

SPRING BRANCH INDEPENDENT SCHOOL DISTRICT

Scott R. Muri, Ed.D., Superintendent of Schools

PURCHASING DEPARTMENT1031 Witte Road, Building T-1A, Houston, Texas 77055-6016
Phone 713.251.1100 Fax 713.251.1115Date: 09/21/2018**NOTICE TO PROPOSERS**

The SPRING BRANCH INDEPENDENT SCHOOL DISTRICT, hereinafter referred to as SBISD, is accepting competitive sealed proposals as specified in this document. Sealed proposals will be received at the office of the Director of Purchasing Services, SBISD, 1031 Witte Road, Building T-1A, Houston, Texas 77055-6016 until:

11/27/2018 @ 1:30 P.M.**ANNUAL CONTRACT FOR**
for: **INTERNET SERVICE**

Proposals will be publicly opened and read immediately following the deadline for receiving the proposals at 1031 Witte Road, Building T-1A. Any questions pertaining to the proposal procedure should be addressed to the Bid Specialist at 713/251-1107. Any questions pertaining to the proposal specifications should be directed to Buyer, at 713/251-1102.

PROPOSAL ENVELOPES SHALL BE PLAINLY MARKED

SEALED PROPOSAL FOR:

PROPOSAL NO. 12990**ANNUAL CONTRACT FOR INTERNET SERVICE**DO NOT OPEN UNTIL: 11/27/2018 @ 1:30 P.M.

Any proposal received later than the specified time, whether delivered in person or mailed, shall be disqualified. Late responses will not be accepted in any form or fashion.

The evaluation criteria specified herein will be used to determine which of the proposals is the best for SBISD at the most economical cost. SBISD reserves the right to request post-proposal modifications, including best and final offers. SBISD reserves the right to accept or reject any or all proposals, to waive all technicalities (informalities), and to accept the proposal(s) that is determined to be the most favorable to SBISD. Recognizing that there are important considerations other than price, SBISD may not necessarily award to the lowest Proposer.

Proposals must be effective for ninety (90) days following the deadline for the receipt of proposals.

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1.0 NOTICE OF INTENT

It is the intent of Spring Branch Independent School District (SBISD) to award one or more contracts as a result of this Competitive Sealed Proposal (CSP). Product(s) and/or services considered for award shall equal or exceed a minimum quality level of industry standard(s) as defined within this CSP, including **Section 2.0 Scope of Proposal**. Product(s) and/or services shall comply with all applicable federal, state and local technical, environmental, and performance standards and specifications.

1.1.0 The initial base term of the prospective contract is a period of one calendar year.

1.2.0 In this CSP and the resulting Contract, the terms shall mean as follows:

- 1.2.1 "Best Value"** means the method by which a proposal/contract, if any, is awarded, in accordance with applicable laws, rules, and regulations. Best Value includes multiple parameters, including experience, references, quality of the Proposer's product(s)/service(s), and price as detailed in **Section 6.0 Evaluation and Award**.
- 1.2.2 "Contract"** means the final contract for each product and/or service contract awarded as a result of this CSP. It shall include the Proposal, Proposer's response to the Proposal, the attached and incorporated attachments, addendum, and/or any exhibits as detailed in **Section 5.0 Contract Terms and Conditions**.
- 1.2.3 "Purchase Order or PO"** means the SBISD purchase order(s) issued to vendor(s). Special terms and conditions agreed to by the Vendor and SBISD may be added as addenda to the PO, including insurance, bonding, warranty, etc.
- 1.2.4 "Regular Hours"** means Monday through Friday between the hours of 7 a.m. and 4 p.m., excluding the following holidays: MLK Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and New Year's Day.
- 1.2.5 "SBISD"** refers to the Spring Branch Independent School District, a Harris county school district established under the laws of the State of Texas, with its principal office located at 955 Campbell Road, Houston, Texas 77024.
- 1.2.6 "Proposer"** refers to the person(s)/firm(s)/entity(ies) responding to this CSP.
- 1.2.7 "Response"** means a response to this CSP that, if accepted, would bind the Vendor to perform the resultant contract. Responses to invitations for bids (sealed bidding) are offers called "bids" or "sealed bids"; responses to requests for proposals (negotiation) are offers called "proposals"; however, responses to requests for quotations (simplified acquisition) are "quotations," not offers.
- 1.2.8 "Vendor"** refers to the person(s)/firm(s)/entity(ies) to whom a contract is awarded pursuant to this CSP.

2.0 SCOPE OF PROPOSAL

It is the intention of Spring Branch Independent School District to establish an:
ANNUAL CONTRACT FOR "INTERNET SERVICE"

SBISD is interested in receiving competitive pricing on all items in this proposal. SBISD places significant value on quality vendors and desires to keep proposer's materials, equipment and/or services to solicit quality goods and services.

ADDENDA TO CSP. SBISD reserves the right to revise and amend the specifications prior to the date set for the opening. Proposers are requested to clarify any ambiguity, conflict, discrepancy, omission or other error(s) in this CSP in writing, and request the modification or clarification desired. SBISD will issue an addendum to evidence any revisions or amendments made to this CSP. As a courtesy, every effort will be made to send an issued addendum to the parties known to have been furnished a complete copy of this CSP. A copy of all issued addenda will also be made available on the Purchasing Department's "Bids and Proposals" webpage. Please acknowledge receipt of addenda on Signature Page.

All questions must be received, in writing, by the Director of Purchasing Services via fax (713/251-1115) or e-mail to gerald.mccall@springbranchisd.com no later than noon on 10/09/2018. No addenda will be issued later than 10/16/2018, except an addendum withdrawing the proposal or postponing the opening of the proposal. It is the responsibility of each Proposer, prior to submitting the proposal, to determine if addenda were issued and, if so, to obtain such addenda for attachment to the proposal.

