



**AGREEMENT BETWEEN  
THE CITY OF PEMBROKE PINES AND  
CONICA USA POLYTRACKS LLC DBA POLYSPORT**

THIS AGREEMENT ("Agreement"), dated \_\_\_\_\_, is entered into by and between the **City of Pembroke Pines**, a Florida municipal corporation with a business address of 601 City Center Way, Pembroke Pines, Florida 33025 (hereinafter referred to as "**CITY**"), and **Conica USA Polytracks LLC d/b/a Polysport**, a Limited Liability Company, with a business address of 105 Westwood Place, Suite 120, Brentwood, TN 37027 ("**CONTRACTOR**"). **CITY** and **CONTRACTOR** shall be collectively referred to herein as "**Parties**" and individually as "**Party**".

**WHEREAS**, the **CITY** desires to obtain resurfacing of the track at the **CITY**'s Charter School's Academic Village campus; and

**WHEREAS**, on April 30, 2023, The Interlocal Purchasing System ("**TIPS**") entered into an agreement with **CONTRACTOR**, pursuant to Solicitation RFP 230201, entitled "Synthetic Turf or Natural Sports Fields, Grounds, Courts, and Track Goods and Services (Part 1)," for the provision of goods and services related to sports fields, facility grounds, courts, and tracks to public entity and qualifying non-profit **TIPS** Members in the United States for a three (3) year term, and which allows for one (1) additional one (1) year term if offered by **TIPS** at its sole discretion; and,

**WHEREAS**, pursuant to **CITY** Code of Ordinances 35.18 (C)(5), entitled "Utilization of Other Governmental Agencies' Contracts", **CITY** has evaluated The Interlocal Purchasing System Solicitation RFP 230201 and the related agreement with **CONTRACTOR** and determined such terms and pricing may be utilized by **CITY** to obtain goods and services for the resurfacing of the track at the Charter School's Academic Village campus; and

**WHEREAS**, pursuant to **CITY** Code of Ordinances §35.18(C)(5), the **CITY** desires to hire **CONTRACTOR** for the resurfacing of the track at the **CITY**'s Charter School's Academic Village campus utilizing the terms and pricing offered in The Interlocal Purchasing System Solicitation RFP 230201 and the related agreement with **CONTRACTOR**; and,

**WHEREAS**, **CONTRACTOR** agrees to extend the same terms and pricing as set forth in The Interlocal Purchasing System Solicitation RFP 230201 and the related agreement with **CONTRACTOR** to **CITY** pursuant to the terms set forth herein; and,

**WHEREAS**, the Parties wish to incorporate and supplement the terms and conditions set forth in The Interlocal Purchasing System Solicitation RFP 230201 and the related agreement with **CONTRACTOR**, attached hereto and made a specific part hereof as Exhibit "A", with the terms and requirements set forth herein; and,



**WHEREAS**, at its meeting of \_\_\_\_\_, 2023 the CITY Commission approved this Agreement and authorized the proper CITY officials to execute this Agreement.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the Parties agree as follows:

1. The foregoing recitals are true and correct and incorporated herein as if set forth in full.
2. **Scope of Services.** CONTRACTOR agrees to provide track resurfacing at the CITY's Charter School Academic Village campus, located at 17189 Sheridan Street, Pembroke Pines, FL 33331 (Location), in accordance with the terms and price units more particularly described in The Interlocal Purchasing System Solicitation RFP 230201 and the related agreement with CONTRACTOR, attached hereto as **Exhibit "A"** by this reference made a part hereof and in CONTRACTOR's proposal for CITY, attached hereto and by this reference made a part hereof as **Exhibit "B"**.
  - 2.1 CONTRACTOR shall furnish all services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement, except as otherwise specifically provided for herein, and all work performed pursuant to this Agreement shall be done in a professional manner.
  - 2.2 CONTRACTOR shall provide CITY with seventy-two (72) hours written notice prior to the beginning of work pursuant to this Agreement and prior to any schedule change with the exception of changes caused by inclement weather.
  - 2.3 CONTRACTOR hereby represents to CITY that CONTRACTOR is properly licensed by the applicable federal, state, and local agencies to provide the services pursuant to this Agreement. Furthermore, CONTRACTOR agrees to maintain such licenses during the term of this Agreement. If CONTRACTOR's license is revoked, suspended, or terminated for any reason by any governmental agency, CONTRACTOR shall notify the CITY immediately.
  - 2.4 CONTRACTOR shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to CONTRACTOR, its employees, agents or subcontractors, if any, with respect to the work and services described herein. A violation of any federal, state, or local law or regulation may be cause for breach, allowing the CITY to terminate this Agreement.
  - 2.5 CONTRACTOR shall not subcontract any of its obligations under this Agreement without first obtaining the CITY's prior written consent. In the event the CITY does consent in writing to a subcontracting arrangement, CONTRACTOR shall be the prime contractor and shall remain fully responsible for performance of all obligations which it is required to perform under this Agreement. Any subcontract entered into by CONTRACTOR shall name the CITY as a third party beneficiary.



3. **Compensation and Method of Payment.** CITY agrees to compensate CONTRACTOR for all services performed by CONTRACTOR pursuant to this Agreement and in accordance with **Exhibit "B"**, for work that has been completed, inspected and properly invoiced. The total compensation amount paid to CONTRACTOR pursuant to this Agreement shall not exceed **TWO HUNDRED TWENTY-FIVE THOUSAND THREE HUNDRED FORTY-TWO DOLLARS AND 50/100 CENTS (\$225,342.50)** which includes an owner's contingency of **TEN THOUSAND TWO HUNDRED FORTY-TWO DOLLARS AND 50/100 CENTS (\$10,242.50).**

3.1 All payments shall be governed by the Local Government Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes. Payment shall be made to CONTRACTOR at:  
**Conica USA Polytracks LLC dba Polysport**  
**105 Westwood Place Suite 120**  
**Brentwood, TN 37027**

4. **Payment & Performance Bonds.**

4.1 Within fifteen (15) calendar days after Notice of Award and in any event prior to commencing work, the CONTRACTOR shall execute and furnish to CITY a Payment Bond and a Performance Bond, each written by a corporate surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years. The surety shall hold a current certificate of authority from the Secretary of Treasury of the United States as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular No. 570. If the amount of the bonds exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular and the excess risks must be protected by coinsurance, reinsurance, or other methods, in accordance with Treasury Circular 297, revised September 1, 1978 (31DFR, Section 223.10, Section 223.11). Further, the surety company shall provide CITY with evidence satisfactory to CITY, that such excess risk has been protected in an acceptable manner. The surety company shall have at least the following minimum qualification in accordance with the latest edition of A.M. Best's Insurance Guide, published by Alfred M. Best Company, Inc., Ambest Road, Oldwick, New Jersey 08858:

B+ to A+

4.2 Two (2) separate bonds are required and both must be approved by the CITY. **The penal sum stated in each bond shall be 100% of the contract value.** The Performance Bond shall be conditioned upon the CONTRACTOR's performance of the work in the time and manner prescribed in the Agreement. The Payment Bond shall be conditioned upon the CONTRACTOR's promptly making payments to all persons who supply the CONTRACTOR with labor, materials and supplies used directly or indirectly by the CONTRACTOR in the prosecution of the work provided for in this Agreement and shall provide that the surety shall pay the same in the amount not exceeding the sum provided in such bonds, together with interest at the maximum rate



allowed by law; and that they shall indemnify and save harmless the CITY to the extent of any and all payments in connection with the carrying out of said Agreement which the CITY may be required to make under the law.

4.3 Pursuant to the requirements of Section 255.05(1)(a), Florida Statutes, it shall be the duty of the CONTRACTOR to record the aforesaid Payment Bond and Performance Bond in the public records of Broward County, and CONTRACTOR shall be responsible for payment of all recording costs.

5. **Changes to Scope.** CITY or CONTRACTOR may request changes that would increase, decrease, or otherwise modify the scope of services, to be provided pursuant to this Agreement and in accordance with **Exhibit "A"**. These changes may affect the monthly compensation accordingly. Such changes or additional services must be in accordance with the provisions of CITY's Code of Ordinances and must be contained in a written amendment, executed by the Parties hereto prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. In no event will the CONTRACTOR be compensated for any work which has not been described either herein, in a purchase order, or in a separate written agreement executed by the Parties hereto.

6. **Term and Termination.** The work to be performed pursuant to this Agreement shall commence after CITY executes this Agreement and no later than ten (10) days after the date that CONTRACTOR receives CITY's Notice to Proceed. The work shall be completed within **twenty-eight (28) calendar days** from issuance of CITY's Notice to Proceed, subject to any permitted extensions of time pursuant to this Agreement and any amendments and/or addenda thereto. For the purposes of this Agreement, the term "completion" shall mean the satisfactory completion and final inspection of the Properties by the CITY.

6.1 **Termination for Convenience.** This Agreement may be terminated by CITY for convenience, upon providing fourteen (14) calendar days written notice of such termination to CONTRACTOR, in which event CONTRACTOR shall be paid its compensation for services performed to termination date, including services reasonably related to termination.

6.2 **Termination for Cause; Default.** In addition to all other remedies available to CITY, this Agreement shall be subject to termination by CITY for cause, should CONTRACTOR neglect or fail to perform or observe any of the terms, provisions, conditions, or requirements herein contained, if such neglect or failure shall continue for a period of thirty (30) calendar days after receipt by CONTRACTOR of written notice of such neglect or failure. In the event that CONTRACTOR abandons this Agreement, CONTRACTOR shall indemnify CITY against loss pertaining to such abandonment. CITY reserves the right to recover any ascertainable actual damages incurred as a result of the failure of CONTRACTOR to perform in accordance with the requirements of this Agreement.



6.2.1 **Default Events.** The occurrence of any one or more of the following events shall constitute a default and breach of this agreement by CONTRACTOR:

6.2.1.1 Unnecessary delay, refusal of, or failure to correct deficiencies for a period of thirty days after receipt by CONTRACTOR of written notice of such neglect or failure.

6.2.1.2 Assignment and/or transfer of this Agreement which is not expressly permitted here under or in writing by CITY.

6.2.1.3 The filing by or against CONTRACTOR of a petition to have CONTRACTOR adjudicated bankrupt (unless, the same is dismissed within sixty (60) calendar days of such filing).

6.2.2 **Remedies in Default.** In the event of default, all payments remaining due to CONTRACTOR at the time of default, less all sums incurred by CITY for reasonable, direct, out-of-pocket costs incurred by CITY by reason of default, shall be due and payable to CONTRACTOR. In the event CITY completes the Agreement at a lesser cost than would have been payable to CONTRACTOR under this Agreement, if the same had been fulfilled by CONTRACTOR, CITY shall retain such differences. Should such cost to CITY be greater, CONTRACTOR shall pay the amount of such excess to the CITY.

## 7. **Insurance.**

7.1 CONTRACTOR shall indemnify and hold harmless the CITY, its trustees, elected and appointed officers, agents, servants, assigns, employees, consultants, separate contractors, any of their subcontractors, sub-subcontractors, agents and employees from and against claims, demands, or causes of action whatsoever, and the resulting losses, damages, costs and expenses, including but not limited to attorneys' fees, including paralegal expenses, liabilities, damages, orders, judgments, or decrees, sustained by the CITY arising out of or resulting from the failure of the CONTRACTOR to take out and maintain insurance as required under this Agreement.

7.2 CONTRACTOR shall not commence work under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the CITY nor shall the CONTRACTOR allow any subcontractor to commence work on any subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.

7.3 Certificates of Insurance, reflecting evidence of the required insurance, shall be filed with the CITY's Risk Manager prior to the commencement of this Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance company shall be rated no less than "A" as to management, and no less than "Class VI" as to financial strength according to the latest edition of Best's Insurance Guide published by A.M. Best Company.



- 7.4 Certificates of Insurance shall provide for thirty (30) calendar days' prior written notice to the CITY in case of cancellation in the policy limits or coverage states. If the carrier cannot provide thirty (30) calendar days' notice of cancellation, either the CONTRACTOR or their insurance broker must agree to provide notice.
- 7.5 Insurance shall be in force until all obligations required to be fulfilled under the terms of the Agreement are satisfactorily completed as evidenced by the formal acceptance by the CITY. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, the CONTRACTOR shall furnish, at least thirty (30) calendar days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. The CONTRACTOR shall neither commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. CONTRACTOR shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.
- 7.6 **Required Insurance.** CONTRACTOR shall be required to obtain all applicable insurance coverage, as indicated below, prior to commencing any work pursuant to this Agreement:

Yes No

- ✓ ☐ 7.6.1 Comprehensive General Liability Insurance written on an occurrence basis including, but not limited to: coverage for bodily injury and property damage, personal & advertising injury, products & completed operations, and contractual liability. Coverage must be written on an occurrence basis, with limits of liability no less than:

1. Each Occurrence Limit - \$1,000,000
2. Fire Damage Limit (Damage to rented premises) - \$100,000
3. Personal & Advertising Injury Limit - \$1,000,000
4. General Aggregate Limit - \$2,000,000
5. Designated Construction Project(s) General Aggregate Limit - \$2,000,000

Products & Completed Operations Coverage shall be maintained for the later of ten (10) years after the delivery of goods/services or final payment under the Agreement. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

Yes No

- ✓ ☐ 7.6.2 Workers' Compensation and Employers' Liability Insurance covering all employees, and/or volunteers of the CONTRACTOR engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, the CONTRACTOR shall require the subcontractors similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. Coverage for the CONTRACTOR and all subcontractors shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than:



1. Workers' Compensation: Coverage A – Statutory
2. Employers Liability: Coverage B \$500,000 Each Accident  
\$500,000 Disease – Policy Limit  
\$500,000 Disease – Each Employee

If CONTRACTOR claims to be exempt from this requirement, CONTRACTOR shall provide CITY proof of such exemption along with a written request for CITY to exempt CONTRACTOR, written on CONTRACTOR letterhead.

Yes No

- ✓ ☐ 7.6.3 Comprehensive Auto Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage no less than:

1. Any Auto (Symbol 1)  
Combined Single Limit (Each Accident) - \$1,000,000
2. Hired Autos (Symbol 8)  
Combined Single Limit (Each Accident) - \$1,000,000
3. Non-Owned Autos (Symbol 9)  
Combined Single Limit (Each Accident) - \$1,000,000

Yes No

- ✓ ☐ 7.6.4 Umbrella/Excess Liability Insurance in the amount of \$1,000,000 as determined appropriate by the CITY depending on the type of job and exposures contemplated. Coverage must be follow form of the General Liability, Auto Liability and Employer's Liability. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this Agreement. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

#### 7.7 REQUIRED ENDORSEMENTS.

- 7.7.1 The City of Pembroke Pines shall be named as an Additional Insured on each of the Liability Policies required herein.
- 7.7.2 Waiver of all Rights of Subrogation against the CITY.
- 7.7.3 Thirty (30) Day Notice of Cancellation or Non-Renewal to the CITY.
- 7.7.4 CONTRACTOR's policies shall be Primary & Non-Contributory.
- 7.7.5 All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY.

- 7.8 Any and all insurance required of the CONTRACTOR pursuant to this Agreement must also be required by any subcontractor in the same limits and with all requirements as provided herein, including naming the CITY as an additional insured, in any work that is subcontracted unless such subcontractor is covered by the protection afforded by the CONTRACTOR and provided proof of such coverage is provided to CITY. The



CONTRACTOR and any subcontractors shall maintain such policies during the term of this Agreement.

