



Kenton County School District | It's about ALL kids.

Issue Paper

DATE:

5/24/2022

AGENDA ITEM (ACTION ITEM):

Consider/Approve submitting a credit application with Baltimore Aircoil Company for Kenton County School District construction projects.

APPLICABLE BOARD POLICY:

01.11 General Powers of the Board. The Board may borrow money on the credit of the Board.

HISTORY/BACKGROUND:

Baltimore Aircoil Company is requesting a credit application be submitted in order to accept District purchase orders for purchases to be made for Kenton County School District construction projects.

FISCAL/BUDGETARY IMPACT:

None.

RECOMMENDATION:

Approval to submit a credit application with Baltimore Aircoil Company for Kenton County School District construction projects.

CONTACT PERSON:

Jennifer Weis-Smith


Principal/Administrator


District Administrator


Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.

Principal—complete, print, sign and send to your Director. Director—if approved, sign and put in the Superintendent's mailbox.

**BALTIMORE AIRCOIL COMPANY**

7600 Dorsey Run Rd, Jessup, MD 20794

tel: 410-799-6200

fax: 410-799-6422

Commercial Credit Application

Company Name Kenton County Board of Education			
Street Address 1055 Eaton Dr.		City Ft. Wright	State KY
Mailing Address		City	Zip 41017
Phone # (859) 344-8888	Fax # (859) 344-1531	Cell #	
Email		<input type="checkbox"/> YES Checks may be converted to an electronic funds transfer without further notice	
Accounts Payable - Contact Name	AP - Phone #	AP - Email Address accounts.payable@kenton.kyschools.us	
Legal Structure <input type="checkbox"/> Corp <input type="checkbox"/> Partnership <input type="checkbox"/> LLC <input type="checkbox"/> Sole Prop		Date Business Opened State of Incorporation Federal Tax ID # / EIN Sales Tax Exemption # Are Purchase Orders issued? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No PLEASE ATTACH EXEMPTION CERTIFICATE(S) FOR EACH STATE	
Estimated Annual Equipment Purchases	Amount of credit requested		# of Employees

Principals:	Name	Title	Phone

Credit References

Type	Name & Contact Person	City / State	Phone	E-mail	Account #
Bank					
Supplier					
Supplier					
Supplier					

Agreement

Entire agreement: This agreement is between Baltimore Aircoil Company ("Seller") and the Buyer named above or on page 2 ("Buyer"). Neither the rights of the Buyer nor the Seller are assignable without the prior written consent of the other party. In the event that the terms of this Agreement conflict with terms of any other existing or future contract between Seller and Buyer (including Buyer's oral or written offer to purchase), whether or not signed by Seller, the terms herein shall prevail unless such other contract (a) specifically references this Agreement and the date, and (b) contains a signature of Seller's authorized officer. Other terms between the parties not meeting (a) and (b) are deemed void. Buyer grants Seller the exclusive right to select forum for any disputes. This agreement and all rights and obligations of Buyer and Seller shall be governed by and construed in accordance with the laws of Maryland. A complete list of Baltimore Aircoil Company's Terms and Conditions can be found at <http://www.baltimoreaircoil.com/english/terms>

Agreement (continued)

Company Name: _____

Taxes: All taxes shall be paid by Buyer. Buyer shall indemnify Seller from and against such taxes, plus interest and penalties thereon, including, but not limited to, tax, interest and penalties resulting from a failure to collect such taxes because of Seller's reliance upon an invalid exemption certificate provided to Seller.

Payments: Terms of payment shall be 100% net cash in thirty (30) days from date of invoice, subject to Seller's prior credit approval. If the Buyer shall fail to make any payments in accordance with the terms and conditions of sale, the Seller, in addition to its other rights and remedies but not in limitation thereof, may, at its option, without prior notice, cancel this order as to any undelivered products or defer shipments or deliveries hereunder, or under any other agreement between Buyer and Seller, except upon Seller's receipt of cash before shipment or such security as Seller considers satisfactory. Seller reserves the right to impose an interest charge (not exceeding the lawful maximum) on the balance of each invoice not paid on its due date for the period from the due date to the date of receipt of payment by Seller. If the Buyer is in default for non-payment, then in addition to other remedies, Buyer agrees to reimburse Seller for all costs of collection including reasonable attorney's fees. In jurisdictions where a stated rate is required, reasonable attorney's fees will be 25% of the outstanding balance.

Allocation of Risk: Deliveries shall be considered made when the products subject to this order are loaded on the carrier. At such time, title to the goods and all risk of loss, damage or shortage shall pass to Buyer, and any claims based thereon must be filed by Buyer with the carrier.

Security: To secure payment and performance of all obligations now and in the future, Buyer hereby grants Seller a continuing security interest in all of the Buyer's presently owned or hereafter acquired goods, inventory, instruments, accounts receivable, equipment, chattel paper, books and records, accounts, and general intangibles. Buyer authorizes Seller to file financing statements describing collateral along with other notices, and will assist Seller in taking any other necessary action to perfect and protect Seller's security interest.

