

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

ADDENDUM TO GOMEZ FLOOR COVERING, INC.'S AGREEMENT

THIS ADDENDUM ("Addendum") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Gomez Floor Covering, Inc., ("Gomez Floor Covering"), a company authorized to conduct business in the State of Texas (hereinafter collectively referred to as the "parties").

WHEREAS, the parties have executed and accepted Gomez Floor Covering's Quote (Vendor Contract # 465), attached hereto as Exhibit "A" and incorporated by reference, for the purchase and installation of specified flooring products at the Juvenile Facility on Golfview; and

WHEREAS, the following changes are incorporated as if a part of the Agreement:

1. **Recitals.** The recitals set forth above are incorporated herein by reference and made a part of this Agreement.
2. **Cooperative Purchasing.** Subject to this Addendum, Gomez Floor Covering will provide product and/or services in accordance with Buy Board Contract #BB736-24, incorporated herein by reference.
3. **Payment; Non-appropriation; Taxes.** Payment shall be made by County within thirty (30) days of receipt of invoice. It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request. Interest resulting from late payments by County shall be governed by Chapter 2251, TEXAS GOVERNMENT CODE.
4. **Limit of Appropriation.** Gomez Floor Covering clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Fifty-Nine Thousand, Eight Hundred Fifty-Six and 15/100 dollars (\$59,856.15), specifically allocated to fully discharge any and all liabilities County may incur. Gomez Floor Covering does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Gomez Floor Covering may become entitled to and the total maximum sum that County may become liable to pay to Gomez Floor Covering shall not under any conditions, circumstances, or interpretations thereof exceed Fifty-Nine Thousand, Eight Hundred Fifty-Six and 15/100 dollars (\$59,856.15).
5. **Confidential Information.** Gomez Floor Covering expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will

make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Gomez Floor Covering shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

6. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless Gomez Floor Covering for any reason are hereby deleted. Gomez Floor Covering shall Indemnify and defend County against all losses, liabilities, claims, causes of action, and other expenses, including reasonable attorney's fees, arising from activities of Gomez Floor Covering, its agents, servants or employees, performed under this agreement that result from the negligent act, error, or omission of Gomez Floor Covering or any of Gomez Floor Covering's agents, servants or employees.
7. **Applicable Law; Arbitration; Attorney Fees.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by Gomez Floor Covering in any way associated with the Agreement.
8. **No Waiver of Jury Trial.** The County does not agree that all disputes (including any claims or counterclaims) arising from or related to this Agreement shall be resolved without a jury. Therefore, any references to waiver of jury trial are hereby deleted.
9. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content.
 - a. Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: By signature below, Gomez Floor Covering verifies Gomez Floor Covering does not boycott Israel and will not boycott Israel during the term of this Agreement.
 - b. Texas Government Code § 2252.152 Acknowledgment: By signature below, Gomez Floor Covering represents pursuant to § 2252.152 of the Texas Government Code, that Gomez Floor Covering is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under § 806.051, § 807.051, or § 2252.153.
10. **Modifications.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or

requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

11. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, GOMEZ FLOOR COVERING ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
12. **Use of Customer Name.** Gomez Floor Covering may use County's name without County's prior written consent only in any Gomez Floor Covering's customer lists, any other use must be approved in advance by County.
13. **Performance Warranty.** Gomez Floor Covering warrants to County that Gomez Floor Covering has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Gomez Floor Covering will apply that skill and knowledge with care and diligence to ensure that the services provided hereunder will be performed and delivered in accordance with the highest professional standards.
14. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls.
15. **Understanding, Fair Construction.** By execution of this Addendum, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.
16. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.
17. **Electronic and Digital Signatures.** The Parties to this Agreement agree that any electronic and/or digital signatures of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.
18. **Personnel.** Gomez Floor Covering represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the services required under this Agreement and that Gomez Floor Covering shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the services when and as required and without delays.

All employees of Gomez Floor Covering shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Gomez Floor Covering or agent of Gomez Floor Covering who, in the opinion of County, is incompetent or by his

conduct becomes detrimental to providing services pursuant to this Agreement shall, upon request of County, immediately be removed from association with the services required under this Agreement.

When performing services on-site at the County, Gomez Floor Covering shall comply with, and ensure that all Gomez Floor Covering Personnel comply with, all rules, regulations and policies of County that are communicated to Gomez Floor Covering, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by County to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures.