- 7.9 The insurance requirements specified in this Agreement are minimum requirements and in no way reduce any liability the CONTRACTOR has assumed in Section 7, herein.
8. **Indemnification.** The CONTRACTOR shall indemnify and hold harmless the CITY and its officers, employees, agents and instrumentalities from liability, losses or damages, including attorneys' fees and costs of defense, which the CITY or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature to the extent caused in whole or in part by the negligence, recklessness, or intentional wrongful misconduct of CONTRACTOR or its employees, agents, partners, principals or subcontractors. The CONTRACTOR shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon.
- 8.1 Upon completion of all services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Article shall survive indefinitely.
- 8.2 CITY reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of CONTRACTOR.
9. **Agreement Subject to Funding.** This Agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Pembroke Pines in the annual budget for each fiscal year of this Agreement, and is subject to termination based on lack of funding.
10. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida as now and hereafter in force. The venue for any and all actions or claims arising out of or related to this Agreement shall be in Broward County, Florida.
11. **Sovereign Immunity.** Nothing contained herein is intended nor shall be construed to waive CITY's rights and immunities under the common law or §768.28, Florida Statutes, as may be amended from time to time.
12. **Independent Contractor.** This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the Parties that the CONTRACTOR is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal





Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONTRACTOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONTRACTOR, which policies of CONTRACTOR shall not conflict with CITY, State, or Federal policies, rules or regulations relating to the use of CONTRACTOR's funds provided for herein. The CONTRACTOR agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the CITY and the CITY will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

13. **Non-Discrimination & Equal Opportunity Employment.** During the performance of the Agreement, neither CONTRACTOR nor any subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. CONTRACTOR will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONTRACTOR shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. CONTRACTOR further agrees that CONTRACTOR will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.
14. **Uncontrollable Forces.** Neither CITY nor CONTRACTOR shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, pandemic, acts of God, war, riot, civil disturbance, sabotage, and governmental actions. Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from



performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

15. **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
16. **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of CITY. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires CITY approval. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by the Parties hereto.
17. **Public Records.** The City of Pembroke Pines is a public agency subject to Chapter 119, Florida Statutes. CONTRACTOR shall comply with Florida's Public Records Law. Specifically, CONTRACTOR shall:
  - 17.1 Keep and maintain public records required by the CITY to perform the service;
  - 17.2 Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
  - 17.3 Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, following completion of the Agreement, CONTRACTOR shall destroy all copies of such confidential and exempt records remaining in its possession after CONTRACTOR transfers the records in its possession to the CITY; and
  - 17.4 Upon completion of the Agreement, CONTRACTOR shall transfer to the CITY, at no cost to the CITY, all public records in CONTRACTOR's possession. All records stored electronically by CONTRACTOR must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.
  - 17.5 The failure of CONTRACTOR to comply with the provisions set forth in this Article shall constitute a default and breach of this Agreement, for which, the CITY may terminate the Agreement in accordance with the terms herein.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION  
OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY**



**TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT,  
CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK  
601 CITY CENTER WAY, 4th FLOOR  
PEMBROKE PINES, FL 33025  
(954) 450-1050  
mgraham@ppines.com**

18. **Notice.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, CITY designates the following as the respective places for giving of notice:

CITY: Charles F. Dodge, City Manager  
City of Pembroke Pines  
601 City Center Way, 4th Floor  
Pembroke Pines, Florida 33025  
Telephone No. (954) 450-1040

Copy To: Samuel S. Goren, City Attorney  
Goren, Cherof, Doody & Ezrol, P.A.  
3099 East Commercial Boulevard, Suite 200  
Fort Lauderdale, Florida 33308  
Telephone No. (954) 771-4500  
Facsimile No. (954) 771-4923

CONTRACTOR: Conica USA Polytracks LLC dba Polysport  
105 Westwood Place Suite 120  
Brentwood, TN 37027  
Telephone No. (615) 587-7765  
Email: Jamie.copling@polysportusa.com

19. **Attorneys' Fees.** In the event that either party brings suit for enforcement of this Agreement, each party shall bear its own attorney's fees and court costs, except as otherwise provided under the indemnification provisions set forth herein above.

20. **Counterparts and Execution.** This Agreement may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this Agreement by the



Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other party through facsimile transmission, email, or other electronic delivery.

21. **Scrutinized Companies.** CONTRACTOR, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services of:
  - 21.1 Any amount if, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or
  - 21.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:
    - 21.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or
    - 21.2.2 Is engaged in business operations in Syria.
22. **Employment Eligibility.** CONTRACTOR certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.
  - 22.1 **Definitions for this Section.**
    - 22.1.1 "Contractor" means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration. "Contractor" includes, but is not limited to, a vendor or consultant.
    - 22.1.2 "Subcontractor" includes, but is not limited to, a vendor or consultant.
    - 22.1.3 "Subcontractor" means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.
    - 22.1.4 "E-Verify system" means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.
  - 22.2 **Registration Requirement; Termination.** Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees.



Contractor shall register for and utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

- 22.2.1 All persons employed by a Contractor to perform employment duties within Florida during the term of the contract; and
  - 22.2.2 All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City of Pembroke Pines. The Contractor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Pembroke Pines; and
  - 22.2.3 The Contractor shall comply with the provisions of Section 448.095, Florida Statutes., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Contractor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Agreement, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Agreement under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of one (1) year after the date of termination.
23. **Records and Audit.** CITY may, upon prior written notice and at a mutually agreed upon date for a period of up to five (5) years following the date of final performance of services by CONTRACTOR under this Agreement, review those books and records of CONTRACTOR which are related to CONTRACTOR's performance under this Agreement. CONTRACTOR agrees to maintain all such books and records at its relevant branch location for a period of five (5) years after final payment is made under this Agreement, or as otherwise required by applicable law.
24. **Severability.** If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.



25. **Waiver.** Failure of CITY to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be construed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.
26. **Compliance with Laws.** It shall be the CONTRACTOR's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, City, state, and federal agencies as applicable.
27. **Entire Agreement.** These terms, together with **Exhibit "A"** and **Exhibit "B"**, incorporated herein by reference, set forth the entire understanding of the parties and supersedes all prior agreements, whether written or oral, with request to such subject matter. All references to "TIPS or "City" in Exhibit "A" shall be construed as a reference to CITY, and all terms and conditions shall be deemed as having been available for use by the City of Pembroke Pines.
28. **Conflict of Terms.** In the event of any conflict or ambiguity by and between the terms set forth in Exhibit "A" and Exhibit "B" with the terms set forth herein, the terms of this Agreement shall prevail.
29. **Federal Requirements.** Notwithstanding anything to the contrary set forth herein, CONTRACTOR shall comply with the applicable federal requirements set forth in 2 C.F.R. Part 200, as may be applicable. In the event of any conflicts, the provisions of 2 C.F.R. Part 200 shall prevail. Any reference made to CONTRACTOR in this section shall also apply to any subcontractor under the terms of this Agreement. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses:
- 29.1 **Equal Employment Opportunity.** During the performance of this contract, CONTRACTOR agrees as follows:
- 29.1.1 CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices



to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

29.1.2 CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

29.1.3 CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with CONTRACTOR's legal duty to furnish information.

29.1.4 CONTRACTOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of CONTRACTOR's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

29.1.5 CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

29.1.6 CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

29.1.7 In the event of CONTRACTOR's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts in accordance with procedures



authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

29.1.8 CONTRACTOR will include the provisions of paragraphs (29.1.1) through (29.1.8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

The CITY further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the CITY so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The CITY further agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The CITY further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the CITY agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the CITY under the program with respect to which the failure or refund occurred until





satisfactory assurance of future compliance has been received from such CITY; and refer the case to the Department of Justice for appropriate legal proceedings.

29.2 **Davis-Bacon Act.** CONTRACTOR shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor Regulations (29 CFR Part 5). In accordance with the statute, CONTRACTOR must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, CONTRACTOR must be required to pay wages not less than once a week.

29.3 **Copeland "Anti-Kickback" Act.** CONTRACTOR shall comply with the Copeland "Anti-Kickback" Act, (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). CONTRACTOR must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. CITY must report all suspected or reported violations to the Federal awarding agency.

29.4 **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701- 3708).** Where applicable, pursuant to 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5) CONTRACTOR must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

29.4.1 **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

29.4.2 **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (29.4.1) of this section the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work



done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (29.4.1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (29.4.1) of this section.

**29.4.3 Withholding for unpaid wages and liquidated damages.** CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (29.4.2) of this section.

**29.4.4 Subcontracts.** CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (29.4.1) through (29.4.4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (29.4.1) through (29.4.4) of this section.

**29.5** CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251- 1387). CITY will report violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**29.5.1 Clean Air Act.** CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. CONTRACTOR agrees to report each violation to CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

**29.5.2 Federal Water Pollution Control Act.** CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution



Control Act, as amended, 33 U.S.C. 1251 et seq. CONTRACTOR agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. CONTRACTOR agrees to include these requirements in each subcontract exceeding one hundred fifty thousand dollars (\$150,000) financed in whole or in part with Federal assistance.

29.6 **Suspension and Debarment.** This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, as such CONTRACTOR is required to verify that none of the contractor's agents, principals (defined at 2 C.F.R. § 180.995), or affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

29.6.1 CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by CITY. If it is later determined that CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to State and CITY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

29.6.2 The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

29.7 **Byrd Anti-Lobbying Amendment, as amended (31 U.S.C. § 1352).** CONTRACTOR shall file the required certification pursuant to 31 U.S.C. 1352. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

29.8 **Compliance with State Energy Policy and Conservation Act.** CONTRACTOR shall comply with all mandatory standards and policies relating to energy efficiency contained in the



State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

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

**29.10 Reporting.** Pursuant to 44 CFR 13.36(i)(7), CONTRACTOR shall comply with federal requirements and regulations pertaining to reporting, including but not limited to those set forth at 44 CFR 40 and 41, if applicable. Furthermore, both parties shall provide the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative access to any books, documents, papers, and records of CONTRACTOR which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts, and transcriptions. Also, both Parties agree to provide FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the Agreement.

**29.11 Rights to Inventions.** CONTRACTOR agrees that if this Agreement results in any copyrightable materials or inventions, the Federal Government reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use the copyright of said materials or inventions for Federal Government purposes.

**29.12 No Obligation by the Federal Government.** The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

**29.13 DHS Seal, Logo, and Flags.** CONTRACTOR shall not use DHS(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific federal pre-approval.

**29.14 Compliance with Federal Law, Regulations, and Executive Orders.** This is an acknowledgement that federal financial assistance will be used to fund the Agreement only. CONTRACTOR will comply with all applicable federal law, regulations, executive orders, policies, procedures, and directives.

**29.15 Fraudulent Statements.** CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 applies to CONTRACTOR's actions pertaining to this Agreement.



**29.16 Prohibition on Contracting for Covered Telecommunications Equipment or Services.**

As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause.

**29.16.1 Prohibitions.**

29.16.1.1 Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

29.16.1.2 Unless an exception in paragraph 29.16.3 of this clause applies, the CONTRACTOR and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

29.16.1.2.1 Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

29.16.1.2.2 Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

29.16.1.2.3 Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

29.16.1.2.4 Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.



#### 29.16.2 **Exceptions.**

29.16.2.1 This clause does not prohibit CONTRACTOR from providing: (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

29.16.2.2 By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

#### 29.16.3 **Reporting requirement.**

29.16.3.1 In the event CONTRACTOR identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph 29.16.3.2 of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

29.16.3.2 The CONTRACTOR shall report the following information pursuant to paragraph 29.16.3.1 of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within ten (10) business days of submitting the information in paragraph 29.16.3.1 of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services. The CONTRACTOR shall insert the substance of this clause, including this in all subcontracts and other contractual instruments.



29.17 **Domestic Preference for Procurements.** As appropriate, and to the extent consistent with law, the CONTRACTOR should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: *Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. *Manufactured products* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

29.18 **Affirmative Socioeconomic Steps.** If subcontracts are to be let, CONTRACTOR is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

29.19 **License and Delivery of Works Subject to Copyright and Data Rights.** If applicable, the CONTRACTOR grants to CITY, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, CONTRACTOR will identify such data and grant to the CITY or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, CONTRACTOR will deliver to the CONTRACTOR data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by CONTRACTOR.

**SIGNATURE PAGE FOLLOWS**



**IN WITNESS OF THE FOREGOING**, the Parties have set their hands and seals the day and year first written above.

**CITY:**

CITY OF PEMBROKE PINES, FLORIDA

APPROVED AS TO FORM:

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_  
OFFICE OF THE CITY ATTORNEY

MAYOR FRANK C. ORTIS

ATTEST:

BY: \_\_\_\_\_

\_\_\_\_\_  
MARLENE D. GRAHAM, CITY CLERK

CHARLES F. DODGE, CITY MANAGER

**CONTRACTOR:**

CONICA USA POLYTRACKS LLC DBA  
POLYSPORT

Signed By:                     *Luill Brown*                    

Printed Name:           Luill Brown                    

Title:           General Manager



## TIPS VENDOR AGREEMENT (Part 1)

## TIPS RFP 230201 Synthetic Turf or Natural Sports Fields, Grounds, Courts, and Tracks Goods and Services (PART 1)

The following Vendor Agreement ("Agreement") creates a legal agreement between The Interlocal Purchasing System ("TIPS"), a government purchasing cooperative and Department of Texas Region 8 Education Service Center and (INSERT ENTITY NAME):

## Conica USA Polytracks LLC dba Polysport

(ENTER ENTITY NAME]

its owners, agents, subsidiaries, and affiliates (together, "Vendor") (individually, "Party", and collectively the "Parties") and this agreement shall exclusively govern the contractual relationship ("Agreement") between the Parties for Part 1 of the related solicitation opportunity. If Vendor proposes and is awarded on Part 2, a separate Part 2 Vendor Agreement shall control Part 2 terms.

TIPS, a governmental entity and a national purchasing cooperative seeks to provide a valuable and necessary solution to public entities and qualifying non-profits by performing the public procurement solicitation process and awarding compliant contracts to qualified vendors. Then, where the law of a customer's jurisdiction allows, instead of public entities and qualifying non-profits expending time, money, and resources on the extensive public procurement process, the use of TIPS allows public entities to quickly select and purchase their preferred products or services from qualified, competitively evaluated vendors through cooperative purchasing.