ANNUAL RENEWABLE CLAUSE, The contract shall be for a period of up to **three (3) years**. The first year of contract shall be **July 1, 2019 thru June 30, 2020** with the option to renew annually for up to an additional **two (2) years**, provided any subsequent renewal is agreed to in writing by both parties.

PRE-PROPOSAL CONFERENCE, A pre-proposal conference will be held on ****10/02/2018 @ 1:30 PM** at the SBISD, Purchasing Department, 1031 Witte Rd, Bldg. TA-1, Houston, Texas 77055.

SCOPE OF PROPOSAL, continued**INSTRUCTIONS TO PROPOSERS**

1. An original and two (2) copies of the Proposal, typewritten or printed/written in ink and **one (1) downloadable digital copy on external thumb drive**, must be submitted. **Vendor's response to this Request for Proposal must be SEALED and properly labeled on the OUTSIDE of the envelope as follows:**

Director of Purchasing Services
 Spring Branch Independent School District
 1031 Witte Road, Building T-1A
 Houston, Texas 77055-6016

Sealed Proposal for:

ANNUAL CONTRACT FOR "INTERNET SERVICE"

Do Not Open until **11/27/2018 at 1:30 PM**

2. The Proposer shall provide their full company name and address on the envelope.
3. Any proposal received later than the specified time, whether delivered in person or mailed, shall be disqualified. Late responses will not be accepted in any form or fashion.

4. **DESCRIPTION OF SBISD**

SBISD consists of twenty-six (26) elementary schools, seven (7) middle schools, five (5) high schools, one (1) science center, one (1) career center, and various support facilities. SBISD has approximately 35,000 students and 4,500 employees. SBISD operates 4,836,120 gross square feet of educational facilities located within a 43 square mile area.

In order to receive any addenda or clarifications that may be issued for this proposal, all prospective proposers must send an email to gerald.mccall@springbranchisd.com.

Please state your name, company name, street address, phone number, fax number, e-mail address and proposal number in your message.

Proposers may download **current Bids & Proposals and addenda** documents from SBISD's Purchasing Department's website:

<https://www.springbranchisd.com/about/departments/finance/purchasing/bids-proposals>

3.0 GENERAL TERMS AND CONDITIONS

- 3.1.0 APPLICABILITY.** These conditions are applicable and form a part of this CSP, the resulting contract documents, and each purchase order issued for materials, equipment, and/or services included in the specifications and proposal forms issued herewith.
- 3.2.0 CODE OF SILENCE.** SBISD has adopted a “Code of Silence” policy to enforce its commitment to ethical contracting standards and improve accountability and public confidence.
- 3.2.1** The Code of Silence is the prohibition on any communication regarding a competitive procurement solicitation between:
1. Any person who seeks an award from the District, including potential vendors or vendor’s representative, and
 2. Board members, the Superintendent of Schools, senior staff members, principals, department heads, directors, managers, or other District representatives who have influence in the evaluation or selection process.
- 3.2.2** SBISD’s Code of Silence for competitive procurements begins the day this proposal is posted to the Purchasing Department’s website and ends after the Board of Trustees has approved the project, or upon the execution of the contract, whichever occurs first.
- 3.3.0 QUESTIONS** concerning this proposal shall be addressed to the Director of Purchasing Services or a designee from the Purchasing Department.
- 3.4.0 CONFLICT OF INTEREST DISCLOSURES.** By signing this proposal, a Proposer affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the proposal submitted.
- 3.4.1 PROPOSER SHALL NOTE** any and all relationships that might be a conflict of interest and include such information with the proposal. **(See 13.0 Conflict of Interest Questionnaire)**
- 3.5.0 NON-COLLUSION STATEMENT.** Proposers are required to certify a Non-Collusion Statement in **15.0 Non-Collusion Statement**. By signing this proposal and the Non-Collusion Statement, a Proposer affirms:
- 3.5.1** To the best of his/her knowledge, the proposal has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give them an unfair advantage over other Proposers in the award of this proposal.
- 3.5.2** Such proposal is genuine and not collusive or a sham; that Proposer has not colluded, conspired, connived or agreed, directly or indirectly, with an entity or person, to put in a sham proposal or to refrain from proposing, and has not in any manner, directly or indirectly, sought by Contract or collusion, or communication or conference, with any person, to fix the proposed price or that of any other proposer, or to fix any overhead, profit or cost element of said proposed price, or of that of any other proposer, or to secure any advantage against SBISD or any person interested in the proposed contract, and that all statements in said proposal are true.
- 3.6.0 DISQUALIFICATION.** Each Proposer, by submitting its proposal, represents that the Proposer has read and understands this CSP and the resulting Contract, if applicable. Proposals that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by SBISD and eliminated from further consideration. Any language to the effect that the Proposer does not consider this CSP to be part of a contractual obligation may result in the Proposer’s proposal being disqualified. Additionally, a Proposer may be disqualified before or after the proposals are opened upon evidence of collusion with the intent to defraud or evidence of intent to perform other illegal activities in order to obtain an unfair competitive advantage.

