

NOTICE

**This notice is posted pursuant to the Texas Open Meetings Act.
[TEXAS GOVERNMENT CODE SECTION 551]**

**BRYAN ISD BOARD OF TRUSTEES WORKSHOP
Boardroom
801 South Ennis Street
Bryan, TX 77803 - Travis Education Support Center
101 North Texas Avenue, Bryan, Texas
Monday, October 18, 2021 – 6:00 PM**

AGENDA

CONVENE PUBLIC HEARING

1. End-of-Course Accelerated Instruction

ADJOURN PUBLIC HEARING

CONVENE REGULAR MEETING

1. Welcome
2. Pledges of Allegiance
3. Citizens' Comments
4. Spotlight
 - A. Elementary Teacher of the Month
 - B. Secondary Teacher of the Month
5. Standing Committee Updates
 - A. City School
 - B. Interim Superintendent
6. Items for Discussion and/or Action: Consent Agenda
 - A. Consider Approval of Meeting Minutes for September 7 and September 20, 2021
 - B. Consider Approval of Bills Paid, Financial Statements, and Purchasing Report for September 2021
7. Items for Discussion and/or Action: Regular Agenda
 - A. Business Services
 - 1) Consider Approval of a Resolution Approving the 2021 Assessed Property Value and Property Tax Levy
 - 2) Consideration and Possible Action on Two Non-Exclusive Easements to the City of Bryan, Doing Business as Bryan Texas Utilities, for Electrical Utilities on the New Intermediate School Property.
 - 3) Discuss and Consider Approval of a Purchase Request Over \$50,000 for Data Analytics Software
 - 4) Consideration and Possible Action on the Services Agreement Between Bryan Independent School District and Clark Isenhour Real Estate Services, LLC

**SERVICES AGREEMENT
BETWEEN
BRYAN INDEPENDENT SCHOOL DISTRICT
AND
CLARK ISENHOUR REAL ESTATE SERVICES, LLC**

THIS SERVICES AGREEMENT (“Agreement”) is made and entered into by and between the Bryan Independent School BISD (“BISD”) and Clark Isenhour Real Estate Services, LLC, a licensed real estate broker (License No. 8999919), collectively (“Broker”)(“BISD” and “Broker” are collectively “the parties”).

WITNESSETH

WHEREAS, BISD has an interest in leasing real estate within the BISD attendance boundaries (the “Market Area”) for the temporary relocation of the BISD Maintenance and Transportation facility;

WHEREAS, Broker is a licensed real estate broker authorized to engage in business in the State of Texas; and

WHEREAS, the parties desire to have Broker represent and assist BISD as set forth in the scope of this Agreement, and on a non-exclusive basis, in the lease of suitable property within the Market Area.

NOW THEREFORE, in consideration of the mutual promises herein contained, and other good and valuable consideration, the parties hereto agree as follows:

I. SERVICES TO BE PROVIDED BY PROVIDER:

Subject to the terms of this Agreement, BISD hereby engages Broker to provide the following non-exclusive services to BISD:

- Assist BISD in activities related to BISD’s identification of, investigation of and possible lease of property in accordance with BISD’s direction and plans for the temporary relocation for the Maintenance and Transportation facility, in furtherance and support of its educational mission.
- Provide BISD periodic status reports or updates indicating progress in pursuit of leasing property.
- Meet with BISD personnel on a periodic basis to review information and negotiations related to BISD’s lease of property.
- Assist with negotiation of all aspects of the lease agreement(s) and other requirements related to the lease of the property,
 - For any property for which Broker has provided such services and BISD has entered into negotiations for leasing, assist BISD with its assessment and due diligence.
 - Assist BISD and its attorney in coordinating efforts to achieve a timely and efficient documentation and leasing of the property.
- Notwithstanding the foregoing Broker shall not provide services to BISD outside of the scope permitted by Broker under the Texas Real Estate Licensing Act and the Rules or Regulations promulgated by TREC and Texas Association of Realtors.