Trust: Buyer agrees that all funds owed to or received by Buyer from any source, resulting from the labor or material supplied by Seller shall be held in trust for the benefit of Seller. Buyer agrees to promptly pay to Seller all such funds. Upon request, Buyer shall irrevocably assign to Seller its account receivable from anyone to the extent that such is resulting from the labor or materials supplied by Seller.

Force Majeure: Seller shall under no circumstances be liable for any loss or damage resulting from delay or failure in the performance of its obligations under this contract to the extent that such performance is delayed or prevented by: fires, floods, war, terrorist activities, riots, strikes, freight embargoes or transportation delays, shortage of labor, inability to secure fuel, material, supplies or power at current prices, or on account of shortages thereof; acts of God or of the public enemy; any existing or future laws or acts of the federal, state or local government (including specifically, but not exclusively, any orders, rules or regulations issued by any official or agency of any such government) affecting the conduct of Seller's business with which Seller in its judgment and discretion deems it advisable to comply as a legal or patriotic duty, or to any case beyond the Seller's reasonable control.

Liability/Indemnification: Seller shall not be liable for any damages caused by delay in delivery of the products. Buyer shall hold harmless and indemnify Seller from and against all liability, claims, losses, damages, and expenses (including attorneys' fees) for personal injury and property damage arising out of Buyer's improper unloading, handling, or use of the products subject to this order, and for Buyer's infringement of another's property rights. The Seller's maximum liability from any causes whatsoever, whether in breach of contract, tort (including negligence), strict liability, or otherwise, shall not exceed the contract price. Neither Buyer nor Seller shall in any event be liable to the other, whether such liability arises out of breach of contract, tort (including negligence), strict liability or any other cause or form of action, for any consequential, special, indirect or incidental damages, including but not limited to loss of actual or anticipated profits or loss of use arising out of this contract, other than such damages resulting from the willful misconduct of Buyer or Seller. Buyer is responsible for compliance with all local codes and ordinances and agrees to hold harmless and indemnify Seller from and against all liability, claims, losses, damages and expenses (including attorney's fees for violation of said codes or ordinances).

Export Transactions: Buyer shall comply with all applicable export laws and regulations of the U.S. Government, and shall hold harmless and indemnify Seller from and against all liability, damages, and expenses (including attorneys' fees) incurred by Seller as a result of Buyer's violation of any U.S. Government export and/or international anti-boycott laws or regulations.

Certification: The Buyer certifies the following: (1) the information provided is true and correct and has been submitted as a material inducement to obtain commercial credit; (2) I am authorized to execute applications and other documents required to establish commercial credit accounts on behalf of Buyer; (3) Seller is hereby authorized to investigate and verify any information provided and inquire of references or others as to ongoing credit worthiness. Seller agrees that this agreement and extension of credit are subject to continuous credit review and approval; (4) Seller may answer questions from others about its credit experiences with Buyer; and (5) I have read, understood, and agreed to all of the TERMS and agree to notify the Seller, in writing via certified mail, of any material change in name, ownership, location or corporate status within five (5) days. If Buyer is a partnership or sole proprietorship, then I authorize Seller to obtain and use consumer reports on the Buyer or its principals for the sole purpose of evaluating current or ongoing credit worthiness.

_____	_____	_____	_____
Authorized Representative (signature)	Printed Name & Title	Witness	Date

Personal Guarantee

~~As consideration for the Seller extending credit to the Buyer, the Guarantor(s), jointly and severally hereby personally guarantee the payment of any obligation of the Buyer to the Seller. Therefore, each Guarantor hereby agrees to pay the Seller on demand, without offset, any sum due to the Seller by the Buyer. Guarantor further agrees to pay all costs of collection including reasonable attorney's fees. This Guaranty shall be a continuing and irrevocable guaranty and indemnity for indebtedness of the Buyer. The Guarantor hereby agrees, to the extent permitted by law, to waive the Homestead exemption, notice of acceptance, notice of presentment, demand, non payment, dishonor and protest, along with the right to require Seller to proceed against the Buyer. Furthermore, Guarantor consents to and waives notice of any modification, amendment or extension of the terms of the Agreement hereby guaranteed. Guarantor hereby authorizes Seller to obtain and use Consumer Credit Reports from time to time on the Guarantor for the sole purpose of evaluating current and ongoing credit worthiness in connection with the extension of business credit. This Personal Guaranty shall not exceed five million dollars (\$5,000,000) and will remain in force for two (2) years from date of last sale. Guarantor may revoke this Personal Guaranty only by providing Seller's Credit Manager written notice via certified mail of its intent to revoke. Revocation shall not relieve Guarantor of obligations incurred prior to receipt of such notice subject to the limit set forth above. Subsequent agreements and credit applications shall not serve to alter, supersede or otherwise modify this Personal Guaranty.~~

_____	_____	_____	_____
Signature of Guarantor	Printed Name	Witness	Date
_____	_____	_____	_____
Signature of Guarantor	Printed Name	Witness	Date