1. **Purpose.** The purpose of this Agreement is to identify the terms and conditions of the relationship between TIPS and Vendor. Public entities and qualifying non-profits that properly join or utilize TIPS ("TIPS Members") may elect to "piggyback" off of TIPS' procurements and agreements where the laws of their jurisdiction allow. TIPS Members are not contractual parties to this Agreement although terms and conditions of this Agreement may ensure benefits to TIPS Members.
2. **Authority.** The Parties agree that the signatories below are individual authorized to enter into this Agreement on behalf of their entity and that they are acting under due and proper authority under applicable law.
3. **Definitions.**
  - a. **TIPS Pricing:** The specific pricing, discounts, and other pricing terms and incentives which Vendor submitted and TIPS approved for each respective TIPS Contract awarded to Vendor and all permissible, subsequent pricing updates submitted by Vendor and accepted by TIPS, if any.
  - b. **Authorized Reseller:** A reseller or dealer authorized and added by a Vendor through their online TIPS Vendor Portal to make TIPS sales according to the terms and conditions herein.
4. **Entire Agreement.** This Agreement resulted from TIPS posting a Part 1 "TIPS Solicitation" (RFP, RCSP, RFQ, or other) and Vendor submitting a proposal in response to that posted TIPS Solicitation for evaluation and award. The Parties agree that this Agreement consists of the provisions set forth herein and: (1) The Part 1 TIPS solicitation document resulting in this Agreement; (2) Any Part 1 addenda or clarifications issued in relation to the TIPS solicitation; (3) All Part 1 solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire Part 1 proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to this Agreement. All documentation and information listed is hereby incorporated by reference as if set forth herein verbatim. In the event of conflict between the terms herein and one of the incorporated documents the terms and conditions herein shall control.
5. **Vendor's Specific Warranties, Terms, and License Agreements.** Because TIPS serves public entities and non-profits throughout the nation all of which are subject to specific laws and policies of their jurisdiction, as a matter of standard practice, TIPS does not typically accept a Vendor's specific "Sale Terms" (warranties, license agreements, master agreements, terms and conditions, etc.) on behalf of all TIPS Members. TIPS may permit Vendor to attach those to this Agreement to display to interested customers what terms may apply to their Supplemental Agreement with Vendor (if submitted by Vendor for that purpose). However, unless this term of the Agreement is negotiated and modified to state otherwise, those specific Sale Terms are not accepted by TIPS on behalf of all TIPS Members and each Member may choose whether to accept, negotiate, or reject those specific Sale Terms, which must be reflected in a separate agreement between Vendor and the Member in order to be effective.

- 6. Vendor Identity and Contact Information.** It is Vendor's sole responsibility to ensure that all identifying vendor information (name, EIN, d/b/a's, etc.) and contact information is updated and current at all times within the TIPS eBid System and the TIPS Vendor Portal. It is Vendor's sole responsibility to confirm that all e-correspondence issued from tips-usa.com, ionwave.net, and tipsconstruction.com to Vendor's contacts are received and are not blocked by firewall or other technology security. Failure to permit receipt of correspondence from these domains and failure to keep vendor identity and contact information current at all times during the life of the contract may cause loss of TIPS Sales, accumulating TIPS fees, missed rebid opportunities, lapse of TIPS Contract(s), and unnecessary collection or legal actions against Vendor. It is no defense to any of the foregoing or any breach of this Agreement that Vendor was not receiving TIPS' electronic communications issued by TIPS to Vendor's listed contacts.
- 7. Initiation of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Once verified, Vendor must include the TIPS Contract Number on all purchase communications and sales documents exchanged with the TIPS Member.
- 8. TIPS Sales and Supplemental Agreements.** The terms of the specific TIPS order, including but not limited to: shipping, freight, insurance, delivery, fees, bonding, cost, delivery expectations and location, returns, refunds, terms, conditions, cancellations, order assistance, etc., shall be controlled by the purchase agreement (Purchase Order, Contract, Invoice, etc.) (hereinafter "Supplemental Agreement") entered into between the TIPS Member Customer and Vendor only. TIPS is not a party to any Supplemental Agreement. All Supplemental Agreements shall include Vendor's Name, as known to TIPS, and TIPS Contract Name and Number. Vendor accepts and understands that TIPS is not a legal party to TIPS Sales and Vendor is solely responsible for identifying fraud, mistakes, unacceptable terms, or misrepresentations for the specific order prior to accepting. Vendor agrees that any order issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. When Vendor accepts or fulfills an order, even when processed through TIPS, Vendor is representing that Vendor has carefully reviewed the order for legality, authenticity, and accuracy and TIPS shall not be liable or responsible for the same. In the event of a conflict between the terms of this TIPS Vendor Agreement and those contained in any Supplemental Agreement, the provisions set forth herein shall control unless otherwise agreed to and authorized by the Parties in writing within the Supplemental Agreement.
- 9. Right of Refusal.** Vendor has the right not to sell to a TIPS Member under the awarded agreement at Vendor's discretion unless otherwise required by law.
- 10. Reporting TIPS Sales.** Vendor must report all TIPS Sales to TIPS. If a TIPS sale is initiated by Vendor receiving a TIPS Member's purchase order from TIPS directly, Vendor may consider that specific TIPS Sale reported. Otherwise, with the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either: (1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at [tipspo@tips-usa.com](mailto:tipspo@tips-usa.com) with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or; (2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement. No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at [accounting@tips-usa.com](mailto:accounting@tips-usa.com).
- 11. TIPS Administration Fees.** The collection of administrative fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The administration fee ("TIPS Administration Fee") is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of the amount paid by the TIPS Member for each TIPS Sale, less shipping cost, bond cost, and taxes if applicable and identifiable, which is legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding solicitation and is incorporated herein by reference. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. Upon receipt of payment for a TIPS Sale, including partial payment (which renders TIPS Administration Fees immediately due), Vendor shall issue to TIPS the corresponding TIPS Administration Fee payment as soon as possible but not later than thirty-one calendar days following Vendor's receipt of payment. Vendor shall pay TIPS via check unless otherwise agreed to by the Parties in writing. Vendor shall include clear documentation with the issued payment dictating to which sale(s) the amount should be applied. Vendor may create a payment report within their TIPS Vendor Portal which is the preferred documentation dictating to which TIPS Sale(s) the amount should be applied. Failure to pay all TIPS Administration Fees pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion as well as the initiation of collection and legal actions by TIPS against Vendor to the extent permitted by law. Any overpayment of participation fees to TIPS by Vendor will be refunded to the Vendor.

within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date that TIPS received the payment will render the overpayment non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect TIPS Administration Fees due to TIPS pursuant to this Agreement.

- 12. Term of the Agreement.** This Agreement with TIPS is for approximately three years with a one-year, consecutive option for renewal as described herein. Renewal options are not automatic and shall only be effective if offered by TIPS at its sole discretion. If TIPS offers a renewal option, the Vendor will be notified via email issued to Vendor's then-listed Primary Contact. The renewal option shall be deemed accepted by Vendor unless Vendor notifies TIPS of its objection to the renewal option in writing and confirms receipt by TIPS.

**Actual Effective Date:** Agreement is effective upon signature by authorized representatives of both Parties. The Effective Date does not affect the "Term Calculation Start Date."

**Term Calculation Start Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, Vendor shall calculate the foregoing term as starting on the last day of the month that "Award Notifications" are anticipated as published in the Solicitation, regardless of the actual Effective Date.

**Example of Term Calculation Start Date:** If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 in this example.

**Contract Expiration Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, the term expiration date shall be three-years from the Term Calculation Start Date.

**Example of Contract Expiration Date:** If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 and the Contract Expiration Date of the resulting initial "three-year" term, (which is subject to an extension(s)) will be May 31, 2026 in this example.

**Option(s) for Renewal:** Any option(s) for renewal shall begin on the Contract Expiration Date, or the date of the expiration of the prior renewal term where applicable, and continue for the duration specified for the renewal option herein.

**Example of Option(s) for Renewal:** In this example, if TIPS offers a one-year renewal and the Contract Expiration Date is May 31, 2026, then the one-year renewal is effective from May 31, 2026 to May 31, 2027.

TIPS may offer to extend Vendor Agreements to the fullest extent the TIPS Solicitation resulting in this Agreement permits.

- 13. TIPS Pricing.** Vendor agrees and understands that for each TIPS Contract that it holds, Vendor submitted, agreed to, and received TIPS' approval for specific pricing, discounts, and other pricing terms and incentives which make up Vendor's TIPS Pricing for that TIPS Contract ("TIPS Pricing"). Vendor confirms that Vendor will not add the TIPS Administration Fee as a charge or line-item in a TIPS Sale. Vendor hereby certifies that Vendor shall only offer goods and services through this TIPS Contract if those goods and services are included in or added to Vendor's TIPS Pricing and approved by TIPS. TIPS reserves the right to review Vendor's pricing update requests as specifically as line-item by line-item to determine compliance. However, Vendor contractually agrees that all submitted pricing updates shall be within the original terms of the Vendor's TIPS Pricing (scope, proposed discounts, price increase limitations, and other pricing terms and incentives originally proposed by Vendor) such that TIPS may accept Vendors price increase requests as submitted without additional vetting at TIPS discretion. Any pricing quoted by Vendor to a TIPS Member or on a TIPS Quote shall never exceed Vendor's TIPS Pricing for any good or service offered through TIPS. Vendor certifies by signing this agreement that Vendor's TIPS Pricing for all goods and services included in Vendor's TIPS Pricing shall either be equal to or less than Vendor's current pricing for that good or service for any other customer. TIPS Pricing price increases and modifications, if permitted, will be honored according to the terms of the solicitation and Vendor's proposal, incorporated herein by reference.
- 14. Indemnification of TIPS.** VENDOR AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND TIPS, TIPS MEMBERS, TIPS OFFICERS, TIPS EMPLOYEES, TIPS DIRECTORS, AND TIPS TRUSTEES (THE "TIPS INDEMNITEES") FROM AND AGAINST ALL CLAIMS AND SUITS BY THIRD-PARTIES FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGES, LOSSES, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES, ARISING OUT OF OR RELATING TO VENDOR'S PERFORMANCE UNDER THIS AGREEMENT (INCLUDING THE PERFORMANCE OF VENDOR'S OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES), REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION,

INCLUDING WITHOUT LIMITATION CAUSES OF ACTION BASED UPON COMMON, CONSTITUTIONAL, OR STATUTORY LAW OR BASED IN WHOLE OR IN PART UPON ALLEGATIONS OF NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS ON THE PART OF VENDOR, ITS OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES. NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED TO BY TIPS. APART FROM THIS INDEMNIFICATION PROVISION REQUIRING INDEMNIFICATION OF THE TIPS INDEMNITEES' ATTORNEY'S FEES AS SET FORTH ABOVE, RECOVERY OF ATTORNEYS' FEES BY THE PREVAILING PARTY IS AUTHORIZED ONLY IF AUTHORIZED BY TEX. EDUC. CODE § 44.032(F).

- 15. Indemnification and Assumption of Risk – Vendor Data.** VENDOR AGREES THAT IT IS VOLUNTARILY PROVIDING DATA (INCLUDING BUT NOT LIMITED TO: VENDOR INFORMATION, VENDOR DOCUMENTATION, VENDOR'S PROPOSALS, VENDOR PRICING SUBMITTED OR PROVIDED TO TIPS, TIPS CONTRACT DOCUMENTS, TIPS CORRESPONDENCE, VENDOR LOGOS AND IMAGES, VENDOR'S CONTACT INFORMATION, VENDOR'S BROCHURES AND COMMERCIAL INFORMATION, VENDOR'S FINANCIAL INFORMATION, VENDOR'S CERTIFICATIONS, AND ANY OTHER VENDOR INFORMATION OR DOCUMENTATION, INCLUDING WITHOUT LIMITATION SOFTWARE AND SOURCE CODE UTILIZED BY VENDOR, SUBMITTED TO TIPS BY VENDOR AND ITS AGENTS) ("VENDOR DATA") TO TIPS. FOR THE SAKE OF CLARITY, AND WITHOUT LIMITING THE BREADTH OF THE INDEMNITY OBLIGATIONS IN SECTION 13 ABOVE, VENDOR AGREES TO PROTECT, INDEMNIFY, AND HOLD THE TIPS INDEMNITEES HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, ACTIONS, DEMANDS, ALLEGATIONS, SUITS, JUDGMENTS, COSTS, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES AND ALL OTHER LIABILITY OF ANY NATURE WHATSOEVER ARISING OUT OF OR RELATING TO: (I) ANY UNAUTHORIZED, NEGLIGENT OR WRONGFUL USE OF, OR CYBER DATA BREACH INCIDENT AND VIRUSES OR OTHER CORRUPTING AGENTS INVOLVING, VENDOR'S DATA, PRICING, AND INFORMATION, COMPUTERS, OR OTHER HARDWARE OR SOFTWARE SYSTEMS, AND; (II) ALLEGATIONS OR CLAIMS THAT ANY VENDOR DATA INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD-PARTY OR VENDOR.
- 16. Procedures Related to Indemnification.** In the event that an indemnity obligation arises, Vendor shall pay all amounts set forth in Section 13 and 14 above (including any settlements) and – if it has accepted its indemnity obligation without qualification – control the legal defense to such claim or cause of action, including without limitation attorney selection, strategy, discovery, trial, appeal, and settlement, and TIPS shall, at Vendor's cost and expense (with respect to reasonable out of pocket costs and expenses incurred by TIPS which shall be reimbursed to TIPS by Vendor), provide all commercially reasonable assistance requested by Vendor. In controlling any defense, Vendor shall ensure that all assertions of governmental immunity and all applicable pleas and defenses shall be promptly asserted.
- 17. Indemnity for Underlying Sales and Supplemental Agreements.** Vendor shall be solely responsible for any customer claims or any disputes arising out of TIPS Sales or any Supplemental Agreement as if sold in the open-market. The Parties agree that TIPS shall not be liable for any claims arising out of Vendor's TIPS Sales or Supplemental Agreements, including but not limited to: allegations of product defect or insufficiency, allegations of service defect or insufficiency, allegations regarding delivery defect or insufficiency, allegations of fraud or misrepresentation, allegations regarding pricing or amounts owed for TIPS sales, and/or allegations regarding payment, over-payment, under-payment, or non-payment for TIPS Sales. Payment/Drafting, overpayment/over-drafting, under-payment/under-drafting, or non-payment for TIPS Sales between customer and Vendor and inspections, rejections, or acceptance of such purchases shall be the exclusive respective obligations of Vendor/Customer, and disputes shall be handled in accordance with the terms of the underlying Supplemental Agreement(s) entered into between Vendor and Customer. Vendor acknowledges that TIPS is not a dealer, subcontractor, agent, or reseller of Vendor's goods and services and shall not be responsible for any claims arising out of alleged insufficiencies or defects in Vendor's goods and services, should any arise.
- 18. Confidentiality of Vendor Data.** Vendor understands and agrees that by signing this Agreement, all Vendor Data is hereby released to TIPS, TIPS Members, and TIPS third-party administrators to effectuate Vendor's TIPS Contract except as provided for herein. The Parties agree that Vendor Data is accessible by all TIPS Members as if submitted directly to that TIPS Member Customer for purchase consideration. If Vendor otherwise considers any portion of Vendor's Data to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code (the "Public Information Act") or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form which is required to be submitted as part of Vendor's proposal resulting in this Agreement and incorporated by reference. The Confidentiality Claim Form included in Vendor's proposal and incorporated herein by reference is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a Public Information Request. If TIPS receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor Data deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion. In the event that TIPS receives a written request for information pursuant to the Public Information Act that affects Vendor's interest in any information or data furnished to TIPS by Vendor, and TIPS requests an opinion from the Attorney General, Vendor may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the



Public Information Act. Vendor is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Public Information Act. Notwithstanding any other information provided in this solicitation or Vendor designation of certain Vendor Data as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's Data, including any information deemed confidential or proprietary, to TIPS Members or as ordered by a Court or government agency, including without limitation the Texas Attorney General. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or as required by law.