GENERAL TERMS AND CONDITIONS, continued

- 3.7.0 SPECIFICATIONS.** Specifications may be those developed by the Using Department or by the Manufacturer to represent items of regularly manufactured products. **(See 7.0 Specifications)**
- 3.7.1 DISTRICT SPECIFICATIONS** have been developed by the Using Department to show minimal standards as to the usage, materials, and contents based on their needs.
- 3.7.2 MANUFACTURER'S SPECIFICATIONS (DESIGN GUIDE).** Whenever an article in this proposal is defined by description as either a proprietary product or by using the name of a manufacturer, the Proposer is encouraged to offer an item which is equal in quality, durability and in full compliance with our Specifications. If the term equivalent, alternate, or equal is not inserted, it shall be implied. The specified article or material shall be understood as descriptive, not restrictive.
- 3.8.0 PROPOSALS SHALL BE SUBMITTED ON THESE FORMS.** No deviations to the General, Special, and/or Contract Terms and Conditions will be accepted.
- 3.9.0 ONLY SEALED PROPOSALS ARE ACCEPTABLE. FAXED PROPOSALS** will not be accepted by SBISD since the fax process does not provide for the delivery of a sealed proposal. **(See 2.0 Scope of Proposal, Instructions to Proposers)**
- 3.10.0 ANY REQUIRED ADDENDA** will be posted online on the Purchasing Department's "Bids and Proposals" webpage. As a courtesy, SBISD's Purchasing Department will make every effort to send an issued addendum to all those known to have received a complete set of proposal documents.
- 3.11.0 RESPONSIBLE VENDOR.** A responsible vendor is a vendor who has adequate financial resources (or the ability to obtain such resources), can comply with the delivery requirements, and is a qualified and established firm regularly engaged in the type of business that provides the items listed herein.
- 3.12.0 FINANCIAL RESPONSIBILITY.** SBISD assumes no financial responsibility for any costs incurred by Proposers in developing and submitting a proposal or any amendments or addenda, participating in pre-proposal meetings, participating in any negotiation sessions or discussions, or any other costs incurred by Proposers pursuant to this CSP.
- 3.13.0 RESPONSIVE PROPOSAL.** Proposals shall be deemed responsive if they have been submitted on time and comply with all material and administrative aspects of this CSP. Proposers are expected to examine and be familiar with all requirements and obligations of this entire CSP and the evaluation criteria as set forth in **6.0 Evaluation and Award of Proposal(s)**. Failure to do so will be at the Proposers' risk.
- 3.14.0 BEST AND FINAL OFFERS** must be received by the date and time provided during discussions and/or negotiations, or the originally submitted proposal will be used for further evaluation and award recommendation.
- 3.15.0 EVALUATION OF PROPOSALS** takes into account the following considerations: price, quality, suitability for the intended use, probability of continuous availability, proposer's service, safety record, and date of proposed delivery and placement. It is not the policy of SBISD to purchase on the basis of low proposals alone. **(See 6.0 Evaluation and Award of Proposal(s))**
- 3.16.0 WITHDRAWAL OF PROPOSALS** will not be allowed for a period of 90 days following the proposal opening. Rejection or withdrawal after offer is accepted shall constitute a breach of contract.
- 3.17.0 RETENTION OF PROPOSAL DOCUMENTATION.** All proposal materials and supporting documentation that are submitted in response to this proposal becomes the permanent property of SBISD.
- 3.18.0 REBID.** SBISD may elect to rebid this project if SBISD believes that, in its sole discretion, it is in the best interest of SBISD to do so.

GENERAL TERMS AND CONDITIONS, continued

3.19.0 FORMATION OF CONTRACT. A response to this proposal is an offer to contract with SBISD based upon the terms, conditions, scope of work, and specifications contained in this CSP. Clarifications and negotiations, if applicable, will become a part of the completed contract if included in the final contract document, duly executed by the Proposer and accepted by SBISD. An offer does not become a contract unless and until SBISD accepts it. A contract is formed when SBISD's Board of Trustees/Director of Purchasing Services approves the complete offer and the Director of Purchasing Services, or a designee from the Purchasing Department, signs the final notification of award documents.

3.20.0 MULTIPLE CONTRACT AWARDS

SBISD reserves the right to award multiple contracts under this CSP, including multiple contracts for each product/service category. Product/Service categories are established at the sole discretion of SBISD. The decision to award multiple contracts, award only one contract, or to make no awards rests solely with SBISD. These facts should be taken into consideration by each Proposer.

3.21.0 THROUGH INTERLOCAL AGREEMENTS

Pursuant to the Texas Education Code 44.031(a)(5), the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and Chapter 271 of the Texas Local Government Code, it is anticipated that school districts will recognize the broad applicability of SBISD contracts and how they apply to school districts.

All Proposers should indicate their willingness to provide all or some of the goods and/or services requested in this proposal to other Districts. The responses to this proposal will be used as a baseline to determine which firms may be eligible for further participation in the district's marketing program. The marketing program is designed to help school districts improve their educational learning and business environments by the formation of mutually beneficial partnerships with firms that provide supportive expertise and services.

While each Interlocal Agreement will encompass part, or all of the services requested, each will be individually adapted, using the response from this CSP, to the individual needs of the participating district. Separate, but related contracts, will be drawn to reflect Agreements on each additional district partnership. Even though this CSP has been developed to be as comprehensive as possible, it is impossible to assure that all services needed in every Interlocal contract will be included in the CSP response. Therefore, all Proposers responding positively to this section shall also agree that such additional goods and/or services may be needed to satisfy the requirements of future Interlocal Agreements to provide goods and/or services to other districts will be included as part of this CSP.

3.22.0 OPEN RECORDS POLICY. SBISD is a governmental entity subject to the Texas Public Information Act. Proposals submitted to SBISD as a result of this CSP may be subject to release as public information after contracts are executed or the procurement is terminated. If a Proposer believes that its response, or parts of its response, may be exempted from disclosure under Texas law, the Proposer must specify page-by-page and line-by-line the parts of the response that it believes are exempt. In addition, the Proposer must specify which exception(s) to the Texas Public Information Act are applicable and provide detailed reasons to substantiate the exception(s). Vague or general claims to confidentiality will not be accepted. SBISD assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Proposers.