II. TERM OF AGREEMENT

Subject to any termination provisions herein, the term of this Agreement shall commence on the Effective Date of this Agreement as stated herein and shall end on May 1, 2022. Upon written agreement of the parties, this Agreement may be extended as stated in such Agreement.

III. TERMINATION

Either party may terminate the Agreement, without cause, upon ten (10) days written notice to the other party.

IV. COMPENSATION

If Broker's efforts result in BISD executing a contract to lease property during the term of this Agreement, BISD will identify the Broker to the landlord and submit for landlord payment of a commission equal to four percent (4%) of all base rents to be paid over the term of the lease. Broker acknowledges and agrees that Broker shall not be entitled to payment directly from BISD under this Agreement. BISD will be apprised by Broker of any commission obligations prior to executing any contracts for the lease of property that Broker has identified.

Without the prior written consent of BISD, neither Broker, its affiliates nor any of their respective owners, officers, directors, agents or employees shall directly or indirectly receive any compensation or other benefit from BISD's engagement of Broker, other than as set forth in this Agreement.

V. RELATIONSHIP OF THE PARTIES

It is understood and agreed that Broker is a separate legal entity from BISD and none of Broker's employees, volunteers, or agents shall be deemed for any purposes to be employees or agents of BISD. Broker assumes full responsibility for the actions of its personnel and volunteers while performing any services incident to this Agreement, and shall remain solely responsible for their supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), workers' compensation, disability benefits and like requirements and obligations.

Nothing in this Agreement shall be deemed or construed to create any third party beneficiaries or otherwise give any third party any claim or right of action against any party to this Agreement.

VI. NO WAIVER OF IMMUNITY

BISD does not waive or relinquish any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a result of its execution of this Agreement and performance of the functions or obligations described herein.

VII. AUTHORIZATION OF AGREEMENT

Each party represents and warrants to the other that the execution of this Agreement has been duly authorized, and that this Agreement constitutes a valid and enforceable obligation of such party according to its terms.

VIII. NOTICE

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall be hand-delivered to the addressees set out below; shall have been electronically transmitted with proof of transmission; or shall have been deposited, duly registered or certified, return receipt requested, in a United States Post Office addressed to the other party at the following addresses:

To: Clark Isenhour Real Estate Services, LLC
Attn: Mr. Lance Swigert (License No. 667217)
3828 South College Ave.
Bryan, Texas 77801

To: Bryan Independent School BISD
Attn: Ms. Ginger Carrabine, Interim Superintendent of Schools
801 S. Ennis
Bryan, Texas 77803

Any party may designate a different address by giving the other party ten (10) days prior written notice in the manner provided above.

IX. NO ASSIGNMENT

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

X. INDEMNITY

BROKER SHALL HOLD BISD AND ITS PAST AND PRESENT AND FUTURE TRUSTEES, OFFICERS AND EMPLOYEES HARMLESS AND SHALL INDEMNIFY ALL SUCH PARTIES AGAINST ANY AND ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF WHATEVER KIND OR NATURE INCLUDING ATTORNEY FEES AND COURT COSTS ASSERTED BY ANY THIRD PARTY, OCCURRING OR IN ANY WAY INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH ANY ACTS OF BROKER AND ITS AGENTS, EMPLOYEES, AND SUBAGREEMENTORS DONE IN CONNECTION WITH THIS AGREEMENT EXCEPTING, HOWEVER, ANY AND ALL ACTS TAKEN OR PERFORMED BY BROKER PURSUANT TO THE EXPRESS WRITTEN DIRECTION OF BISD'S SUPERINTENDENT.

NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO CREATE A CLAIM OR CAUSE OF ACTION AGAINST BISD FOR WHICH IT IS NOT OTHERWISE LIABLE, NOR TO WAIVE ANY IMMUNITY OR DEFENSE TO WHICH BISD MAY BE ENTITLED, NOR TO CREATE AN IMPERMISSIBLE DEFICIENCY DEBT OF BISD.