- 19. Vendor's Authorized Resellers.** TIPS recognizes that many vendors operate in the open market through the use of resellers or dealers. For that reason, TIPS permits Vendor to authorize Authorized Resellers within its Vendor Portal and make TIPS Sales through the Authorized Reseller(s). Once authorized by Vendor in the Vendor Portal, the Authorized Reseller(s) may make TIPS sales to TIPS Members. However, all purchase documents must include: (1) Authorized Reseller's Name; (2) Vendor's Name, as known to TIPS, and; (3) Vendor's TIPS Contract Name and Number under which it is making the TIPS Sale. Either Vendor or Reseller may report the sale pursuant to the terms herein. However, Vendor agrees that it is legally responsible for all reporting and fee payment as described herein for TIPS Sales made by Authorized Resellers. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. The Parties intend that Vendor shall be responsible and liable for TIPS Sales made by Vendor's Authorized Resellers. Vendor agrees that it is voluntarily authorizing this Authorized Reseller and in doing so, Vendor agrees that it is doing so at its own risk and agrees to protect, indemnify, and hold TIPS harmless in accordance with Sections 14-17 above related to Authorized Reseller TIPS Sales made pursuant to this Agreement or purporting to be made pursuant to this Agreement that may be asserted against Vendor whether rightfully brought or otherwise. The Parties further agree that it is no defense to Vendor's breach of this Agreement that an Authorized Reseller caused Vendor of breach this Agreement.
- 20. Circumvention of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Any request for quote, customer communication, or customer purchase initiated through or referencing a TIPS Contract shall be completed through TIPS pursuant to this Agreement. Any encouragement or participation by Vendor in circumventing a TIPS sale being completed may result in immediate termination of Vendor's TIPS Contract(s) for cause as well as preclusion from future TIPS opportunities at TIPS sole discretion.
- 21. State of Texas Franchise Tax.** By signature hereon, Vendor hereby certifies that Vendor is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Chapter 171 of the Texas Tax Code.
- 22. Termination.**
- A) Termination for Convenience. TIPS may, by written notice to Vendor, terminate this Agreement for convenience, in whole or in part, at any time by giving thirty (30) days' written notice to Vendor of such termination, and specifying the effective date thereof.
  - B) Termination for Cause. If Vendor fails to materially perform pursuant to the terms of this Agreement, TIPS shall provide written notice to Vendor specifying the default. If Vendor does not cure such default within thirty (30) days, TIPS may terminate this Agreement, in whole or in part, for cause. If TIPS terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
  - C) Vendor's Termination. If TIPS fails to materially perform pursuant to the terms of this Agreement, Vendor shall provide written notice to TIPS specifying the default ("Notice of Default"). If TIPS does not cure such default within thirty (30) days, Vendor may terminate this Agreement, in whole or in part, for cause. If TIPS terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
  - D) Upon termination, all TIPS Sale orders previously accepted by Vendor shall be fulfilled and Vendor shall be paid for all TIPS Sales executed pursuant to the applicable terms. All TIPS Sale orders presented to Vendor but not fulfilled by Vendor, prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. TIPS shall submit to Vendor an invoice for any outstanding TIPS Administration Fees and approved expenses and Vendor shall pay such fees and expenses within 30 calendar days of receipt of such valid TIPS invoice. Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS' sole

discretion and that any Vendor may be removed from the TIPS program at any time with or without cause. This termination clause does not affect TIPS Sales Supplemental Agreements pursuant to this term regarding termination and the Survival Clause term.

- E) Vendor hereby waives any and all claims for damages, including, but not limited, to consequential damages or lost profits, that might arise from TIPS' act of terminating this Agreement.

- 23. Survival Clause.** It is the intent of the Parties that this Agreement and procurement method applies to any TIPS Sale made during the life of this Agreement even if made on or near the Contract Expiration Date as defined herein. Thus, all TIPS Sales, including but not limited to: leases, service agreements, license agreements, open purchase orders, warranties, and contracts, even if they extend months or years past the TIPS Contract Expiration Date, shall survive the expiration or termination of this Agreement subject to the terms and conditions of the Supplemental Agreement between Customer and Vendor or unless otherwise specified herein.
- 24. Audit Rights.** Due to transparency statutes and public accountability requirements of TIPS and TIPS Members, Vendor shall at their sole expense, maintain documentation of all TIPS Sales for a period of three years from the time of the TIPS Sale. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Vendor's TIPS Pricing or TIPS Sales with thirty-days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without said notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with Vendor's TIPS Pricing, TIPS shall have the ability to conduct the audit internally or may engage a third-party auditing firm to investigate any possible non-compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format, and at the location acceptable to TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member. These audit rights shall survive termination of this Agreement for a period of one (1) year from the effective date of termination.
- 25. Conflicts of Interest.** The Parties confirm that they have not offered, given, or accepted, nor intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, service to the other in connection with this Agreement. Vendor affirms that, to the best of Vendor's knowledge, this Agreement has been arrived at independently, and is awarded without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement. Vendor agrees that it has disclosed any necessary affiliations with Region 8 Education Service Center and the TIPS Department, if any, through the Conflict of Interest attachment provided in the solicitation resulting in this Agreement.
- 26. Volume of TIPS Sales.** Nothing in this Agreement or any TIPS communication may be construed as a guarantee that TIPS or TIPS Members will submit any TIPS orders to Vendor at any time.
- 27. Compliance with the Law.** The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations applicable to their entity in connection with the programs contemplated under this Agreement.
- 28. Severability.** If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, then such term(s) or provision(s) shall be deemed restated to reflect the original intention of the Parties as nearly as possible in accordance with applicable law and the remainder of this Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such holding causes the obligations of the Parties hereto to be impossible to perform or shall render the terms of this Agreement to be inconsistent with the intent of the Parties hereto.
- 29. Force Majeure.** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement through no fault of its own then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon. Upon delivering such notice, the obligation of the affected party, so far as it is affected by such Force Majeure as described, shall be suspended during the continuance of the inability then claimed but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. In the event that Vendor's obligations are suspended by reason of Force Majeure, all TIPS Sales accepted prior to the Force Majeure event shall be the legal responsibility of Vendor and the terms of the TIPS Sale Supplemental Agreement shall control Vendor's failure to fulfill for a Force Majeure event.
- 30. Immunity.** Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education

Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

- 31. Insurance Requirements.** Vendor agrees to maintain the following minimum insurance requirements for the duration of this Agreement. All policies held by Vendor to adhere to this term shall be written by a carrier with a financial size category of VII and at least a rating of "A-" by A.M. Best Key Rating Guide. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member. Vendor agrees that when Vendor or its subcontractors are liable for any damages or claims, Vendor's policy, shall be primary over any other valid and collectible insurance carried by the Member or TIPS.

General Liability: \$1,000,000 each Occurrence/Aggregate  
Automobile Liability: \$300,000 Includes owned, hired & non-owned  
Workers' Compensation: Statutory limits for the jurisdiction in which the Vendor performs under this Agreement. If Vendor performs in multiple jurisdictions, Vendor shall maintain the statutory limits for the jurisdiction with the greatest dollar policy limit requirement.  
Umbrella Liability: \$1,000,000 each Occurrence/Aggregate

- 32. Waiver.** No waiver of any single breach or multiple breaches of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting regarding any breach of any provision shall be construed to be a waiver of such breach.
- 33. Binding Agreement.** This Agreement shall be binding and inure to the benefit of the Parties hereto and their respective heirs, legal successors, and assigns.
- 34. Headings.** The paragraph headings contained in this Agreement are included solely for convenience of reference and shall not in any way affect the meaning or interpretation of any of the provisions of this Agreement.
- 35. Choice of Law and Venue.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas. Any proceeding, claim, action, or alternative dispute resolution arising out of or relating to this Agreement or involving TIPS shall be brought in a State Court of competent jurisdiction in Camp County, Texas, or if Federal Court is legally required, a Federal Court of competent jurisdiction in the Eastern District of Texas, and each of the Parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or and contemplated transaction in any other court. The Parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum.
- 36. Relationship of the Parties.** Nothing contained in this Agreement shall be construed to make one Party an agent of the other Party nor shall either party have any authority to bind the other in any respect, unless expressly authorized by the other party in writing. The Parties are independent contractors and nothing in this Agreement creates a relationship of employment, trust, agency or partnership between them.
- 37. Assignment.** No assignment of this Agreement or of any duty or obligation of performance hereunder, shall be made in whole or in part by a Party hereto without the prior written consent of the other Party. Written consent of TIPS shall not be unreasonably withheld.
- 38. Minimum Condition and Warranty Requirements for TIPS Sales.** All goods quoted or sold through a TIPS Sale shall be new unless clearly stated otherwise in writing. All new goods and services shall include the applicable manufacturers minimum standard warranty unless otherwise agreed to in the Supplemental Agreement.

- 39. Minimum Customer Support Requirements for TIPS Sales.** Vendor shall provide timely and commercially reasonable support for TIPS Sales or as agreed to in the applicable Supplemental Agreement.
- 40. Minimum Shipping Requirements for TIPS Sales.** Vendor shall ship, deliver, or provide ordered goods and services within a commercially reasonable time after acceptance of the order. If a delay in delivery is anticipated, Vendor shall notify the TIPS Member as to why delivery is delayed and provide an updated estimated time for completion. The TIPS Member may cancel the order if the delay is not commercially acceptable or not consistent with the Supplemental Agreement applicable to the order.
- 41. Minimum Vendor License Requirements.** Vendor shall maintain, in current status, all federal, state, and local licenses, bonds and permits required for the operation of the business conducted by Vendor. Vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the TIPS Agreement. TIPS and TIPS Members reserve the right to stop work and/or cancel a TIPS Sale or terminate this or any TIPS Sale Supplemental Agreement involving Vendor if Vendor's license(s) required to perform under this Agreement or under the specific TIPS Sale have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.
- 42. Minimum Vendor Legal Requirements.** Vendor shall remain aware of and comply with this Agreement and all local, state, and federal laws governing the sale of products/services offered by Vendor under this contract. Such applicable laws, ordinances, and policies must be complied with even if not specified herein.
- 43. Minimum Site Requirements for TIPS Sales (*when applicable to TIPS Sale*).**

**Cleanup:** When performing work on site at a TIPS Member's property, Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by the TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

**Preparation:** Vendor shall not begin a project for which a TIPS Member has not prepared the site, unless Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in the TIPS Sale Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

**Registered Sex Offender Restrictions:** For work to be performed at schools, Vendor agrees that no employee of Vendor or a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the TIPS Sale at the TIPS Member's discretion. Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

**Safety Measures:** Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

**Smoking:** Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes, ordinances, and policies.

- 44. Payment for TIPS Sales.** TIPS Members may make payments for TIPS Sales directly to Vendor, Vendor's Authorized Reseller, or as otherwise agreed to in the applicable Supplemental Agreement after receipt of the invoice and in compliance with applicable payment statutes. Regardless of how payment is issued or received for a TIPS Sale, Vendor is responsible for all reporting and TIPS Administration Fee payment requirements as stated herein.
- 45. Marketing.** Vendor agrees to allow TIPS to use their name and logo within the TIPS website, database, marketing materials, and advertisements unless Vendor negotiates this term to include a specific acceptable-use directive. Any use of TIPS' name and logo or any form of publicity, inclusive of press release, regarding this Agreement by Vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to [tips@tips-usa.com](mailto:tips@tips-usa.com). For marketing efforts directed to TIPS Members, Vendor must request and execute a separate Joint Marketing Disclaimer, at [marketing@tips-usa.com](mailto:marketing@tips-usa.com), before TIPS can release contact information for TIPS Member entities for the purpose of marketing your TIPS contract(s). Vendor must adhere to strict Marketing Requirements once a disclaimer is executed. The Joint Marketing Disclaimer is a supplemental agreement specific to joint marketing efforts and has no effect on the terms of the TIPS Vendor Agreement. Vendor agrees that any images, photos, writing, audio, clip art,



music, or any other intellectual property ("Property") or Vendor Data utilized, provided, or approved by Vendor during the course of the joint marketing efforts are either the exclusive property of Vendor, or Vendor has all necessary rights, license, and permissions to utilize said Property in the joint marketing efforts. Vendor agrees that they shall indemnify and hold harmless TIPS and its employees, officers, agents, representatives, contractors, assignees, designees, and TIPS Members from any and all claims, damages, and judgments involving infringement of patent, copyright, trade secrets, trade or services marks, and any other intellectual or intangible property rights and/or claims arising from the Vendor's (including Vendor's officers', employees', agents', Authorized Resellers', subcontractors', licensees', or invitees') unauthorized use or distribution of Vendor Data and Property.

- 46. Tax Exempt Status of TIPS Members.** Most TIPS Members are tax exempt entities and the laws and regulations applicable to the specific TIPS Member customer shall control.
- 47. Automatic Renewal Limitation for TIPS Sales.** No TIPS Sale may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.
- 48. Choice of Law Limitation for TIPS Sales.** Vendor agrees that if any "Choice of Law" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the TIPS Sale agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.
- 49. Venue Limitation for TIPS Sales.** Vendor agrees that if any "Venue" provision is included in any TIPS Sale Agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.
- 50. Indemnity Limitation for TIPS Sales.** Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any TIPS sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.
- 51. Arbitration Limitation for TIPS Sales.** Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may not require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

In Witness Whereof, the parties hereto, each acting under due and proper authority, have signed this Agreement.

**TIPS VENDOR AGREEMENT SIGNATURE FORM**

**TIPS RFP 230201 Synthetic Turf or Natural Sports Fields, Grounds, Courts, and Track Goods and Services (Part 1)**

Vendor Name: Polysport

Vendor Address: 105 Westwood Place Suite 120

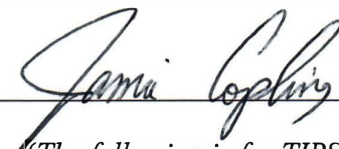
City: Brentwood State: TN Zip Code: 37027

Vendor Authorized Signatory Name: Jamie Copling

Vendor Authorized Signatory Title: Sales Coordinator

Vendor Authorized Signatory Phone: (615) 587-7765

Vendor Authorized Signatory Email: jamie.copling@polysportusa.com

Vendor Authorized Signature:  Date: 3-10-23  
(The following is for TIPS completion only)

TIPS Authorized Signatory Name: Dr. David Fitts

TIPS Authorized Signatory Title: Executive Director

TIPS Authorized Signature:  Date: 4-27-2023



## **230201 Addendum 1**

### **Polysport**

### **Conica USA Polytracks LLC**

### **Supplier Response**

#### **Event Information**

Number: 230201 Addendum 1  
Title: Synthetic Turf or Natural Sports Fields, Grounds, Courts, and Tracks  
Goods and Services (2 Part with JOC)  
Type: Request for Proposal  
Issue Date: 2/2/2023  
Deadline: 3/17/2023 03:00 PM (CT)  
Notes: This is a solicitation issued by The Interlocal Purchasing System (TIPS), a department of Texas Region 8 Education Service Center. It is an Indefinite Delivery, Indefinite Quantity ("IDIQ") solicitation. It will result in contracts that provide, through adoption/"piggyback" an indefinite quantity of supplies/services, during a fixed period of time, to TIPS public entity and qualifying non-profit "TIPS Members" throughout the nation. Thus, there is no specific project or scope of work to review. Rather this solicitation is issued as a prospective award for utilization when any TIPS Member needs the goods or services offered during the life of the agreement.

This is a two part solicitation. Part 1 is solicited for TIPS sales that are not considered a "public work" construction project. Part 1 permits the sale of goods and non-construction/non-"public work" services such as maintenance and minor repairs. Part 2 Job Order Contract (JOC) is solicited for projects considered by your TIPS Member Customers to be a "public work" construction project. The determination of whether or not a TIPS sale amounts to a "public work" construction project requiring a Part 2 JOC

contract is made by the TIPS Member Customer at the time of each TIPS sale. Thus, Vendors are encouraged to respond to both Parts 1 and 2 in case your TIPS Member Customers require that a sale be made under one Part or the other. However, responding to both Parts is not required.