3.23.0 CONFIDENTIAL INFORMATION OR TRADE SECRETS (Government Code, Article 252.049). If any of the information is considered to be confidential or a trade secret belonging to the Proposer and, if released would give advantage to a competitor or Proposer, that information should be filed with the proposal in a separate envelope marked "CONFIDENTIAL – DO NOT DUPLICATE WITHOUT PERMISSION".

GENERAL TERMS AND CONDITIONS, continued**3.24.0 SBISD RESERVATIONS**

SBISD reserves the right to:

- a) Cancel this solicitation in whole or in part, at the sole discretion of SBISD.
- b) Accept, reject, or negotiate modifications in any terms of the Proposer's proposal or any parts thereof.
- c) Conduct oral interviews/discussions or presentations necessary to select the best value Proposer and/or to obtain competitive pricing.
- d) Reject and/or disqualify any or all proposals received.
- e) To award contracts for individual products or services as may appear advantageous.
- f) To negotiate separately in any manner necessary to serve the best interest of SBISD.
- g) Waive any formalities, technicalities, or other defects if deemed in the best interest of SBISD.
- h) Request clarification and/or correction by Proposer(s) to eliminate minor errors, clerical errors, and/or non-substantive irregularities.
- i) Be the sole judge of quality and equality.
- j) Award one or more contracts, in part or in whole, to a single or multiple Proposers, in SBISD's sole discretion.
- k) Make all decisions regarding this CSP, including, without limitation, the right to decide whether a proposal substantially complies with the requirements of this CSP.

3.25.0 SUPPLIER DIVERSITY PROGRAM. SBISD will use its best efforts to encourage small, minority and women-owned businesses to participate in current and future purchasing of all goods and services. Any business wishing to be identified by SBISD as a small, women-owned or minority business shall be certified as such either by the State of Texas or Texas Local Government which conducts a certification or by self-certification.

3.26.0 DEFAULT CONDITIONS. If the Proposer breaches any provision of the proposal stipulations, becomes insolvent, enters voluntary or involuntary bankruptcy, or receivership proceedings, or makes an assignment for the benefit of creditors, SBISD will have the right (without limiting any other rights or remedies that it may have in the contract or by law) to terminate this contract with five (5) days written notice to the Proposer.

SBISD will then be relieved of all obligations, except to pay the value of the Proposer's prior performance (at a cost not exceeding the contract rate). The Proposer will be liable to SBISD for all costs exceeding the contract price that SBISD incurs in completing or procuring the service as described in the proposal. SBISD's right to acquire strict performance of any obligation in this contract will not be affected by any previous waiver, forbearance, or course of dealing.

3.27.0 SAMPLES, when called for, shall be submitted with the proposal per instructions set forth in the Special Terms and Conditions.

3.27.1 ADDITIONAL SAMPLES needed for a proposal to be evaluated properly shall be delivered within (5) business days from the time the Proposer is notified by the Purchasing Department.

3.27.2 SAMPLE ITEMS from the successful Proposer may be retained for the purpose of determining that the quality and workmanship of the delivered items are comparable to the sample.

4.0 SPECIAL TERMS AND CONDITIONS

4.1.0 COMPLIANCE WITH SPECIFICATIONS AND CONTRACT

Proposers are requested to submit a proposal offering their total line of available products and services that are commonly purchased by school districts. Proposals shall be deemed responsive if they comply with all aspects of this CSP. Proposers are required to respond to all requests identified in this CSP and indicate their acceptance to the terms of this CSP and the Contract terms in Section 5.0 Contract Terms and Conditions.

4.2.0 CLARIFICATION AND DISCUSSIONS

The Director of Purchasing Services, or a designee from the Purchasing Department, may request clarification from Proposer(s) for eliminating minor errors, clerical errors, and/or non-substantive irregularities. Clarification does not give a Proposer the opportunity to revise, change, or modify its proposal in any way except to the extent of correction of the error. Discussion between the Director of Purchasing Services, or a designee from the Purchasing Department, and Proposer may also take place after the initial receipt of proposals. The Director of Purchasing Services, or a designee from the Purchasing Department, reserves the right to conduct discussions with all, some, or none of the Proposers submitting proposals. The District will not assist the Proposer in the revision or modification of its proposal.

4.3.0 DESCRIPTION OF PRODUCT(S) AND/OR SERVICE(S). Describe product(s) and/or service(s) the Proposer is offering to provide SBISD. Provide a matrix that will allow SBISD to readily appraise the Proposer's products and/or services offering versus other Proposers, if available.

4.4.0 DESCRIPTION OF VALUE-ADDED PRODUCT(S) AND/OR SERVICE(S). Include any additional information Proposer believes SBISD should have when making its decision concerning contract award(s), if any. Detail any value-added options offered by Proposer; if value-added options are best described in a line item format, add value-added items to the designated area at the end of the line item list.

4.5.0 QUANTITIES REQUIRED are substantially correct. The District reserves the right to purchase additional quantities above that stated at the same unit price unless otherwise specified by the Proposer.

4.6.0 NO GUARANTEE OF QUANTITIES

SBISD makes no guarantee or commitment of any kind concerning quantities that will actually be purchased under this CSP and the resulting contract, if any. SBISD makes no guarantee or commitment of any kind regarding usage of any contracts resulting from this CSP.

4.7.0 DELIVERIES required in this proposal shall be freight prepaid F.O.B. destination and proposal prices shall include all freight and delivery charges. For shipments designated on the purchase order to the SBISD Central Warehouse, delivery hours are 7:00 A.M. to 3:00 P.M., Monday through Friday. NO DELIVERIES WILL BE ACCEPTED AFTER 3:00 P.M.

