

Consider approval to contract with Bethpage Consulting, LLC for Athletic Trainer Services

May 13, 2024

1. Background:

Throughout the course of the school year, the district has utilized Bethpage Consulting, LLC for supplemental athletic training services. Currently, the district does not have an athletic trainer on staff. The market for athletic trainers around the state is very tight. There are more positions open than there are available trainers. We have an opportunity to contract with Bethpage Consulting for training services to ensure our students have quality care. The trainer to be assigned to UCISD resides in our community.

Covered in the contract are all the trainer expenses such as continuing education expenses. Also, Bethpage Consulting, LLC will provide a substitute trainer on the days the trainer has to be out.

The administration has been reviewing compensation plan placement for Athletic trainers. Most districts have the position on the professional scales. Currently, UCISD has the athletic trainers on the teachers scale.

2. Process:

The contract is for a two-year period with automatic renewals, but the contract does have a termination clause if needed.

3. Fiscal Impact:

\$15,000

4. Recommendation:

The administration recommends contracting with BethPage Consulting, LLC for Athletic Trainer Services

5. Action Required:

Action required

6. Contact Person:

Pam Bendele

Bethpage Consulting LLC

(Athletic Training and Human Performance)

April 1, 2024

Uvalde Independent School District
1 Coyote Trail, Uvalde, TX 78801
Attn: Pamela Bendele
Email: pbendele9319@uvaldecisd.net

Dear Ms. Bendele,

Please find below our proposed arrangement for services to be provided by Bethpage Consulting LLC, a Texas limited liability company (“Bethpage,” “we,” or “us”) to the Uvalde Consolidated Independent School District (“Uvalde” or (“you”) for the 24 months beginning July 1, 2024 (the “Initial Term”).

SCOPE OF SERVICES

Based upon our discussions with you, Bethpage will use all reasonable and diligent efforts to identify and supply to you one licensed and certified athletic trainer willing support you and your staff on a full-time basis for the Initial Term as well as ad-hoc athletic training services at specific Uvalde athletic events identified by you during the Term pursuant to the terms of this Engagement Letter (the “Services”).

- **OUR SERVICES.**

We will use all reasonable and diligent efforts during the Term to locate, hire and provide one full-time licensed and certified athletic trainer (the “Full-Time AT”) for the two year period commencing July 1, 2024 and ending June 31, 2026, in each case qualified to manage and coordinate (1) the assessment of athletic injuries, (2) the provision of emergency or continued care and/or referral to a physician, if appropriate and (3) the administration of first aid and emergency care for acute athletic injuries and illnesses. Although we will use all reasonable and diligent efforts to identify and hire a suitable candidate for the Full-Time AT position, we cannot guarantee such person will be identified by July 1, 2024, or at all, or if such person is identified, will accept our offer of employment consistent with the terms and expectations outlined below.

Additionally, we will provide additional licensed athletic trainers on an as-needed basis at such dates and times mutually agreed in writing by you and us (“Ad-Hoc ATs,” and together with the Full-Time AT, the “Bethpage ATs.”)

Bethpage ATs are not medical doctors. However, we do provide our services under the direction of a licensed physician. Subject to compliance with instructions from our supervising physician

and professional standards, our services will be performed under your supervision and direction, or under the direction of other Uvalde personnel designated by you from time to time. A copy of our Standard Operating Procedures and Physician Supervising Agreement are included behind our Standard Terms and Conditions of Service attached to this engagement letter.

- **SUPPLIES.** Each of our “Ad Hoc” ATs will report for Service with a kit of supplies which includes:

Full-Time Trainer (Starting Kit)		
Basic First Aid Supplies	Blood Pressure Cuff	Tourniquet
Specialty Tapes	Pulse Oximeter	Chest Seal
AT Scissors	Stethoscope	Trauma gauze
Tape Cutter	Thermometer	

You will be responsible for providing additional basic and consumable supplies our Athletic Trainers need to provide our Services (collectively “Consumables”). Examples of Consumables include: one or more automated external defibrillators, pre-wrap, basic 1.5” athletic training tape, 2” powerflex or similar elastic self-adherent tape, general first aid supplies (band aids, ointments, hydrocortisone, gauze pads, etc.) tape adherent, ice and ice bags, and other supplies your particular program consumes.

You will also be responsible for procuring and providing any additional or specialty supplies and equipment you expect our Full-Time AT (i.e., hot tubs, cold plunges, ice machines, tables, exercise or other rehabilitative equipment, etc.)

Our Ad-Hoc ATs will come prepared to your events with limited consumable and other basic supplies and will use those supplies if the supplies you provide run out. In such cases you agree to reimburse us for only our cost to purchase those supplies we bring and actually use at an event.