**IF YOU CURRENTLY HOLDS TIPS CONTRACT 20020501 OR 20020502 SYNTHETIC OR NATURAL SPORTS FIELDS, COURTS OR TRACKS PART 1 OR 2 ("20020501 OR 02"), OR IF YOU HOLD TIPS CONTRACT 200202 GROUNDS AND TURF MAINTENANCE EQUIPMENT, PARTS, AND REPAIR SERVICES ("200202"), YOU MUST RESPOND TO THIS SOLICITATION TO PREVENT LAPSE OF CONTRACT UNLESS YOU HOLD ANOTHER CURRENT TIPS CONTRACT THAT COVERS ALL OF YOUR OFFERINGS. THIS AWARDED CONTRACT WILL REPLACE YOUR EXPIRING TIPS CONTRACT 20020501 AND/OR 20020502 AND/OR 200202.**

**IF YOU HOLD ANOTHER TIPS CONTRACT OTHER THAN 20020501 AND/OR 20020502 AND/OR 200202 WHICH COVERS ALL OF YOUR OFFERINGS AND YOU ARE SATISFIED WITH IT, THERE IS NO NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU PREFER TO HOLD BOTH CONTRACTS.**

## Contact Information

Address: Region 8 Education Service Center  
4845 US Highway 271 North  
Pittsburg, TX 75686  
Phone: +1 (866) 839-8477  
Email: bids@tips-usa.com

## Polysport Information

Contact: Jamie Copling  
Address: 105 Westwood Place Suite 120  
Brentwood, TN 37027  
Phone: (615) 587-7765  
Email: jamie.copling@polysportusa.com  
Web Address: <https://polysportusa.com/>

By submitting your response, you certify that you are authorized to represent and bind your company.

Jamie Copling  
Signature

[jamie.copling@polysportusa.com](mailto:jamie.copling@polysportusa.com)  
Email

Submitted at 3/14/2023 05:28:51 PM (CT)

## Requested Attachments

### Pricing Form 1 (Part 1)

230201~1.XLS

If responding to Part 1, Pricing Form 1 (Part 1) must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

### Pricing Form 2 (Part 1)

230201~2.XLS

If responding to Part 1, Pricing Form 2 (Part 1) must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

### Alternate or Supplemental Pricing Documents (Part 1)

No response

Optional. If responding to Part 1, when completing Pricing Form 1 (Part 1) & Pricing Form 2 (Part 1), you direct TIPS to view additional, alternate, or supplemental pricing documentation, you may upload that Part 1 documentation.

### Vendor Agreement (Part 1)

230201 Vendor Agreement (Part 1) PolySport.pdf

If responding to Part 1, the Vendor Agreement must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, Vendor Name placed in the line provided at the top, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement (Part 1), Vendor may assert so in the Attribute Questions and those shall be addressed during evaluation.

### Vendor Agreement Signature Form (Part 1)

5 SIG REQUIRED\_230104 Vendor Ag P1.pdf

If responding to Part 1 the Vendor Agreement Signature Form (Part 1) must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement (Part 1), Vendor may leave the signature line of this page blank and assert so in the Attribute Questions and those shall be addressed during evaluation.

### Part 2 Required Bonding Capacity Letter

6 Bond Letter for TIPS Polysport.pdf

If proposing on Part 2, Vendor is required to upload a Bonding Capacity Letter from its surety, as described herein, at this location. Please see the attachment entitled "Instructions and Sample - Part 2 Required Bonding Capacity Letter" for complete instructions. . On Part 2, Vendor will be scored on the aggregate bonding capacity displayed in the accepted letter. Vendor must provide a current letter (issued on or after the first day of the month preceding the date on which the solicitation was posted) from its surety verifying Vendor's bonding capacity as described herein. (Ex. if the solicitation/bid posted on February 4, 2022, the letter must be dated on or after January 1 2022. The letter must be issued from Vendor's Surety companies, on surety company letterhead, must specify the maximum bonding capacity of the Vendor, and must be signed by an authorized representative of the surety company. The issuing surety must be authorized to do business in the State of Texas and must be listed on the Department of the Treasury's Listing of Approved Sureties (Department Circular 570).

## Vendor Agreement (Part 2)

230201 Vendor Agreement - JOC (Part 2) PS.pdf

If responding to Part 2, the Vendor Agreement (Part 2) must be downloaded from the “Attachments” section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement (Part 2), Vendor may assert so in the Attribute Questions and those shall be addressed during evaluation.

## Vendor Agreement Signature Form (Part 2)

230104 Vendor Agreement Signatu.pdf

If responding to Part 2, the Vendor Agreement Signature Form (Part 2) must be downloaded from the “Attachments” section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement (Part 2), Vendor may leave the signature line of this page blank and assert so in the Attribute Questions and those shall be addressed during evaluation.

## Reference Form

10\_Reference\_Form\_JOC\_(Parts\_1\_&\_2)\_PolySport.xlsx

The Reference Form must be downloaded from the “Attachments” section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. The Reference Form must be uploaded in Excel format.

## Required Confidentiality Claim Form

230104 Required Confidentiality.pdf

The Required Confidentiality Claim Form must be downloaded from the “Attachments” section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. This is the only way for Vendor to assert confidentiality of any information submitted.

## Conflict of Interest Questionnaire - Form CIQ

*No response*

Do not upload this form unless you have a reportable conflict with TIPS. There is an Attribute entitled “Conflict of Interest Questionnaire Requirement” immediately followed by an Attribute entitled “Conflict of Interest Questionnaire Requirement – Form CIQ – Continued.” Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Conflict of Interest Questionnaire – Form CIQ must be downloaded from the “Attachments” section of the IonWave eBid System, reviewed, properly completed, and uploaded at this location.

## Disclosure of Lobbying Activities - Standard Form - LLL

*No response*

Do not upload this form unless Vendor has reportable lobbying activities. There are Attributes entitled, “2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment – Continued.” Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Disclosure of Lobbying Activities – Standard Form - LLL must be downloaded from the “Attachments” section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location.

## Current Form W-9

13 W-9 Subsitute Form Polysport 2023.pdf

Vendor must upload their current IRS Tax Form W-9. The legal name, EIN, and d/b/a's listed should match the information provided herein exactly. This form will be utilized by TIPS to properly identify your entity.

## Certificates & Licenses (Supplemental Vendor Information Only)

licenses and certifications.pdf

Optional. If Vendor would like to display any applicable certificates or licenses (including HUB certificates) for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

## Vendor's Warranties, Terms, and Conditions (Supplemental Vendor Information Only)

Conica USA Labor Sample Warranty.pdf

Optional. If Vendor would like to display any standard warranties, terms, or conditions which are often applicable to their offerings for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

## Supplemental Vendor Information (Supplemental Vendor Information Only)

*No response*

Optional. If Vendor would like to display or include any brochures, promotional documents, marketing materials, or other Vendor Information for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location.

These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

## Vendor Logo (Supplemental Vendor Information Only)

17 Logo Polysports.png

Optional. If Vendor desires that their logo be displayed on their public TIPS profile for TIPS and TIPS Member viewing, Vendor may upload that logo at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

## Response Attachments

### Certified Installer Letter Conc.pdf

Certified Installer Letter Conica

### Conica ISO Certificate.pdf

Conica ISO Certificate

### Membership Cert ASPBA.pdf

Membership Cert ASPBA

## Bid Attributes

### 1 Disadvantaged/Minority/Women Business & Federal HUBZone

Some participating public entities are required to seek Disadvantaged/Minority/Women Business & Federal HUBZone ("D/M/WBE/Federal HUBZone") vendors. Does Vendor certify that their entity is a D/M/WBE/Federal HUBZone vendor?

If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

NO

### 2 Historically Underutilized Business (HUB)

Some participating public entities are required to seek Historically Underutilized Business (HUB) vendors as defined by the Texas Comptroller of Public Accounts Statewide HUB Program. Does Vendor certify that their entity is a HUB vendor?

If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

No

### 3 National Coverage

Can the Vendor provide its proposed goods and services to all 50 US States?

Yes

### 4 States Served

If Vendor answered "No" to the question entitled "National Coverage," please list all states where vendor can provide the goods and services proposed directly below. Your response may dictate which potential TIPS Member customers consider purchasing your offerings.

No response

**5 Description of Vendor Entity and Vendor's Goods & Services**

If awarded, this description of Vendor and Vendor's goods and services will appear on the TIPS website for customer/public viewing.

We offer a wide range of sport surfacing solutions for running tracks, playgrounds, and tennis court surfaces. Our unique partnership with Conica allows us to offer turnkey sports surfacing solutions for K-12, Colleges, Universities, and Municipalities in the USA and Canada. Polysport was created to offer solutions for all of our client's needs.

**6 Primary Contact Name**

Please identify the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract.

Jamie Copling

**7 Primary Contact Title**

Primary Contact Title

Sales Coordinator

**8 Primary Contact Email**

Please enter a valid email address that will definitely reach the Primary Contact.

jamie.copling@polysportusa.com

**9 Primary Contact Phone**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

Please provide the accurate and current phone number where the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly.

6155877765

**10 Primary Contact Fax**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

No response

**11 Primary Contact Mobile**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

6155877765

**12 Secondary Contact Name**

Please identify the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract.

Chris Reid



<b>1</b> <b>3</b>	<b>Secondary Contact Title</b> Secondary Contact Title <input style="width: 90%;" type="text" value="Financial Controller"/>
<b>1</b> <b>4</b>	<b>Secondary Contact Email</b> Please enter a valid email address that will definitely reach the Secondary Contact. <input style="width: 90%;" type="text" value="chris.reid@polysportusa.com"/>
<b>1</b> <b>5</b>	<b>Secondary Contact Phone</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).  Please provide the accurate and current phone number where the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly. <input style="width: 90%;" type="text" value="6155877765"/>
<b>1</b> <b>6</b>	<b>Secondary Contact Fax</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).  <input style="width: 90%;" type="text" value="No response"/>
<b>1</b> <b>7</b>	<b>Secondary Contact Mobile</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).  <input style="width: 90%;" type="text" value="6155877765"/>
<b>1</b> <b>8</b>	<b>Administration Fee Contact Name</b> Please identify the individual who will be responsible for all payment, accounting, and other matters related to Vendor's TIPS Administration Fee due to TIPS for the duration of the contract. <input style="width: 90%;" type="text" value="Chris Reid"/>
<b>1</b> <b>9</b>	<b>Administration Fee Contact Email</b> Please enter a valid email address that will definitely reach the Administration Fee Contact. <input style="width: 90%;" type="text" value="chris.reid@polysportusa.com"/>
<b>2</b> <b>0</b>	<b>Administration Fee Contact Phone</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).  <input style="width: 90%;" type="text" value="6155877765"/>
<b>2</b> <b>1</b>	<b>Purchase Order and Sales Contact Name</b> Please identify the individual who will be responsible for receiving and processing purchase orders and sales under the TIPS Contract. <input style="width: 90%;" type="text" value="Chris Reid"/>

2  
2**Purchase Order and Sales Contact Email**

Please enter a valid email address that will definitely reach the Purchase Order and Sales Contact.

chris.reid@polysportusa.com

2  
3**Purchase Order and Sales Contact Phone**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

6155877765

2  
4**Company Website**

Company Website (Format - www.company.com)

https://polysportusa.com/

2  
5**Entity D/B/A's and Assumed Names**

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

In this question, please identify all of your entity's assumed names and D/B/A's. Please note that you will be identified publicly by the Legal Name under which you respond to this solicitation unless you organize otherwise with TIPS after award.

Conica USA Polytracks LLC dba Polysport

2  
6**Primary Address**

Primary Address

105 Westwood PI Suite 120

2  
7**Primary Address City**

Primary Address City

Brentwood

2  
8**Primary Address State**

Primary Address State (2 Digit Abbreviation)

TN

2  
9**Primary Address Zip**

Primary Address Zip

37027

3  
0**Search Words Identifying Vendor**

Please list all search words and phrases to be included in the TIPS database related to your entity. **Do not** list words which are not associated with the bid category/scope (See bid title for general scope). This will help users find you through the TIPS website search function. You may include product names, manufacturers, specialized services, and other words associated with the scope of this solicitation.

Athletic Field, Athletic Field Construction, Athletic Turf Field, Field Track, Sports Construction, leisure flooring, distributor, installer, Conica

**3**  
**1** **Certification of Vendor Residency (Required by the State of Texas)**

Does Vendor's parent company or majority owner:

(A) have its principal place of business in Texas; **or** (B) employ at least 500 persons in Texas?

Texas Education Code Section 44.031 requires that this information be considered in evaluation for certain contracts. However, Vendor response does not affect points, scoring, or potential award.

**3**  
**2** **Vendor's Principal Place of Business (City)**

In what city is Vendor's principal place of business located?

**3**  
**3** **Vendor's Principal Place of Business (State)**

In what state is Vendor's principal place of business located?

**3**  
**4** **Vendor's Years in Business**

How many years has the business submitting this proposal been operating in its current capacity and field of work?

**3**  
**5** **Certification Regarding Entire TIPS Agreement for Part 1 and Part 2 Contracts**

This is a two part solicitation. Part 1 is solicited for TIPS sales that are not considered a "public work" construction project. Part 1 permits the sale of goods and non-construction/non-"public work" services such as maintenance and minor repairs. Part 2 Job Order Contract (JOC) is solicited for projects considered by your TIPS Member Customers to be a "public work" construction project. The determination of whether or not a TIPS sale amounts to a "public work" construction project requiring a Part 2 JOC contract is made by the TIPS Member Customer at the time of each TIPS sale. Thus, Vendors are encouraged to respond to both Parts 1 and 2 in case your TIPS Member Customers require that a sale be made under one Part or the other. However, responding to both Parts is not required. If Vendor responds and is awarded to both Parts, Vendor will have one contract for Part 1 and a separate contract for Part 2.

Vendor agrees that, if awarded, Vendor's final TIPS Contract(s), for either Part 1, Part 2, or both Parts, will consist of the provisions set forth in the corresponding finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in the Agreement; (2) Any addenda or clarifications issued in relation to the corresponding TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the corresponding TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract.

Does Vendor agree?

3  
6**Minimum Percentage Discount Offered to TIPS Members on all Part 1 Goods and Services (READ CAREFULLY)**

**Please read thoroughly and carefully as an error on your response can render your Part 1 contract award unusable. If you are not proposing on Part 1, you must still respond to proceed but it will not apply to you unless you decide to propose and are awarded on Part 1.**

TIPS Members often turn to TIPS Contracts for ease of use and to receive discounted pricing.

***If awarded on Part 1, what is the minimum percentage discount that you can offer TIPS Members off of all Part 1 goods and service pricing that you offer?***

Vendor must respond with a percentage from 0%-100%. The percentage discount that you input below will be applied to your Part 1 "Catalog Pricing", as defined in the solicitation, for all TIPS Sales made during the life of the contract. The only limited exception to this discount is for limited services listed in Vendor's original proposal, typically in Pricing Form 2, for which they offer a specific lesser discount. You cannot alter this percentage discount once the solicitation legally closes. You will always be required to discount every TIPS Sale by the percentage included below. The only limited exception to this discount is for limited services listed in Vendor's original proposal, typically in Pricing Form 2, for which they offer a specific lesser discount. If you add goods or services to your "Catalog Pricing" during the life of the contract, you will be required to sell those new items with this discount applied.