4.8.0 ENERGY EFFICIENT REQUIREMENTS. SBISD is committed to enhancing the learning environment, and to National, State, and Local energy conservation and reliability goals. Design professionals should consider including innovative features of high performance/sustainable/green schools as defined by the Sustainable Building Industry Council as facilities that are healthy and productive for students and teachers (acoustic, thermal, and visual comfort; natural daylight; superior indoor air quality; safe and secure); cost effective (optimized energy performance, life cycle approach to costs of ownership, and a commissioning process); and sustainable (energy conservation; high-performance mechanical and lighting systems; environmentally preferable materials; and water-efficient design).

4.9.0 OTHER REQUIREMENTS. Any problems or discrepancies that are not covered by the above requirements should be directed to the Director of Purchasing Services for a determination or clarification prior to any action taken on said problem or discrepancy. If the Proposer fails to make such request, no excuse will thereafter be entertained for failure to carry out the work in a satisfactory manner.

5.0 CONTRACT TERMS AND CONDITIONS

These Contract Terms and Conditions will form part of the final Contract for each product and/or service contract **AWARDED AS A RESULT OF THE CSP** and the terms and conditions of each Purchase Order or proposal forms issued in connection with the CSP.

Proposals that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by SBISD and eliminated from further consideration. Deviations or exceptions stipulated in a Vendor's response may result in disqualification. Any language to the effect that the Vendor does not consider the CSP and/or these terms and conditions to be part of a contractual obligation may result in the Vendor's proposal being disqualified.

CONTRACT BETWEEN SPRING BRANCH INDEPENDENT SCHOOL DISTRICT AND

Vendor Name

FOR ANNUAL CONTRACT FOR "INTERNET SERVICE"

This Contract is entered into between SBISD and Vendor, having submitted a proposal in response to the CSP issued by SBISD and whose proposal may be accepted and awarded by SBISD. In consideration of the mutual covenants and conditions contained in this Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SBISD and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Contract, agree as follows:

- 5.1.0 DEFINITIONS.** The terms used in this Contract shall have the meanings assigned to them in **1.0 Notice of Intent** of the CSP.
- 5.2.0 CONTRACT TERMS; AMENDMENT.** The terms and conditions of this Contract shall govern all procurements conducted hereunder. No amendment of this Contract shall be permitted unless and until first approved in writing by SBISD, and no such amendment shall have any effect unless and until a written amendment to this Contract is executed by the SBISD Superintendent or designee.
- 5.3.0 LETTER OF AWARD.** Notwithstanding anything to the contrary contained in these terms and conditions, upon the District's acceptance of a proposal, the vendor and the District will have entered into a binding contract. The contract is enforceable from the time of acceptance without regard to the time of notification to the vendor of acceptance. Vendor will be notified by a "Letter of Award" issued by the Director of Purchasing Services, or a designee from the Purchasing Department. This letter, together with the vendors signed Proposal Forms, Purchase Order and Contract Documents will be defined as the "original" contract.
- 5.4.0 NON-EXCLUSIVE CONTRACT.** Any contract resulting from the CSP is non-exclusive and shall be awarded with the understanding that this contract is for the sole convenience of SBISD. Nothing in this Contract may be construed to imply that Vendor has the exclusive right to provide products and/or services to SBISD. During the Term of this Contract, SBISD reserves the right to use all available resources to procure other products and/or services as needed and doing so will not violate any rights of Vendor. SBISD is free to have multiple contracts for the awarded products and/or services and may initiate other procurement solicitations or procurement activity with other suppliers at any time, at SBISD's sole discretion.
- 5.5.0 USE OF DISTRICT NAME OR LOGO(S).** Vendor may not use SBISD's official name or logo, or any phrase associated with the District, without written permission from the Board of Trustees, Superintendent of Schools, or their designee.

CONTRACT TERMS AND CONDITIONS, continued

5.6.0 EMPLOYEE SOLICITATIONS. SBISD and awarded vendor shall agree that, during the term of this Contract, neither party will directly solicit, induce, or attempt to induce any of the other party's employees to leave the employment of the other party. This provision does not restrict an employee of either party from exercising his/her individual rights to apply for any vacant position(s) with the other party.

5.7.0 NO AGENCY OR ENDORSEMENTS. It is the intention of the parties to this Contract that Vendor is independent of SBISD, is an independent contractor, and is not an employee, agent, joint venturer, or partner of SBISD. Nothing in this Contract shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer or partner, between SBISD and Vendor, or SBISD and any of Vendor's agents. Vendor has no power or authority to assume or create any obligation or responsibility on behalf of SBISD and SBISD has no power or authority to assume or create any obligation or responsibility on behalf of Vendor. This Contract shall not be construed to create or imply any partnership, agency, or joint venture, nor shall it be construed or deemed an endorsement of a specific company or material. Vendor agrees that SBISD has no responsibility for any conduct of any of Vendor's employees, agents, representatives, contractors, or subcontractors.

5.8.0 BUSINESS ETHICS AND CONFLICTS OF INTEREST. Vendor is required to provide SBISD a complete a Conflict of Interest Questionnaire with Company Name, Signature and Date. This form must be provided even if company has no conflict of interest. (See 13.0 Conflict of Interest Questionnaire)

During the course of pursuing contracts, and the course of contract performance, Vendor 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 SBISD, its authorized agents and representatives, or to family members of any of them. At any time Vendor believes there may have been a violation of this obligation, Vendor shall notify SBISD of the possible violation. SBISD is entitled to request a representation letter from Vendor, its subcontractors or vendors at any time to disclose all things of value passing from Vendor, its subcontractors or vendors to SBISD's personnel or its authorized agents and representatives.

5.9.0 TERM OF CONTRACT; RENEWAL OF CONTRACT. This contract shall be for a period of up to **three (3) years**. The first year of contract shall be **July 1, 2019 thru June 30, 2020** with the option to renew annually for up to an additional **two (2) years**, provided any subsequent renewal is agreed to in writing by both parties. In the event the contract expires before a mutually agreed written and approved renewal contract is executed, vendor shall extend the contract on a month-to-month basis by mutual written agreement.