19. **Compliance with Laws.** Gomez Floor Covering shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Gomez Floor Covering shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
20. **Confidential Information.** Gomez Floor Covering acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Gomez Floor Covering or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Gomez Floor Covering shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Gomez Floor Covering) publicly known or is contained in a publicly available document; (b) is rightfully in Gomez Floor Covering's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Gomez Floor Covering who can be shown to have had no access to the Confidential Information.

Gomez Floor Covering agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Gomez Floor Covering uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Gomez Floor Covering shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Gomez Floor Covering shall advise County immediately in the event Gomez Floor Covering learns or has reason to believe that any person who has had

access to Confidential Information has violated or intends to violate the terms of this Agreement and Gomez Floor Covering will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Gomez Floor Covering against any such person. Gomez Floor Covering agrees that, except as directed by County, Gomez Floor Covering will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Gomez Floor Covering will promptly turn over to County all documents, papers, and other matter in Gomez Floor Covering's possession which embody Confidential Information.

Gomez Floor Covering acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Gomez Floor Covering acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

Gomez Floor Covering in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

20. **Independent Contractor.** In the performance of work or services hereunder, Gomez Floor Covering shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of Gomez Floor Covering or, where permitted, of its subcontractors. Gomez Floor Covering and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.
21. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.
22. **Insurance.** Prior to commencement of the services under this Agreement, Gomez Floor Covering shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Gomez Floor Covering shall provide certified copies of insurance endorsements and/or policies if requested by County. Gomez Floor Covering shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Gomez Floor Covering shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

(a). Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

(b). Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

(c). Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

(d). Professional Liability insurance with limits not less than \$1,000,000.

County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation. All Liability policies including Workers' Compensation written on behalf of Gomez Floor Covering shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

If required coverage is written on a claims-made basis, Gomez Floor Covering warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning from the time that work under the Agreement is completed.

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

KP George
County Judge

Date

ATTEST:

Laura Richard
County Clerk

GOMEZ FLOOR COVERING, INC.



Authorized Agent – Signature

Randy Whitener

Authorized Agent- Printed Name

Vice President

Title

11/05/2024

Date

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$_____ are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant, County Auditor

Exhibit A: Gomez Floor Covering's Quote (Vendor Contract # 465)

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Exhibit A



3816 Binz Engleman Ste B-125
 San Antonio, TX 78219
 Phone: 210-651-5002 Fax: 210-651-6910



CONTRACT # 736-24

VENDOR CONTRACT# 465

Date: 10/16/24

From: Randy Whitener
 Phone: 210-378-6530

Customer: Fort Bend County

Att: _____

GFC REF # _____
MUST BE ON ALL PAPER WORK
SUBMITTED

End User: Fort Bend County

Contact: Sabrina

Project: Juvenile Detention Center LVT

Phone: _____

Fax: _____

DESCRIPTION	QTY	UNITS	COST	TOTAL COST
Furnish EF Contract 5mm LVT - Color TBD freight included/ Attic Stock	5700	sf	\$ 4.85	\$ 27,645.00
Furnish EF Contract 5mm LVT - Color TBD freight included- Elec/ Storage closets	482	sf	\$ 4.85	\$ 2,337.70
Furnish EF LVT Adhesive	6	ea	\$ 90.00	\$ 540.00
Furnish EF LVT Adhesive Elec/ Storage closets	1	ea	\$ 90.00	\$ 90.00
Install LVT	5600	sf	\$ 2.00	\$ 11,200.00
Install LVT Elec/ Storage closets	482	sf	\$ 2.00	\$ 964.00
Furnish and Install Cove Base	1680	lnft	\$ 1.04	\$ 1,747.20
Floor Prep	35	ea	\$ 50.00	\$ 1,750.00
Demo existing Flooring	650	yds	\$ 2.75	\$ 1,787.50
Demo existing Flooring Elec/ Storage closets	55	yds	\$ 2.75	\$ 151.25
Dumpster	1	ea	\$ 1,000.00	\$ 1,000.00
Floor Prep- furnish and install red gard (2 coats)	6082	sf	\$ 1.75	\$ 10,643.50

TOTAL: \$ 59,856.15