**Example:** In this example, you enter a 10% minimum percentage discount below. In year-one of your TIPS Contract, your published Part 1 "Catalog Pricing" (website/store/published pricing) for "Material A" is \$100 and for "Material A Maintenance Service" is \$100. In this example, you must sell those items under the Part 1 TIPS Contract at the proposed 10% discounted price of: "Material A" - \$90, "Material A Maintenance Service" - \$90. In year two of your TIPS Contract, you update your Part 1 "Catalog Pricing" with the market. You add "Material B" to your "Catalog Pricing" for \$200 and have increased the price of "Material A" to \$110 and the price of "Material A Maintenance Service" to \$110. In this example, after the Part 1 "Catalog Pricing" update, you must still sell those items under the Part 1 TIPS Contract at the proposed 10% discounted price of: "Material A" - \$99, "Material A Maintenance Service" - \$99, and "Material B" - \$180.00.

With the exception of limited services listed in Vendor's original proposal, typically in Pricing Form 2, for which vendor proposed a specific lesser discount, if you cannot honor the discount on all Part 1 goods and items now included or which may be added in the future with certainty, then you should offer a lesser discount percentage below.

***If awarded on Part 1, what is the minimum percentage discount that you can offer TIPS Members off of all Part 1 goods and service pricing that you offer?***

3  
7**Honoring Vendor's Part 1 Minimum Percentage Discount**

Vendor is asked in these Attribute Questions to provide a Minimum Percentage Discount offered to TIPS Members on all Part 1 goods and services sold under the TIPS Contract. If proposing on Part 1, points will be assigned for your response and scoring of your Part 1 proposal will be affected. On your Part 1 evaluation, a "YES" answer will be awarded the maximum 10 points and a "NO" answer will be awarded 0 points. If you are not proposing on Part 1, you must still answer to proceed but this term will not apply to you or affect your scoring unless you decide to propose and are awarded on Part 1.

If awarded on Part 1, does Vendor agree to honor the Minimum Percentage Discount off of their TIPS "Catalog Pricing" that Vendor proposed for all TIPS Sales made for the duration of the TIPS Contract?

3  
8

### Volume and Additional Discounts

In addition to the Part 1 Minimum Percentage Discount proposed herein, does Vendor ever expect and intend to offer additional, greater, or volume discounts to TIPS Members?

If proposing on Part 1, point(s) may be assigned for your response in the Part 1 category of "Pricing" during scoring and evaluation. If you are not proposing on Part 1, you must respond to proceed but no points will be assigned for your response.

Yes

3  
9

### Part 1 "Catalog Pricing" and Pricing Requirements

**This is a requirement of the Part 1 TIPS Contract and is non-negotiable. If you are not proposing on Part 1, you must still agree to proceed but it will not apply to you unless you decide to propose and are awarded on Part 1.**

In this solicitation and resulting contract, Part 1 "Catalog Pricing" shall be defined as:

"The then available list of goods or services, in the most current listing regardless of date, that takes the form of a catalog, price list, price schedule, shelf-price or other viewable format that:

- A. is regularly maintained by the manufacturer or Vendor of an item; and
- B. is either published or otherwise available for review by TIPS or a customer during the purchase process;
- C. to which the Minimum Percentage Discount proposed by the proposing Vendor may be applied.

If awarded on Part 1 of this TIPS Contract, for the duration of the contract, Vendor agrees to provide, upon request, their then current "Catalog Pricing." Or, in limited circumstances where Vendor has proposed the Percentage Mark-Up method of pricing in this proposal, proof of Vendor's "cost" may be accepted by TIPS in place of catalog pricing.

YES

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#### **REQUIRED FOR PART 2 - Vendor's Regular Hours RS Means Coefficient**

What is Vendor's Regular Hours RS Means Coefficient?

The RS Means Price Book is a unit price book adjusted for different geographic areas by using the City Cost Index for each location. You may visit <https://www.rsmeans.com> for more information.

You must review the TIPS Part 2 RS Means JOC Pricing Explanation & Rubric under the "Attachments" tab prior to responding herein.

To propose the RS Means Price Book pricing exactly, Vendor would insert a 1.0 as their Regular Hours RS Means Coefficient below, to propose a 5% discount off of the RS Means Price Book Vendor would insert a .95 as their Regular Hours RS Means Coefficient below. To see the full scoring rubric and use TIPS scoring calculator, please view the TIPS RS Means JOC Pricing Explanation & Rubric under the "Attachments" tab.

Insert Vendor's Regular Hours RS Means Coefficient below.

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1

#### **REQUIRED FOR PART 2 - Vendor's After-Hours RS Means Coefficient**

What is Vendor's After-Hours RS Means Coefficient?

The RS Means Price Book is a unit price book adjusted for different geographic areas by using the City Cost Index for each location. You may visit <https://www.rsmeans.com> for more information.

You must review the TIPS Part 2 RS Means JOC Pricing Explanation & Rubric under the "Attachments" tab prior to responding herein.

The most common After-Hours RS Means Coefficient is "time-and-a-half" of the standard RS Means Unit Price Book. For example, if Vendor's Regular Hours Coefficient above is .95, Vendor would assert an After-Hours RS Means Coefficient of 1.45 for "time-and-a-half" pricing. To see the full scoring rubric and use TIPS scoring calculator, please view the TIPS RS Means JOC Pricing Explanation & Rubric under the "Attachments" tab.

Insert Vendor's After-Hours RS Means Coefficient below.

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**REQUIRED FOR PART 2 - Vendor's Percentage Markup of Items not Pre-Priced within the RS Means Price Book**

Here, Vendor must enter a percentage, not a coefficient.

If Vendor sells items which cannot be found in the RS Means Price Book, at what Percentage Markup does Vendor agree to sell those Non Pre-Priced items? This is a maximum Percentage Markup and Vendor may always offer customers a lesser markup.

**Example:** In this example, Vendor is selling a project to a TIPS Member school district and some of the contract pricing for special materials cannot be verified because it cannot be found in the RS Means Price book. Vendor may sell those specialty items to the Member this percentage markup from cost. In this example, if one of the specialty items cost Vendor \$100 from the manufacturer and Vendor proposed a Percentage Markup of 30% here, then Vendor could sell the item to the TIPS Customer for \$130.00 or less in this example.

Vendor must provide TIPS with manufacturer documentation reflecting the cost of any non pre-priced item at the time of the TIPS sale so that TIPS can verify that the proposed percentage markup is being honored.

What is Vendor's Percentage Markup of items not Pre-Priced within the RS Means Price Book?

40%

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**REQUIRED FOR PART 2 - TIPS Pricing and Line Item Estimate Pricing Requirements**

**This is a requirement of the Part 2 TIPS Contract and is non-negotiable. If you are not proposing on Part 2, you must still agree to proceed but it will not apply to you unless you decide to propose and are awarded on Part 2.**

Vendor must respond to the required pricing attributes above seeking RS Means coefficients and a percentage markup if seeking to propose on Part 2.

If awarded on Part 2 of this TIPS Contract, for the duration of the contract, Vendor agrees to provide a RS Means line-item estimate to TIPS for each anticipated Part 2 TIPS project or sale. Or, in limited circumstances in contracts where Xactimate pricing is also expressly permitted and Vendor also submits Xactimate pricing under Part 2, Vendor may instead provide an Xactimate line-item estimate to TIPS. However, Vendor agrees that when a TIPS Member Customer seeks a quote for a Part 2 TIPS sale, Vendor will always supply a line-item estimate to TIPS for review and approval.

Yes, Vendor agrees

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## EXCEPTIONS & DEVIATIONS TO TIPS STANDARD TERMS AND CONDITIONS

Vendor agrees that, if awarded, Vendor's final TIPS Part 1 and/or Part 2 Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The corresponding TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the corresponding TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the corresponding TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract. In the event of conflict between the terms of the finalized Vendor Agreement and one of the incorporated documents the terms and conditions which are in the best interest of governmental/qualifying non-profit TIPS Members shall control at TIPS sole discretion.

If Vendor responds, "No, Vendor does not agree" to this Attribute, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration. This is the only proper way to submit proposed deviations for TIPS consideration. TIPS reserves the right to accept, decline, or modify Vendor's requested negotiated terms. For this reason, answering "No, Vendor does not agree" may ultimately delay or prevent award.

Does Vendor agree with TIPS standard terms and conditions as presented in the TIPS solicitation document (RFP, RCSP, RFQ, or other) and the TIPS Vendor Agreement document?

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## TIPS Sales Reporting Requirements

**This is a requirement of the TIPS Contract and is non-negotiable.**

By submitting this proposal, Vendor certifies that Vendor will properly report all TIPS sales. With the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either:

(1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at [tipspo@tips-usa.com](mailto:tipspo@tips-usa.com) with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or;

(2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement.

No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion.



**4** **TIPS Administration Fee Requirement and Acknowledgment**

**6**

**This is a requirement of the TIPS Contract and is non-negotiable.**

The collection of fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The TIPS Administration Fee is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of each TIPS Sale legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding RFP or RCSP document. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale.

By submitting a proposal, Vendor agrees that it has read, understands, and agrees to the published TIPS Administration Fee amount, calculation, and payment requirements. By submitting a proposal Vendor further confirms that all TIPS Pricing includes the TIPS Administration Fee and Vendor will not show adding the TIPS Administration Fee as a charge or line-item in any TIPS Sale.

**4** **TIPS Member Access to Vendor Proposal & Documentation**

**7**

**This is a requirement of the TIPS Contract and is non-negotiable.**

Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's express consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation to TIPS Members or by TIPS Members. By submitting this proposal, Vendor certifies the foregoing.

**4** **Non-Collusive Bidding Certificate**

**8**

**This is a requirement of the TIPS Contract and is non-negotiable.**

By submission of this proposal, the Vendor certifies that:

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

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**Antitrust Certification Statements (Tex. Government Code § 2155.005)**

**This is a requirement of the TIPS Contract and is non-negotiable.**

By submission of this bid or proposal, Vendor certifies under penalty of perjury of the laws of the State of Texas that:

(1) I am duly authorized to execute this proposal/contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Vendor) identified herein;

(2) In connection with this proposal, neither I nor any representative of Vendor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

(3) In connection with this proposal, neither I nor any representative of the Vendor has violated any federal antitrust law;

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

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**Limitation on Out-of-State Litigation - Texas Business and Commerce Code § 272**

**This is a requirement of the TIPS Contract and is non-negotiable.**

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

By submission of this proposal, Vendor acknowledges this law and ***if Vendor enters into a construction contract with a Texas TIPS Member*** under this procurement, Vendor certifies compliance.

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**Required Confidentiality Claim Form**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS provides the required TIPS Confidentiality Claim Form in the "Attachments" section of this solicitation. Vendor must execute this form by either signing and waiving any confidentiality claim, or designating portions of Vendor's proposal confidential. If Vendor considers any portion of Vendor's proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form.

If TIPS receives a public information act or similar request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor documents deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion.

Notwithstanding any other Vendor designation of Vendor's proposal as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's agreement that proper execution of the required TIPS Confidentiality Claim Form is the only way to assert any portion of Vendor's proposal as confidential.

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2**Non-Discrimination Statement and Certification**

**This is a requirement of the TIPS Contract and is non-negotiable.**

In accordance with Federal civil rights law, all U.S. Departments, including but not limited to the USDA, USDE, FEMA, are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by federal funds (not all bases apply to all programs).

Vendor certifies that Vendor will comply with applicable Non-Discrimination and Equal Opportunity provisions set forth in TIPS Member Customers' policies and other regulations at the local, state, and federal levels of governments.

☒ Yes, I certify (Yes)

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3**Limitation of Vendor Indemnification and Similar Clauses**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, is prohibited from indemnifying third-parties (pursuant to the Article 3, Section 52 of the Texas Constitution) except as otherwise specifically provided for by law or as ordered by a court of competent jurisdiction. Article 3, Section 52 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " and the Texas Attorney General has opined that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Thus, contract clauses which require TIPS to indemnify Vendor, pay liquidated damages, pay attorney's fees, waive Vendor's liability, or waive any applicable statute of limitations must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas."

Does Vendor agree?

☒ Yes, I Agree (Yes)

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4**Alternative Dispute Resolution Limitations**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, does not agree to binding arbitration as a remedy to dispute and no such provision shall be permitted in this Agreement with TIPS. Vendor agrees that any claim arising out of or related to this Agreement, except those specifically and expressly waived or negotiated within this Agreement, may be subject to non-binding mediation at the request of either party to be conducted by a mutually agreed upon mediator as prerequisite to the filing of any lawsuit arising out of or related to this Agreement. Mediation shall be held in either Camp or Titus County, Texas. Agreements reached in mediation will be subject to the approval by the Region 8 ESC's Board of Directors, authorized signature of the Parties if approved by the Board of Directors, and, once approved by the Board of Directors and properly signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Does Vendor agree?

Yes

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5**No Waiver of TIPS Immunity****This is a requirement of the TIPS Contract and is non-negotiable.**

Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

Does Vendor agree?

☒ Yes, Vendor agrees (Yes)5  
6**Payment Terms and Funding Out Clause****This is a requirement of the TIPS Contract and is non-negotiable.**

Vendor agrees that TIPS and TIPS Members shall not be liable for interest or late-payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Funding-Out Clause: Vendor agrees to abide by the applicable laws and regulations, including but not limited to Texas Local Government Code § 271.903, or any other statutory or regulatory limitation of the jurisdiction of any TIPS Member, which requires that contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

Does Vendor agree?

☒ Yes, Vendor agrees (Yes)5  
7**Certification Regarding Prohibition of Certain Terrorist Organizations (Tex. Gov. Code 2270)**

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

Does Vendor certify?

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8**Certification Regarding Prohibition of Boycotting Israel (Tex. Gov. Code 2271)**

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

When applicable, does Vendor certify?

**Certification Regarding Prohibition of Contracts with Certain Foreign-Owned Companies (Tex. Gov. Code 2274)**

Certain public entities are prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant Vendor direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by a customer for product warranty and support purposes.

Vendor certifies that neither it nor its parent company nor any affiliate of Vendor or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country.

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

When applicable, does Vendor certify?

**Certification Regarding Prohibition of Discrimination Against Firearm and Ammunition Industries (Tex. Gov. Code 2274)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has at least ten (10) full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities have a value of at least \$100,000 that is paid wholly or partly from public funds; (d) the Agreement is not excepted under Tex. Gov. Code 2274 and (e) the purchasing public entity has determined that Vendor is not a sole-source provider or the purchasing public entity has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association.

For purposes of this Agreement, “discriminate against a firearm entity or firearm trade association” shall mean, with respect to the entity or association, to: “(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.”

“Discrimination against a firearm entity or firearm trade association” does not include: “(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.”

When applicable, does Vendor certify?

**Certification Regarding Termination of Contract for Non-Compliance (Tex. Gov. Code 552.374)**

If Vendor is not a governmental body and (a) this Agreement or any Supplemental Agreement with a public entity has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities; or (b) this Agreement or any Supplemental Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities in their fiscal year, the following certification shall apply; otherwise, this certification is not required.

As required by Tex. Gov. Code 552.374, the following statement is included in the RFP and the Agreement (unless the Agreement is (1) related to the purchase or underwriting of a public security; (2) is or may be used as collateral on a loan; or (3) proceeds from which are used to pay debt service of a public security of loan): "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this solicitation and Agreement and the Vendor agrees that this Agreement and any applicable Supplemental Agreement can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter."