5.10.0 FUNDING OUT CLAUSE. The term of this Contract is a commitment of the District's current revenue only.

5.10.1 The District retains the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.

5.10.2 The contract is conditioned on a best efforts attempt by the District to obtain and appropriate funds for payment of the contract.

5.11.0 NON-APPROPRIATION OF FUNDS. Renewal of this Contract, if any, will be in accordance with TEX. LOCAL GOV'T. CODE 271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Contract or obligation imposed on SBISD by this Contract, SBISD shall have the right to terminate this Contract or any Purchase Order without default or liability to Vendor resulting from such termination, effective as of the expiration of each budget period of SBISD if it is determined by SBISD, at its sole discretion, that there are insufficient funds to extend this Contract or any Purchase Order. The parties agree that this Contract and/or any Purchase Order are commitments of the current revenue of SBISD only.

CONTRACT TERMS AND CONDITIONS, continued**5.12.0 TERMINATION OF CONTRACT.** This Contract shall remain in effect until:

- (1) the Contract expires by its terms, or
- (2) the Contract is terminated by mutual consent of SBISD and Vendor.

In the event of a breach or default of this Contract and/or the CSP by Vendor, SBISD reserves the right to enforce the performance of the Contract in any manner prescribed by law or deemed to be in the best interest of SBISD.

Vendor(s) shall provide the District with ninety (90) days' written notice of contract termination and either loss or reduction of any coverage.

Vendor further agrees that upon termination of the Contract for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or Vendor.

5.12.1 CAUSE TERMINATION

SBISD reserves the right to terminate this Contract immediately in the event Vendor fails to:

- (1) meet schedules, deadlines, and/or delivery dates within the time specified in the CSP, this Contract, and/or a Purchase Order;
- (2) make any payments owed;
- (3) otherwise perform in accordance with this Contract and/or the CSP;
- (4) or failure to comply with usual and customary practices of the industry and upon breach of any laws, rules or regulations.

Vendor agrees that SBISD shall not be liable for damages in the event that SBISD declares Vendor to be in default or breach of this Contract and/or the CSP.

5.12.2 NO CAUSE TERMINATION

- SBISD also reserves the right to terminate the Contract, with thirty (30) days' advance written notice to Vendor, if SBISD believes that, in its sole discretion, it is in the best interest of SBISD to do so.
- It is understood that the District retains the option to terminate this Agreement for any reason at the end of each contract year without pecuniary risk or penalty. The termination will become effective and this Agreement shall terminate following the written notification of intent.

5.13.0 NO WAIVER OF IMMUNITY. SBISD 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 Contract and performance of the functions or obligations described herein.**5.14.0 COMPLIANCE WITH LAWS.** Vendor shall comply with all applicable federal, state, local, and State of Texas laws, statutes, ordinances, standards, orders, rules, and regulations, including, as applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations, and building code requirements. For the entire duration of this Contract, Vendor and all subcontractors shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. Vendor must pay all fees and charges for connections to outside services and for use of property outside the project site.**5.15.0 ALL CONTRACTS AND AGREEMENTS** between Merchants and SBISD shall strictly adhere to the statutes as set forth in the Uniform Commercial Code as last amended by the American Law Institute in the National Conference of Commissioners on Uniform State Laws, if applicable. Reference: Uniform Commercial Code or latest, Official Text.

CONTRACT TERMS AND CONDITIONS, continued

5.16.0 GOVERNING LAW AND EXCLUSIVE VENUE. The laws of the State of Texas, without regard to its provisions on conflicts of laws, govern this Contract. Any dispute under this Contract involving SBISD must be brought exclusively in the state and federal courts located in Houston, Harris County, Texas, and the parties hereby submit to the exclusive jurisdiction of said courts.

5.17.0 TEXAS SB 252 AND HB 89. Pursuant to Texas Senate Bill 252, Verification Regarding Terrorist Organizations, and House Bill 89, Certification Regarding Israel, Vendor hereby certifies that it 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. Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any (the "Vendor Companies"), boycotts Israel, and Vendor

agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Contract, the term "boycott" shall mean and include terminating business activities 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.

5.18.0 PURCHASES USING FEDERAL GRANT FUNDS (2 C.F.R. 200). When SBISD seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. 200 (sometimes referred to as the "Uniform Guidance" or new "EDGAR"). **(See 17.0 EDGAR CONTRACT ADDENDUM)**

5.18.1 All Vendors awarded a contract under this proposal must complete the SBISD EDGAR Contract Addendum before a purchase order can be entered as proof of their willingness and ability to comply with certain requirements which may be applicable to specific SBISD purchases using federal grant funds.

5.18.2 This information will be made available to the District for its use while considering their purchasing options when using federal grant funds.

5.19.0 CUSTOMER SUPPORT. Vendor shall provide timely and accurate technical advice and sales support to SBISD staff. Vendor shall respond to requests for customer support within one (1) business day after receipt of the request.

5.20.0 WORKFORCE (IF APPLICABLE). Vendor shall employ only orderly and competent workers, skilled in the performance of the services, if any, which/shall be performed under this Contract. Vendor, its employees, subcontractors, and subcontractor's employees may not use or possess any firearms, alcoholic or other intoxicating beverages, illegal drugs or controlled substances while on the job or on SBISD property, nor may such workers be intoxicated or under the influence of alcohol or drugs on SBISD property.

5.21.0 SUBCONTRACTORS (IF APPLICABLE). If Vendor uses subcontractors in the performance of any part of this Contract, Vendor shall be fully responsible to SBISD for all acts and omissions of the subcontractors. Nothing in this Contract shall create for the benefit of any such subcontractor any contractual relationship between SBISD and any such subcontractor, nor shall it create any obligation on the part of SBISD to pay or to see to the payment of any monies due any such subcontractor except as may otherwise be required by law.

