to service warranty equipment. Any and all safety recalls that apply to this vehicle

throughout its life will be covered by above outline. All service upgrades within a 24-month period will become a blanket repair on all vehicles bid on in this package and serviced under 100% warranty without cost to the District.

75. **Pre-Delivery**

All School Buses purchased must pass the State of Ohio Highway Patrol School Bus inspection before delivery is accepted. Any factory defects, upgrades and / or specification flaws that do not comply must be completed before delivery, no exceptions.

76. **Radios**

To be equipped with antennae, antennae wiring and power and ground wiring for two-way radio installation near driver area and ready for radio mounting; District to supply radios, Kenwood Model NX800K, which must be installed and checked for proper operation before delivery.

77. **Cameras**

To be equipped with interior cab camera system, same as or similar to Angel Traxx VulcanV5SD, 4 cameras mounted to District specification.