Pursuant to Chapter 552 of the Texas Government Code, Vendor certifies that Vendor shall: (1) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member for the duration of the Agreement; (2) promptly provide to TIPS or the purchasing TIPS Member any contracting information related to the Agreement that is in the custody or possession of Vendor on request of TIPS or the purchasing TIPS Member; and (3) on completion of the Agreement, either (a) provide at no cost to TIPS or the purchasing TIPS Member all contracting information related to the Agreement that is in the custody or possession of Vendor, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member.

When applicable, does Vendor certify?

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**Certification Regarding Prohibition of Boycotting Certain Energy Companies (Tex. Gov. Code 2274)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities has a value of \$100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, do not boycott energy companies and will not boycott energy companies during the term of the Agreement or any applicable Supplemental Agreement.

For purposes of this certification the term "company" shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit.

The term "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a)." (See Tex. Gov. Code 809.001).

When applicable, does Vendor certify?

Yes

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**Felony Conviction Notice - Texas Education Code 44.034**

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states, "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

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

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

Vendor certifies one of the following:

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

If Vendor responds with Option (C), Vendor is required to provide information in the next attribute.

B. My firm is not owned nor operated by felon.



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4**Felony Conviction Notice - Texas Education Code 44.034 - Continued**

If Vendor selected Option (C) in the previous attribute, Vendor must provide the following information herein:

1. Name of Felon(s)
2. The Felon(s) title/role in Vendor's entity, and
3. Details of Felon(s) Conviction(s).

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5**Conflict of Interest Questionnaire Requirement**

Vendor agrees that it has looked up, read, and understood the current version of Texas Local Government Code Chapter 176 which generally requires disclosures of conflicts of interests by Vendor hereunder if Vendor:

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

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

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

(4) Any other financial, commercial, or familial relationship with our local government that may warrant reporting under this statute.

Does Vendor certify that it has NO reportable conflict of interest?

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6**Conflict of Interest Questionnaire Requirement - Form CIQ - Continued**

If you responded "No, Vendor does not certify - VENDOR HAS CONFLICT" to the Conflict of Interest Questionnaire question above, you are required by law to fully execute and upload the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ." If you accurately claimed no conflict above, you may disregard the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ."

Have you uploaded this form if applicable?

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7**Upload of Current W-9 Required**

Vendors are required by TIPS to upload a current, accurate W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

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8**Regulatory Good Standing Certification**

Does Vendor certify that its entity is in good standing with all government entities and agencies, whether local, state, or federal, that regulate any aspect of Vendor's field of work or business operations?

If Vendor selects "No", Vendor must provide explanation on the following attribute question.

**6 Regulatory Good Standing Certification - Explanation - Continued**

If Vendor responded to the prior attribute that "No", Vendor is not in good standing, Vendor must provide an explanation of that lack of good standing here for TIPS consideration.

No response

**7 Instructions Only - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**  
**0 Instructions for Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "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 rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form 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 with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. 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 eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. 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.

9. Except for transactions authorized under paragraph 5 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 with which this transaction originated may pursue available remedies, including suspension and / or debarment.

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## Suspension or Debarment Certification

Read the instructions in the attribute above and then answer the following accurately.

Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Does Vendor certify?

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## Vendor Certification of Criminal History - Texas Education Code Chapter 22

Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district pursuant to this law.

### DEFINITIONS

**Covered employees:** Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students.

**Disqualifying criminal history:** Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

### Vendor certifies:

**NONE (Section A):** None of the employees of Vendor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Vendor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided under this procurement.

### OR

**SOME (Section B):** Some or all of the employees of Vendor and any subcontractor are covered employees. If this box is checked, I further certify that: (1) Vendor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history; (2) If Vendor receives information that a covered employee subsequently has a reported criminal history, Vendor will immediately remove the covered employee from contract duties and notify the purchasing entity in writing within 3 business days; (3) Upon request, Vendor will provide the purchasing entity with the name and any other requested information of covered employees so that the purchasing entity may obtain criminal history record information on the covered employees; (4) If the purchasing entity objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Vendor agrees to discontinue using that covered employee to provide services at the purchasing entity.

Which option does Vendor certify?

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**Certification Regarding "Choice of Law" Terms with TIPS Members**

Vendor agrees that if any "Choice of Law" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the sales agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

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**Certification Regarding "Venue" Terms with TIPS Members**

Vendor agrees that if any "Venue" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution is shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

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**Certification Regarding "Automatic Renewal" Terms with TIPS Members**

Vendor agrees that no TIPS Sale may incorporate an "Automatic Renewal" clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing a Supplemental Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

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6**Certification Regarding "Indemnity" Terms with TIPS Members**

Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

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7**Certification Regarding "Arbitration" Terms with TIPS Members**

Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may **not** require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

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8**2 CFR PART 200 AND FEDERAL CONTRACT PROVISIONS EXPLANATION**

TIPS and TIPS Members will sometimes seek to make purchases with federal funds. In accordance with 2 C.F.R. Part 200 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (sometimes referred to as "EDGAR"), Vendor's response to the following questions labeled "2 CFR Part 200 or Federal Provision" will indicate Vendor's willingness and ability to comply with certain requirements which may be applicable to TIPS purchases paid for with federal funds, if accepted by Vendor.

Your responses to the following questions labeled "2 CFR Part 200 or Federal Provision" will dictate whether TIPS can list this awarded contract as viable to be considered for a federal fund purchase. **Failure to certify all requirements labeled "2 CFR Part 200 or Federal Provision" will mean that your contract is listed as not viable for the receipt of federal funds. However, it will not prevent award.**

If you do enter into a TIPS Sale when you are accepting federal funds, the contract between you and the TIPS Member will likely require these same certifications.

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9**2 CFR Part 200 or Federal Provision - Vendor Willingness to Accept Federal Funds**

This certification is not required by federal law. However, TIPS Members are public entities and qualifying non-profits which often receive federal funding and grants (ESSER, CARES Act, EDGAR, etc.) ***Accepting such funds often requires additional required certifications and responsibilities for Vendor.*** The following attribute questions include these required certifications. Your response to this questions, the following certifications, and other factors will determine whether your contract award will be deemed as eligible for federal fund expenditures by TIPS Members.

If awarded, is Vendor willing to accept payment for goods and services offered under this contract paid for by a TIPS Member with federal funds?

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0**2 CFR Part 200 or Federal Provision - Contracts**

Contracts for more than the simplified acquisition threshold currently set at \$250,000 (2 CFR § 200.320), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

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1**2 CFR Part 200 or Federal Provision - Termination**

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

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The Vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?

**8**  
**2** **2 CFR Part 200 or Federal Provision - Clean Air Act**

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

Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.

Does vendor agree?

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**3** **2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment**

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

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Does Vendor agree?

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4**2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued**

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

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

**The undersigned certifies, to the best of his or her knowledge and belief, that:**

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does Vendor certify that it has NOT lobbied as described herein?

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5**2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued**

If you answered "No, Vendor does not certify - Lobbying to Report" to the above attribute question, you must download, read, execute, and upload the attachment entitled "Disclosure of Lobbying Activities - Standard Form - LLL", as instructed, to report the lobbying activities you performed or paid others to perform.

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6**2 CFR Part 200 or Federal Provision - Federal Rule**

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify compliance?



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## 2 CFR Part 200 or Federal Provision - Procurement of Recovered Materials

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

Does vendor certify that it is in compliance with these provisions?

Yes

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## 2 CFR Part 200 or Federal Provision - Rights to Inventions

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

Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.

Does vendor certify?

Yes

**2 CFR Part 200 or Federal Provision - Domestic Preferences for Procurements and Compliance with Buy America Provisions**

As appropriate and to the extent consistent with law, TIPS Member Customers, to the greatest extent practicable under a Federal award, may provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Vendor agrees that the requirements of this section will be included in all subawards including all contracts and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. For purposes of 2 CFR Part 200.322, "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition. For purposes of 2 CFR Part 200.322,

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

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

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

Does Vendor Certify?

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0**2 CFR Part 200 or Federal Provision - Ban on Foreign Telecommunications**

ESC 8 and TIPS Members are prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that use "covered telecommunications" equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications" equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and physical security surveillance of critical infrastructure and other national security purposes, and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 CFR § 200.216.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor certify?

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1**2 CFR Part 200 or Federal Provision - Contract Cost & Price**

For contracts more than the simplified acquisition threshold currently set at \$250,000, a TIPS Member may, in very rare circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). Under those circumstances, Vendor agrees to provide information and negotiate with the TIPS Member regarding profit as a separate element of the price. However, Vendor certifies that the total price charged by the Vendor shall not exceed the Vendor's TIPS pricing and pricing terms proposed.

Does Vendor certify?

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2**2 CFR Part 200 or Federal Provision - Equal Employment Opportunity**

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

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members on any federally assisted construction contract, the equal

opportunity clause is incorporated by reference here.

Does Vendor Certify?

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## 2 CFR Part 200 or Federal Provision - Davis Bacon Act Compliance

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

Pursuant to state and federal requirements, Vendor certifies that it will be in compliance with all applicable Davis-Bacon Act provisions if/when applicable.

Does Vendor certify?

Yes

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## 2 CFR Part 200 or Federal Provision - Contract Work Hours and Safety Standards

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award for all contracts resulting from this procurement process, Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does Vendor certify?

Yes

**2 CFR Part 200 or Federal Provision - FEMA Fund Certification & Certification of Access to Records**

**If and when** Vendor accepts a TIPS purchase paid for in full or part with FEMA funds, Vendor certifies that:

(1) Vendor agrees to provide the TIPS Member, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Contractor which are directly pertinent to this contract, or any contract resulting from this procurement, for the purposes of making audits, examinations, excerpts, and transcriptions. This right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents. Vendor agrees to provide the FEMA Administrator or an authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this contract or the contract with the TIPS Member is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(2) The Vendor shall not use the Department of Homeland Security's seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(3) The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(4) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

(5) The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract.

Does Vendor certify?

☒ Yes, Vendor certifies

**2 CFR Part 200 or Federal Provision - Certification of Compliance with the Energy Policy and Conservation Act**

When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any state mandatory standards and policies relating to energy efficiency which are contained in applicable state energy conservation plans issued in compliance with the Act.

Does Vendor certify?

☐ Yes

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7**2 CFR Part 200 or Federal Provision - Certification of Compliance with Never Contract with the Enemy**

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$50,000.00, within the period of performance, and which are performed outside of the United States, including U.S. territories, are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. Per 2 CFR part 183, in the situation specified, ESC 8 and TIPS Members shall terminate any contract or agreement resulting from this procurement which violates the Never Contract with the Enemy regulation in 2 CFR part 183, including if Vendor is actively opposing the United States or coalition forces involved in a contingency operation in which members of the the Armed Forces are actively engaged in hostilities. Vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIIS) for any contract terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply.

Does Vendor certify?

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8**2 CFR Part 200 or Federal Provision - Certification of Compliance with EPA Regulations**

For contracts resulting from this procurement, in excess of \$100,000.00 and paid for with federal funds, Vendor certifies that Vendor will comply with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does Vendor certify?

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9**2 CFR Part 200 or Federal Provision - Record Retention Requirements**

For contracts resulting from this procurement, paid for by ESC 8 or TIPS Members with federal funds, Vendor certifies that Vendor will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after final expenditure or financial reports, as applicable, and all other pending matters are closed.

Does Vendor certify?

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0**2 CFR Part 200 or Federal Provision - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

If you respond "Yes", you must respond to the following attribute question accurately. If you respond "No", you may skip the following attribute question.

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**2 CFR Part 200 or Federal Provision - If "Yes" Response to Above Attribute - Continued - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

**Only respond to this question if you responded "Yes" to the attribute question directly above. Skip this question if you responded "No" to the attribute question directly above.**

Does Vendor certify that it will follow the following affirmative steps? Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

Does Vendor certify?

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**ACKNOWLEDGMENT & BINDING CORPORATE AUTHORITY**

By submitting this proposal, the individual(s) submitting on behalf of the Vendor certify that they are authorized by Vendor to complete and submit this proposal on behalf of Vendor and that this proposal was duly submitted on behalf of Vendor by authority of its governing body, if any, and within the scope of its corporate powers.

Vendor further certifies that it has read, examined, and understands all portions of this solicitation including but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement(s). Vendor certifies that, if necessary, Vendor has consulted with counsel in understanding all portions of this solicitation.

TIPS Synthetic Turf or Natural Sports Fields, Grounds, Courts, and Tracks Goods and	Polysport
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### TIPS REFERENCE FORM

All requested information must be typed and uploaded in Excel format. TIPS will reach out via the emails provided so please ensure that they are typed and accurate. Do not handwrite or upload in any format other than Excel. Emails provided must be current and active. Do not include TIPS/Region 8 employees as a reference. The entities that you provide must be paying customers, not affiliates/partners/manufacturers/resellers, etc.

You must provide below at least five (5) references from five different entity customers, preferably government or non-profit entities, who have purchased goods or services from your vendor entity within the last three years.

Customer Entity Name	Customer Contact Name	Valid Contact Email	Valid Contact Phone
Example: ABC University	Director John Doe	<a href="mailto:jdoe@abcuniversity.edu">jdoe@abcuniversity.edu</a>	800-111- 2222
Sprinturf	Charlie Welsh	<a href="mailto:cwelsh@sprinturf.com">cwelsh@sprinturf.com</a>	651-239-0400
Nashville Christian School	AD Ronnie Seigenthaler	<a href="mailto:seigenthalerr@empolyees.nashvillechristian.org">seigenthalerr@empolyees.nashvillechristian.org</a>	615-356-5600
Franklin Road Academy	AD Kris Palmerton	<a href="mailto:palmertonk@franklinroadacademy.com">palmertonk@franklinroadacademy.com</a>	615-369-4535
Whitefield Academy	AD Danny Ryan	<a href="mailto:dryan@whitefieldacademy.com">dryan@whitefieldacademy.com</a>	678-305-1452
T.R. Miller High School	AD Daniel Carpenter	<a href="mailto:dcarpenter@brewtoncityschools.org">dcarpenter@brewtoncityschools.org</a>	251-867-8430



## REQUIRED CONFIDENTIALITY CLAIM FORM

(VENDOR MUST COMPLETE THE FOLLOWING VENDOR INFORMATION)

Vendor Entity Name: **Polysport**

Vendor Authorized Signatory Name: **Jamie Copling**

Vendor Authorized Signatory Title: **Sales Coordinator**

Vendor Authorized Signatory Email: **jamie.copling@polysportusa.com**

Vendor Address: **105 Westwood Place Suite 120**

City: **Brentwood** State: **TN** Zip Code: **37027**

Vendor agrees that it is voluntarily providing its data (including but not limited to: Vendor information, Vendor documentation, Vendor's proposal, Vendor pricing submitted or provided to TIPS, TIPS contract documents, TIPS correspondence, Vendor logos and images, Vendor's contact information, Vendor's brochures and commercial information, Vendor's financial information, Vendor's certifications, and any other Vendor information or documentation submitted to TIPS by Vendor and its agents) (Hereinafter, "Vendor Data") to TIPS. Vendor understands and agrees that TIPS is a government entity subject to public information laws including but not limited to Texas Government Code (TGC) Chapter 552. Vendor agrees that regardless of confidentiality designations herein, Vendor's submission of a proposal constitutes Vendor's consent to the disclosure and release of Vendor's Data and comprehensive proposal, including any information deemed confidential or proprietary herein, to and by TIPS Members.