XI. CONFIDENTIALITY OF INFORMATION

Unless required by law, the existence and terms of this Agreement, and information related to BISD's pursuit of the lease of property, may not be disclosed by Broker to any third party (excepting Broker's legal counsel) without the prior written consent of BISD.

XII. BUSINESS ETHICS

During the course of pursuing agreements, and the course of agreement performance, Broker will maintain business ethics standards aimed at avoiding real or apparent impropriety or conflicts of interest. No substantial gifts, entertainment, payments, loans or other considerations beyond that which would be collectively categorized as incidental shall be made to any employees or officials of BISD, its authorized agents and representatives, or to family members of any of them. At any time Broker believes there may have been a violation of this obligation, Broker shall notify BISD of the possible violation. BISD is entitled to request a representation letter from Broker, its subagreementors or vendors at any time to disclose all things of value passing from Broker, its subagreementors or vendors to BISD's personnel or its authorized agents and representatives.

XIII. MISCELLANEOUS

No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting with regard to any breach of any provision shall be construed to be a waiver of such breach.

The headings of sections contained in this Agreement are for convenience only, and they shall not, expressly or by implication, limit, define, extend, or construe the terms or provisions of the sections of this Agreement.

This Agreement represents the entire and integrated agreement between BISD and Broker and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both BISD and Broker.

Both parties agree to work together under a standard of good faith and fair dealing under this Agreement.

Broker shall not be authorized to and will not make any binding commitments or agreements on behalf of BISD and will not represent that it is authorized to do so unless such authorization is expressly provided in writing by BISD.

By signing this Agreement, the undersigned Broker certifies as follows:

Under §231.006 of the Texas Family Code, Broker certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified payments and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

Broker verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Broker has misrepresented inclusion on the Comptroller's list, such omission or misrepresentation will void this Agreement.

Broker acknowledges and represents that it is not engaged with Iran, Sudan, or a foreign terrorist organization identified on any list prepared by the Texas Comptroller.

The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Agreement Broker agrees that the Agreement can be terminated if Broker knowingly or intentionally fails to comply with a requirement of that subchapter. Therefore, if the value of this Agreement is One Million Dollars (\$1,000,000.00) or more, Broker agrees to : (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the BISD for the duration of the Agreement; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the BISD; and (3) on completion of the contract, either: (a) provide at no cost to the BISD all contracting information related to the contract that is in the custody or possession of the entity; or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to the BISD.

Broker shall take all actions and shall comply with all federal, state, and local legal requirements, and shall also comply with all recommendations of the Centers for Disease Control.

Pursuant to Texas Government Code Chapters 2274 and 809, if this Agreement is valued at \$100,000 or more and if Contractor has at least ten (10) full-time employees, then Broker represents and warrants to the BISD that Broker does not boycott energy companies and will not boycott energy companies during the term of this Agreement. This provision does not apply to sole proprietorships.

Pursuant to Texas Government Code Chapter 2274, if this Agreement is valued at \$100,000 or more and if Broker has at least ten (10) full-time employees, then Broker represents and warrants to the BISD that Broker does not discriminate against firearm entities or firearm trade associations and will not discriminate against firearm entities or firearm trade associations during the term of this Agreement. This provision does not apply to sole proprietorships.

The required TREC (Texas Real Estate Commission) Agency disclosure form is attached as Exhibit "A."

By signing the Agreement, Broker affirms that there is no personal or financial conflict of interest between Broker or Broker's family and the BISD.

Broker's fee and the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by the Association of Realtors or any listing service.

Broker's services are provided without regard to race, color, religion, national origin, sex, disability or familial status. Local ordinances may provide for additional protected classes (e.g. status as a student, marital status, sexual orientation, or age).

Broker is not a property inspector, surveyor, engineer, environmental assessor, or compliance inspector. BISD acknowledges that it should seek experts to render such services for any property it considers for leasing.