- **SCHEDULE.** The Full-time AT will not teach and will maintain a work week near 40 hours. The Full-time AT will be available for Saturday coverages, as needed and scheduled. The Full-time AT will also be available for preseason work in the district, before the academic year begins as agreed upon with Bethpage, with a workday limited to near 8 hours.

If you plan to request Services from Ad-Hoc ATs, please provide us with the dates on which you anticipate needing our Services at least 10 days prior to the first Event where Services will be provided (the “Schedule”). We understand things change, but we need at least an email from you 48 hours before a change to the Schedule in order to provide our Services.



By signing this letter, you understand and acknowledge the athletic training industry is currently experiencing a labor shortage due to increased demand for certified and or licensed athletic trainers. Accordingly, you understand and acknowledge we may not be able to supply Ad-Hoc ATs for each and every scheduled Event. Subject to the foregoing, we promise to use all commercially reasonable efforts to provide the Services at each Event Scheduled by Customer and communicate any unavailability of Athletic Trainers in a reasonably prompt manner.

- **INFORMATION WE NEED FROM YOU.** We need you to provide us with a copy of your emergency action, lightning and/or inclement weather, concussion management, and other related policies at least 10 days prior to the first Event where Services will be provided. Program will immediately notify Bethpage of any changes to such policies.

BILL RATES

During the Initial Term, the costs associated with the placement of a full-time athletic trainer for the 2024-2025 school year is \$99,990.80 (the “Full-Time AT” Fee). The Full-Time AT fee covers salary, benefits and related employment fees and expenses for the Full-Time AT and will be payable by you in advance in 12 equal installments of \$8,332.57 beginning July 1, 2024 and continuing on the first business day of each month through and including June 1, 2025. Beginning July 1, 2025, the Full-Time AT fee will increase to \$8,582.54 which represents a 3% upward cost-of-living adjustment. Athletic training services provided by Ad-Hoc ATs will be billed at the rate of \$45.00 per hour of Services performed, subject to a four (4) hour minimum period for each event at which Services are provided (unless event is a high school football game, then subject to a five (5) hours minimum period for Services pursuant to this proposal).

You will also reimburse us for mileage driven by our Ad-Hoc athletic trainers outside of Loop 1604 at a rate equal to the standard federal mileage rate. Distances driven for such reimbursable mileage will be calculated roundtrip from 1303, McCullough Ave, San Antonio, TX 78212.

BILLING TERMS

We will bill you at the end of each month the Services are performed. Each invoice is payable upon receipt of the invoice. Payment should be mailed to the business address provide at the end of this proposal. Notwithstanding anything to the contrary in the Agreement, payment for all Services will be made by you within thirty (30) days of receipt of invoice.

We plan to provide one or more individual professionals in connection with our Services and it is not our intent to provide these personnel for direct hire. However, should you hire or contract directly with any of our athletic trainers without our prior approval, you agree to pay, at the hire date, to us a placement fee equal to 40% of the annualized compensation of any athletic trainer so engaged.

STANDARD TERMS AND CONDITIONS.



Attached to this proposal is our Standard Terms and Conditions of Service which are incorporated by reference as if fully set forth herein. You understand and acknowledge that upon acceptance of this proposal you are accepting the Terms and Conditions, which together with this Proposal, will represent the entire agreement between you and us with respect to the Services.

ACCEPTANCE.

If this proposal is acceptable, please sign this page and return a copy to us. We truly appreciate this opportunity to be of service to you. Please feel free to call me should you wish to discuss this or any other matter.

**UVALDE CONSOLIDATED
INDEPENDENT SCHOOL DISTRICT**

BETHPAGE CONSULTING LLC

By: _____
(Signature)

By: _____

Name:

Name: Sam McCrary

Title:

Title: COO

Point of Contact:

Wade Miller

210-913-0709

Email: wmillers3617@uvaldecisd.net

Point of Contact:

Sam McCrary

210-427-2920

Email: smccrary@bethpagetx.com

Marc Powell

210-240-9160

Email: mpowell@bethpagetx.com

STANDARD TERMS AND CONDITIONS OF SERVICE

These terms are an Addendum to the Engagement Letter and in addition will apply to all subsequent work or services performed by Bethpage Consulting, LLC, a Texas limited liability company for Uvalde Consolidated Independent School District, also referred to below as the "Program," unless otherwise agreed in writing.

1. Bethpage may be branded as participating in the "Methodist Sports Medicine" program or another entity in connection with Bethpage's existing relationships with Methodist Healthcare System of San Antonio, Ltd, L.L.P and other entities. For purposes of clarity, Methodist Healthcare System of San Antonio, Ltd, L.L.P. and other entities are neither a party to nor a third-party beneficiary of any arrangement, and at all times shall have no liability with respect to, services provided by Bethpage to the Program.