Notwithstanding the foregoing permissible release to TIPS Members, if Vendor considers any portion of Vendor's proposal to be otherwise confidential and not subject to public disclosure pursuant to public information laws, including but not limited to TGC Chapter 552, Vendor must properly execute **Option 1 only** below, attach to this PDF all documents and information that Vendor deems confidential, and upload the consolidated documentation. Regardless of the Option selected below, this form must be completed and uploaded to the "Response Attachments" section of the eBid System entitled "Required Confidentiality Claim Form." Execution and submission of this form is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a request, a Public Information Request, or subpoena. If TIPS receives a request, any responsive documentation not deemed confidential by you through proper execution of Option 1 of this form will be automatically released. For information deemed confidential by you through proper execution of Option 1 of this form, TIPS will follow procedures of controlling statute(s) regarding withholding that documentation and shall not be liable for any release of information required by law, including Attorney General opinion or court order.

(VENDOR MUST COMPLETE ONE OF THE TWO OPTIONS AND UPLOAD IN THE EBID SYSTEM)

**OPTION 1 – DESIGNATING CONFIDENTIAL MATERIALS – YES, VENDOR HAS ATTACHED CONFIDENTIAL MATERIALS**

(Confirm each bullet point and sign below)

- Vendor claims some Vendor Data confidential to the extent permitted by TGC Chapter 552 and other applicable law.
- Vendor attached to this PDF all potentially confidential Vendor Data and listed the number of attached pages below.
- Vendor's authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

Number of pages attached deemed confidential: \_\_\_\_\_

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

**OPTION 2 – WAIVER OF CONFIDENTIALITY – NO, VENDOR HAS NOT ATTACHED CONFIDENTIAL MATERIALS**

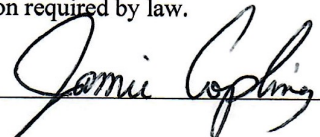
(Confirm each bullet point and sign below)

By signing for Option 2 below, Vendor expressly waives any confidentiality claim for all Vendor Data submitted in relation to this proposal and resulting contract. Vendor confirms that TIPS may freely release Vendor Data submitted in relation to this proposal or resulting contract to any requestor. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of Vendor Data by TIPS or TIPS Members.

- Vendor's authorized signatory has signed below and shall upload this document in the proper location in the eBid System.

- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

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





9/28/2023

We are pleased to provide the following track surfacing proposal for: Academic Village Charter High School

\*Proposal Valid for 30 Days\*

This proposal includes:

- Provide all Conica Track surfacing materials to be installed per manufacturer specifications
- Provide asphalt primer to receive track surface
- Provide factory trained Conica technician for the duration of the installation.
- Provide 5-year labor and material warranty for track surfaces.
- Provide 2-year striping warranty.
- Provide standard track striping and event markings per owner's request.
- Provide owner maintenance training and closeout materials.
- Provide walkthrough after asphalt is paved to see if any remediation is needed.
- Core Sample Report

Surface Type	Color	Area	Price
Conipur SP 13mm	Red	2949 sq. yds	\$177,250
Conipur ISP 13mm	Red	2949 sq. yds	\$215,300
Conipur SW 13mm	Red	2949 sq. yds	\$304,300
Track Removal		2949 sq. yds	\$27,600
5% Bond: Depending on which surface is chosen			\$10250 \$12150 \$14900

**Exclusions:**

- Liquidated damages.
- Prevailing Wages
- Any permits or bonds
- Asphalt or subbase installation repairs or patches
- Repair of asphalt the does not meet asphalt specifications
- Grinding or filling of asphalt due to high or low spots caused by work of others

Sincerely,

*Billy Jenkins*

Director USA & Canada



TIPS Synthetic Turf or Natural Sports Fields, Grounds, Courts, and Tracks Goods and Services(Part 1)	Conica USA Polytracks LLC
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TIPS PRICING FORM 1 (Part 1) - GOODS/ITEMS PRICING

For Part 1 proposals, TIPS permits Vendors to utilize either or both of the two goods/items pricing proposal options (and sub-options) identified below with the “Discount-Off Catalog” option being much more optimal, usable, and preferred to the "Cost-Plus Markup Option." On Part 1, Vendor is welcome to propose either or both options, and with either option Vendor is able to update their pricing and add/remove items during the life of the Part 1 contract. It is Vendor’s responsibility to ensure that all items listed, whether by description, product number, SKU, UPC or other, fall within the scope of this Part 1 solicitation category. Please read the "Vendor Pricing Submission" portion of the Part 1 solicitation document before submitting questions about this form to TIPS.

Option 1 - Discount-Off Catalog Method

This goods/items pricing proposal method is highly preferred over the “Cost-Plus Markup Method” because it is versatile and allows Vendor to efficiently add and update its goods/items pricing and does not automatically prohibit federal fund purchases. Vendor is asked in the attribute questions within the eBid System to propose a minimum discount off of their catalog pricing. Any discount from 0% to 100% is an appropriate response. Then, under this pricing proposal method, Vendor is permitted to provide its “Catalog Pricing” to TIPS in a number of ways, described in Section "A" and Section "B" below. Vendor's minimum discount will always be applied to TIPS "Catalog Pricing" provided herein.

SECTION "A" - Providing “Catalog Pricing” through Line-Item Pricing

If Vendor desires to list the "catalog pricing" of goods/items that you sell by line-item, you are welcome to do so here in Section “A” of Pricing Form 1. You are welcome to modify the columns and column titles as long as TIPS can identify the item’s name and “catalog price.” Please note that if you are awarded with this type of pricing submission, you will be able to update the pricing and add/remove items within the category as long as you honor any applicable discounts originally proposed. Specific discounts offered for any brand or item must be honored for the life of the contract.

Product Name	Product #	Description	Units description - (each, dozen, hour, day, etc)	MSRP or Catalog Pricing	% Discount	TIPS Price
Example 1: Widget A	12345AB	gadget part	each	\$100.00	15.00%	\$85.00
Example 2: All Acme Product Line	see Acme catalog located at www.Acme.com	All Acme products available from our company		see Acme catalog located at www.Acme.com	10.00%	
Example 3: All Acme Product Line	Catalog pricing to be provided upon request	All Acme products available from our company		Catalog pricing to be provided upon request	10.00%	
Insert Line-items below this line. You may add cells as needed.						
Product Name	Product #	Description	Units description - (each, dozen, hour, day, etc)	MSRP or Catalog Pricing	% Discount	TIPS Price
Polyurethane Base Mat (Black SBR Only) 13mm	Conipur Base Mat	Conipur Base mat: Economical, durable, and easy to maintain. The Conipur Base mat is the cost effective track surface solution for schools and local communities who are in search of an all-weather track system. The Conipur Base Mat is a porous, paved-in-place system, utilizing a machine installed base of single-component polyurethane binder, SBR granules.	Per Sq. Yard	\$56.10	10.00%	\$51.00
Polyurethane Base Mat (EPDM) 13mm	Conipur Full Depth EPDM Base Mat	Conipur Base mat: Economical, durable, and easy to maintain. The Conipur Base mat is the cost effective track surface solution for schools and local communities who are in search of an all-weather track system. The Conipur Base Mat is a porous, paved-in-place system, utilizing a machine installed base of single-component polyurethane binder, SBR or EPDM granules.	Per Sq. Yard	\$66.50	10.00%	\$59.85
Conipur SP 13mm	Conipur SP	Conipur SP: All-weather track surface. The Conipur SP is the cost effective solution for local communities and schools who are in search of and all-weather track system. This IAAF/WA certified system is paved in place utilizing a machine installed base of single component polyurethane binder and SBR rubber granules. The surface is finished with multiple spray applications of 100% solids, pigmented polyurethane and EPDM granules.	Per Sq. Yard	\$77.00	10.00%	\$69.30

Conipur ISP 13mm	Conipur ISP	Conipur ISP: All-weather track surface. The Conipur SP is the cost effective solution for local communities and schools who are in search of and all-weather track system. This system is paved in place utilizing a machine installed base of single component polyurethane binder and SBR rubber granules. The base is coated with our two component polyurethane sealer making the track impermeable. The surface is finished with multiple spray applications of 100% solids, pigmented polyurethane and EPDM granules.	Per Sq. Yard	\$89.00	10.00%	\$80.10
Conipur SW 13mm	Conipur SW	Conipur SW; All weather track surface. The IAAF/WA certified track system is a durable, all-weather, flood and chip sandwich system with excellent shock absorption and the highest return of energy. It is impermeable, resilient, and fast. The Dual Durometer Sandwich system features a paved-in-place polyurethane basemat, topped with a two component seal coat and finished with a self leveling layer of two component polyurethane and embedded or encapsulated wear layer.	Per Sq. Yard	\$99.00	10.00%	\$89.10
Conipur MX+ 15mm	Conipur MX+	This mid-range segment surface offers the ideal mix between excellent functionality, resistance and value. The innovative foamed intermediate layer creates the basis for peak performances. CONIPUR MX + is an excellent choice for club and mid-level athletes who are keen to push boundaries. The seamless 15mm full PUR three-layer solution ensures an optimal grip and is resilient. It also minimises the risk of injury and thereby facilitates healthy and safe athleticism.	Per Sq. Yard	\$129.80	10.00%	\$116.82
Conipur M	Conipur M	This high-end flooring solution is distinguished by its high-quality and therefore, clearly stands out from the competition. Its resistance, functionality and durability speak for itself. For those reasons, it has been used for many years in stadiums where the most prestigious competitions and events take place. World records have been set on several CONIPUR M tracks. This athletics surfacing solution is highly suitable for world-class performances and for club/mid-level users who strive for greatness.	Per Sq. Yard	\$139.00	10.00%	\$125.10
Conipur VMAX	Conipur VMAX	Our CONIPUR Vmax is distinguished by its outstanding qualities. Speed, safety and stability are the core competencies. The combination of an energy-reflecting base layer, paired with a force-stabilising top layer ensures a completely revolutionary running performance. Thanks to the exceptionally high mechanical properties, maximum resilience and durability of the athletic track is guaranteed.	Per Sq. Yard	\$141.00	10.00%	\$126.90
Conipur RESPRAY	Conipur Respray		Per Sq. Yard	\$48.00	10.00%	\$43.20
Conipur RETOP		The Conipur RETOP can be carried out on water-permeable or waterproof track systems, either in-situ or prefabricated. The high-quality PUR surface layer is highly durable, anti-slip and anti-skid in all weathers. This type of restoration is also a very ecological solution because the original track system is retained as a base layer, and only the wear layer is renewed.	Per Sq. Yard	\$75.00	10.00%	\$67.50
Track Re-Striping	Track Restriping	Track Re-Striping: Track striping to bring your track's lines back to life. Six, eight or nine lane tracks ranging from non-competition tracks, middle and high school level competition facilities and College and Universities. Matching of all associated line striping for your facility includes lane lines, event markings and lettering.	Lump Sum	\$17,500.00	10.00%	\$15,750.00
Track Cleaning	Track Cleaning	Track Cleaning: Cleaning your track free of dirt and debris to protect your track surface from abrasive materials and aesthetically enhancing it. Sweepers and blowers are used to clean topical debris and water can be used (Owners choice) for deeper cleaning.	Per Sq. Yard	\$17.00	10.00%	\$15.30
Track Removal	Track Removal	Track Removal: Removing sythetic track surface down to the subbase. This allows a new surface to be installed on original or new subbase.	Lump Sum	\$35,000.00	10.00%	\$31,500.00
Vendor may insert additional cells as needed.						

SECTION "B" - Alternative Methods of Providing "Catalog Pricing"

Alternative Method of Providing Catalog	Description of Alternative Method of Providing Catalog	Vendor's Selection of Alternative Method of Providing Catalog - Mark the option that Vendor Selects				
1. Catalog Pricing is Included in Proposal	If Vendor already has "Catalog Pricing" documents or files compiled, Vendor may check the cell to the right and include a note directing TIPS to please view those documents/files. (Ex. X – Please see "Catalog Pricing" in uploaded document entitled "2022-2023 Vendor Catalog.") Please note that if you are awarded with this type of pricing submission, you will be able to update the pricing and add/remove items within the category as long as you honor any applicable discounts originally proposed.	Place "X" in this cell if "Catalog Pricing is included in Proposal" is Vendor's selection.				
2. Link to Catalog Pricing	If Vendor already has "Catalog Pricing" published at an online location, Vendor may check the cell to the right and include the link to their online "Catalog Pricing." If a login is required to access the "Catalog Pricing" located at that link, please provide that login information in the neighboring cell. (Ex. X – Please see "Catalog Pricing" at www.tips-usa.com, login information is Username: TIPS Password: 123456.) Please note that if you are awarded with this type of pricing submission, you will be able to update the online pricing and add/remove items within this category as long as you honor any applicable discounts originally proposed.	Place link to your "Catalog Pricing" in this cell if "Link to Catalog" is Vendor's selection.	If applicable, provide login information to online "Catalog Pricing" link			

3. Vendor Shall Provide “Catalog Pricing” Upon Request	<p>If Vendor does not have comprehensive “Catalog Pricing” documents or links readily available, Vendor may check the cell to the right ensuring that such required “Catalog Pricing” will be provided to TIPS upon request. Per the following example, this option is viable but may slow down the TIPS Sale process as follows. (Ex. Vendor is awarded and is making its first TIPS Sale to Sunny ISD, Sunny ISD sends its TIPS PO to TIPS for pricing compliance review. TIPS will then request that Vendor provide documentation of “Catalog Pricing” for the line items included in the PO before TIPS can process the PO and send to Vendor for fulfillment.) Please note that if you are awarded with this type of pricing submission, you will always be able to provide the most current pricing for each item within this category but you will still be required to honor any applicable discounts originally proposed.</p>					
Place "X" in this cell if Vendor agrees to provide "Catalog Pricing" upon request from TIPS.						
Option 2 - Cost-Plus Markup Method						
<p>This goods/items pricing proposal method <b>is not recommended</b> because many TIPS Members are prohibited from utilizing Vendors with a Cost-Plus Markup Pricing submission, especially when using federal funds. Vendor cannot be listed as federally compliant for TIPS purposes if Vendor utilizes this method. If Vendor has read through the entirety of the “Discount-Off Catalog Method” description above and has determined that none of those options are a possibility, then Vendor may use this method which requires that Vendor propose a maximum mark-up percentage in this proposal and then provide TIPS with proof of cost for each item at the time of each TIPS Sale.</p>						
<u>Cost-Plus Markup Method</u>	<p>If Vendor desires to utilize this method, Vendor may enter its maximum markup percentage the cell provided to the right. Please note that this is a maximum percentage and you may always have a lesser markup on a TIPS Sale. You will be required to provide proof of cost to TIPS for every item sold under the TIPS Contract. (Ex. Vendor is awarded and is making its first TIPS Sale to Sunny ISD, Sunny ISD sends its TIPS PO to TIPS for pricing compliance review. TIPS will then request that Vendor provide documentation of Vendor’s cost for the line items included in the PO before TIPS can process the PO and send to Vendor for fulfillment.) Please note that if you are awarded with this type of pricing submission, you will always be able to provide the most current cost for each item within this category but you will not be permitted to sell it to TIPS Members for a greater markup than what Vendor provides herein.</p>	<u>Vendor's Percentage Markup:</u>				<p>Place Vendor's proposed percentage markup in this cell if utilizing the "Cost-Plus Markup Method.</p>