Vendor represents and warrants that it is willing, able, and capable of obtaining, supervising, and being responsible for any subcontractors who perform and/or provide products and services related to this Contract.

CONTRACT TERMS AND CONDITIONS, continued

5.22.0 SBISD LOCAL CRIMINAL BACKGROUND HISTORY/CHECKING. The awarded Vendor(s), who will be performing services on District property, must pass a criminal history background check conducted by SBISD's Police Department via the electronic background check system located at <http://tsapp.springbranchisd.com/BackgroundCheck>.

5.23.0 TEXAS SENATE BILL 9 CRIMINAL BACKGROUND HISTORY/CHECKING

(TEC, §22.0834; TEC, §22.085; Texas Government Code, §411.0845)

Vendors (owners, officers, employees, volunteers, etc.) may not work on District property where students may or may not be present when they have charges pending, have been convicted, received probation, or deferred adjudication for the following:

- (a) Any offense against a child
- (b) Any sex offense
- (c) Any crimes against persons involving weapons or violence
- (d) Any felony offense involving controlled substances
- (e) Any felony offense against property
- (f) Any other offense the District believes might compromise the safety of students, staff, or property.

Any employee who will have direct contact with students must not have been convicted of an offense identified in Texas Education Code Section 22.085.

CONTRACTOR RESPONSIBILITIES

All contractors, subcontractors, and their employees must submit to SBISD proof of a satisfactory criminal record history of all individuals working on District property through background checks conducted as required by Senate Bill 9.

The criminal history must be obtained by the successful Proposer before any work is performed on District property.

Possession of fire arms, alcohol and/or drugs, even in vehicles, is strictly prohibited on school district property. Use of any tobacco products is not permitted on school property.

(see SB9 requirements:

https://tea.texas.gov/Texas_Educators/Certification/Fingerprinting/Requirements_for_School_District_Contractors/

5.24.0 IRS FORM W-9. To receive payment under this Contract, the awarded Vendor shall have a current I.R.S Tax Identification Number and W-9 Form on file with SBISD's Purchasing Department.

5.25.0 ORDERING PROCEDURES. A purchasing commitment represents an obligation to pay a Vendor for future delivery of goods or services. SBISD's purchase commitments are made via Purchase Orders. No payments will be made for work performed or goods delivered before a Purchase Order is issued by the Purchasing Department. Vendors who commence work before they have received a valid Purchase Order do so at their own risk. Purchase Orders are issued by SBISD and submitted electronically to the Vendor by fax or email.

5.26.0 TAX EXEMPT STATUS. SBISD is exempt from payment of Texas State Sales Taxes under TEXAS TAX CODE§ 151.310 for the purchase of tangible personal property. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, without limitation, any federal, state, or local income, sales or excise taxes of Vendor or its employees. SBISD shall not be liable for any taxes resulting from this Contract, except where otherwise required by law.

CONTRACT TERMS AND CONDITIONS, continued

5.27.0 STATE OF TEXAS FRANCHISE TAX. By submitting a proposal in response to the CSP, Vendor certifies that Vendor is not currently delinquent in Vendor's payment of any franchise taxes or other taxes owed to the State of Texas. For Corporations, A current "Certificate of Good Standing" from the Texas Comptroller of Public Accounts shall be made available upon request stating that the corporation charter is current and all Texas Franchise Reports and Taxes are paid.

5.28.0 TAX RESPONSIBILITIES OF VENDOR AND INDEMNIFICATION FOR TAXES. Vendor is responsible for complying with the tax laws of states and the federal government. Vendor and all subcontractor(s) of Vendor shall pay all federal, state, and local taxes applicable to Vendor's operation, any persons employed by Vendor, and all subcontractors of Vendor. Vendor shall require all subcontractors to hold SBISD harmless from any responsibility for taxes, damages, and interest. If applicable, contributions required under federal, state, and/or local laws and regulations and any other costs, including, but not limited to, transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation, shall be the sole responsibility of Vendor.

5.29.0 BUSINESS CERTIFICATES. Vendors must adhere to the following applicable Texas laws as they pertain to their individual type of ownership:

5.29.1 Corporations (domestic or foreign *) shall be properly registered with the Texas Secretary of State and the Comptroller of Public Accounts as required by TITLE 34, Part 1, Chapter 3, Subchapter V, Rule 3.546 of the Texas Administrative Code.

5.29.2 Partnerships and Joint Stock Companies, and Limited Liability Partnerships (domestic or foreign*) shall be properly registered with the Texas Secretary of State in accordance with TITLE 105-- PARTNERSHIPS AND JOINT STOCK COMPANIES, CHAPTER ONE --- PARTNERSHIPS, LIMITED PARTNERSHIPS, TEXAS REVISED LIMITED PARTNERSHIP ACT, Article 6132a-1. "Texas Revised Limited Partnership Act." All partners in a partnership must file a "Certificate of Limited Partnership" with the secretary of state, which shall be made available for inspection upon request.

***Note:** Foreign means formed under laws of another state; Domestic means formed under Texas laws.

5.30.0 METHODS OF PAYMENT. Vendors are to select one of the following payment methods:

5.30.1 CARD (Ghost Card) – SBISD's preferred method of payment.

Card payments are made available to the Vendor immediately after file payment submission. After Vendor receives an auto-generated email remittance advice notification, Vendor can download the payment to their 'card'. Vendors who accept payments via ghost cards must establish their own contracts with a merchant card bank to fund their bank accounts. Some banks charge a fee for using ghost cards; however, SBISD does not charge a fee. Fees are negotiated in the contract between the vendor and their merchant card bank. SBISD processes invoices several times a week for CARD payments.