2. Bethpage may display its media and promotional marketing and advertising materials (consistent with other sponsors) at all events at which the services described in the Engagement Letter to which these Terms are attached (the "Services") are provided, including without limitation, the right to provide and hang or otherwise display Bethpage's banners at Program events. Bethpage may to include reference to its association with Program on marketing materials and public statements, including, but not limited to, Bethpage's website(s), brochures, reports, media publications, print and voice advertisements.

3. Bethpage warrants that it will perform the Services (a) in accordance with the terms and subject to the conditions set out in the respective Services Description and this Agreement, (b) using personnel of commercially reasonable skill, experience and qualifications, and (c) in a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar services. OTHERWISE, BETHPAGE MAKES NO WARRANTIES, EXPRESS OR IMPLIED WITH RESPECT TO THE SERVICES AND ALL SUCH OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

4. This Agreement will become effective upon Program's execution of the Engagement Letter, Bethpage will commence providing the Services on the date specified therein, and will continue for the period provided therein (the "Initial Term").

Thereafter, and after each Renewal Term (defined below) the terms of the Engagement Letter will be automatically renewed annually, for a subsequent 12 month term (each a "Renewal Term," and together with the Initial Term the "Term"), unless otherwise expressed in writing by either party sixty (60) days prior to the end of the initial term or applicable Renewal Term

5. Either Party may terminate this Agreement, effective upon written notice to the other Party (the "Defaulting Party"), if the Defaulting Party: (a) materially breaches this Agreement and such breach is incapable of cure, or with respect to a material breach capable of cure, including the failure to pay any amount when due, the Defaulting Party does not cure such breach within 30 days after receipt of written notice of such breach; (b) becomes insolvent or admits its inability to pay its debts generally as they become due; (c) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven days or is not dismissed or vacated within forty-five 45 days after filing; (d) is dissolved or liquidated or takes any corporate action for such purpose; (e) makes a general assignment for the benefit of creditors; or (f) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

6. Each Party will maintain general and professional liability, property loss, workers' compensation, and other insurance with respect to the activities of such Party, in such amounts, of such kinds and with such insurance carriers as generally are deemed appropriate and sufficient for organizations of a similar size and activity.

7. PROGRAM AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS BETHPAGE FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, EXPENSES, CAUSES OF ACTION, SUITS OR OTHER LITIGATION

(INCLUDING ATTORNEYS' FEES AND COSTS) (COLLECTIVELY, "CLAIMS"), AND PAY ANY AND ALL DAMAGES ASSESSED PURSUANT TO ANY CLAIM, IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH ITS ACTIONS OR THE ACTIONS OF ITS EMPLOYEES, SUBCONTRACTORS, AGENTS AND ASSIGNS.

8. IN NO EVENT WILL BETHPAGE BE LIABLE TO PROGRAM OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT BETHPAGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. IN NO EVENT WILL BETHPAGE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO BETHPAGE PURSUANT TO THE APPLICABLE SERVICES DESCRIPTION.

10. The Engagement Letter, together with these Terms and Conditions, constitutes the sole and entire agreement (the "Agreement") of the Parties with respect to the subject matter contained herein and the Services, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter. If there is any conflict between this Agreement and any Services Description, the terms and conditions of this Agreement supersede and control.

11. No amendment to or modification of the Agreement is effective unless it is in writing and signed by an authorized representative of each Party.

12. No waiver by any Party of any of the provisions of this Agreement will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from

this Agreement will operate or be construed as a waiver thereof, nor will any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

13. For twenty-four (24) months after the termination or expiration of this agreement (the "Restricted Period"), Program will not directly or indirectly, hire or solicit any employee of Bethpage or encourage any such employee to leave such employment or hire any such employee who has left such employment, except pursuant to a general solicitation which is not directed specifically to any such employees; provided that nothing in this Section provision will prevent Program from hiring (i) any employee whose employment has been terminated by Bethpage; or (ii) after one hundred eighty (180) days from the date of termination of employment, any employee whose employment has been terminated by the employee.

14. Program will not assign, transfer, delegate, or subcontract its rights or delegate any of its obligations under this Agreement without the prior written consent of Bethpage. This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.

15. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement will create any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party has authority to contract for or bind the other Party.

16. The Agreement may be executed in counterparts, each of which is deemed an original, and all of which together are deemed to be the same agreement.

17. Bethpage will not be liable or responsible to Program for any failure or delay in fulfilling or performing any term of the Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Bethpage, provided that, if the event in question continues for a continuous period in excess of 30 days, Program will be entitled to give notice in writing to Bethpage to terminate this Agreement.