Broker cannot give legal advice. BISD is not relying on advice from Broker in the execution of this Agreement.

This Agreement may be executed in multiple counterparts, each of which shall have the full force and effect of an original Agreement, and each of which shall constitute but one and the same instrument.

IN WITNESS THEREOF, BISD and Broker have executed this Agreement effective on the ____ day of _____, 2021 (“Effective Date”).

CLARK ISENHOUR REAL ESTATE
SERVICES, LCC

BRYAN INDEPENDENT SCHOOL DISTRICT

Lance Swigert
Authorized Representative

Ms. Ginger Carrabine
Interim Superintendent of Schools

EXHIBIT "A"

Approved by the Texas Real Estate Commission for Voluntary Use

Texas law requires all real estate licensees to give the following information about Brokerage services to prospective buyers, tenants, sellers and landlords.

Before working with a real estate Broker, you should know that the duties of a Broker depend on whom the Broker represents. If you are a prospective seller or landlord (owner) or a prospective buyer or tenant (buyer), you should know that the Broker who lists the property for sale or lease is the owner's agent. A Broker who acts as a subagent represents the owner in cooperation with the listing Broker. A Broker who acts as a buyer's agent represents the buyer. A Broker may act as an intermediary between the parties if the parties consent in writing. A Broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A Broker is obligated by law to treat you honestly.

IF THE BROKER REPRESENTS THE OWNER:

The Broker becomes the owner's agent by entering into an agreement with the owner, usually through a written listing agreement, or by agreeing to act as a subagent by accepting an offer of subagency from the listing Broker. A subagent may work in a different real estate office. A listing Broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

IF THE BROKER REPRESENTS THE BUYER:

The Broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

IF THE BROKER ACTS AS AN INTERMEDIARY:

A Broker may act as an intermediary between the parties if the Broker complies with The Texas Real Estate License Act.

The Broker must obtain the written consent of each party to the transaction to act as an intermediary. The written consent must state who will pay the Broker and, in conspicuous bold or underlined print, set forth the Broker's obligations as an intermediary. The Broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A Broker who acts as an intermediary in a transaction:

- (1) shall treat all parties honestly;
- (2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;
- (3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and
- (4) may not disclose any confidential information or any information that a party specifically instructs the Broker in writing not to disclose, unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order, or if the information materially relates to the condition of the property.

With the parties' consent, a Broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the Broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the Broker to communicate with and carry out instructions of the other party.

If you choose to have a Broker represent you,

You should enter into a written agreement with the Broker that clearly establishes the Broker's obligations and your obligations. The agreement should state how and by whom the Broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a Broker does not necessarily establish that the Broker represents you. If you have any questions regarding the duties and responsibilities of the Broker, you should resolve those questions before proceeding.

- B. Teaching & Learning
 - 1) Consider Approval of Bilingual and ESL Exceptions & Waivers for 2021-2022
 - C. Board Governance
 - 1) Discuss and Consider Approval of the 2021-2022 Board Goals
 - 2) Receive Year-End Report of Board of Trustees Continuing Education Requirements
 - D. Closed Session
 - 1) Discuss Issues Pertaining to Appointment, Employment, Evaluation, Reassignment, Duties, Discipline, or Dismissal of a Public Officer or Employee
 - 2) Discuss Issues Related to the Purchase, Exchange, Lease, or Value of Real Property
 - E. Reconvene in Open Session
8. ADJOURN

In accordance with the Texas Open Meetings Act Subchapters D and E of Chapter 551, Texas Government Code (§551.071 Attorney/Client Consultation, §551.072 Real Estate, §551.073 Contracts for Gifts or Donations, §551.074 Personnel Matters, §551.075 Investments, §551.076 Security Devices, §551.082 Discipline of Student or Employee Complaint, §551.0821 Personally Identifiable Student Information, §551.083 Employee Groups Consultation, §551.084 Exclusion of Hearing Witnesses), the board may enter closed meeting to deliberate any subject authorized by Subchapters listed.