5.30.2 Automated Clearing House (ACH)

Electronic fund transfer to Vendor's bank account. SBISD processes invoices at the end of the week for ACH payments.

5.31.0 INVOICES; PAYMENTS

5.31.1 Vendor shall submit invoices, in duplicate, directly to SBISD's Account Payable office for processing. Electronic invoices may be sent to accountspayable@springbranchisd.com. Each invoice shall include SBISD's Purchase Order number. All invoices shall be itemized to include the type of product(s) and/or service(s) rendered. Vendor shall submit invoices within a timely manner during SBISD's fiscal year in which the product(s) and/or service(s) are purchased. The shipment tracking number or pertinent information for verification of SBISD's receipt shall be made available upon request by SBISD.

CONTRACT TERMS AND CONDITIONS, continued

- 5.31.2** SBISD will make payments directly to Vendor. SBISD shall alone be liable and/or responsible for payment for product(s) and/or service(s) ordered and must be invoiced directly by Vendor.
- 5.31.3** TEX. GOV'T. CODE §2251.021 shall govern when payments are due to the Vendor. Payments are due to Vendor by SBISD within forty-five (45) days after the later of the following: (1) the date SBISD receives the products and services under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date SBISD receives an invoice for the products or service.
- SBISD shall initiate payment for purchased goods and/or services thirty (30) days after the goods have been received or services rendered.
 - In the event the contract is terminated prior to the end of the stated term, payments will only be made to the extent that work has been performed prior to termination.
- 5.31.4** Vendor agrees to pay any subcontractors the appropriate share of the payment received from SBISD not later than the tenth (10th) day after the date the Vendor receives the payment from SBISD. The exceptions to payments made by SBISD and/or Vendor listed in TEX. GOV'T. CODE § 2251.002 shall apply to this Contract.
- 5.32.0 NO SUBSTITUTION.** Any Purchase Order issued pursuant to this Contract shall conform to the specifications and descriptions identified in this Contract and the CSP. Vendor shall not deliver substitutes without prior written authorization from SBISD.
- 5.33.0 CHANGE ORDERS (IF APPLICABLE).** Pursuant to TEX. EDUC. CODE § 44.0411(a), if a change in plans or specifications is necessary after the performance of a Purchase Order has begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, SBISD may approve change orders making the changes. The total Purchase Order price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants. A Purchase Order with an original contract price of \$1 million or more may not be increased under TEX. EDUC. CODE § 44.0411(a) by more than 25 percent. If a change order for a Purchase Order with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.
- 5.34.0 VENDOR PERFORMANCE.** Vendor agrees to use commercially reasonable best efforts to provide the product(s) and/or service(s) subject to this Contract. Vendor shall furnish all supervision, labor, tools, equipment, permits, licenses, transportation, insurance, material, and supplies necessary to complete any scope of work or Purchase Order under this Contract. Vendor shall use skilled, trained personnel, who shall be supervised by Vendor.
- 5.35.0 VENDOR NON-PERFORMANCE.** If at any time, the Vendor fails to fulfill or abide by the terms and conditions or specifications of the Contract, SBISD reserves the right to:
- purchase on the open market and charge the Vendor the difference between contract price and actual purchase price, or
 - deduct such charges from existing invoice totals currently due, or
 - cancel within thirty (30) days written notification of intent and remove the Vendor from the active proposal file for a period of time not less than one (1) year.
 - re-bid the service/product.
 - award to next lower responsible Proposer, if accepted by same.

CONTRACT TERMS AND CONDITIONS, continued

5.36.0 PRICING CHANGES. All prices and discount percentages in Vendor's proposal shall be firm for the term of this Contract. All price changes for products and/or services provided under this Contract must be approved, in writing, by SBISD prior to taking effect and in the same format as was accepted in Vendor's original proposal.

5.36.1 If the CSP includes the option to extend for additional year(s), price increases for each additional year will be negotiated not to exceed the Consumer Price Index (CPI) in the SBISD area at the time of renewal. Prices may be negotiated to prices below the current pricing.

5.36.2 Pricing may be negotiated during the Contract renewal period and must be completed sixty (60) days before the date of renewal.

5.36.3 Vendor agrees to promptly lower the proportionate price of any product purchased through this Contract following a reduction in the price the Vendor is paying suppliers.

The following documentation shall be provided to support a request for a price change:

- justification for change/increase
- terms and conditions
- market conditions
- manufacturers'/distributors' impact, if any

All price decreases shall be allowed for all products and/or services.

5.37.0 NEW PRODUCTS. New products that meet the specifications detailed in the CSP may be added to this Contract, with prior written approval from SBISD. Pricing of any new products shall be equivalent to the percentage discount or proposed prices for other similar products. Vendor may replace or add products to the Contract if the replacing products are equal to or superior to the original products offered or discounted in a similar degree or to a greater degree and the products meet the requirements of the CSP. No products may be added to avoid competitive procurement procedures. SBISD may reject any proposed additions, without cause, in its sole discretion.

5.38.0 TITLE AND RISK OF LOSS. Whenever SBISD is purchasing (and not leasing) a product service under this Contract, title and risk of loss shall pass upon the latter of SBISD's acceptance of the product or payment of the applicable invoice.

5.39.0 WARRANTY CONDITIONS. All product(s) and/or service(s) provided by the Vendor under this Contract must be warranted to be free from defects in material, workmanship, and free from such defects in design for a period of one (1) year upon the later of SBISD's acceptance of the product and/or service or payment of the applicable invoice.

5.39.1 Vendor warrants that all products and/or services furnished under this Contract shall conform in all respects to the terms of this Contract, including any drawings, specifications, and/or standards incorporated herein, including, without limitation, those detailed in the CSP and Purchase Order.

5.39.2 In addition, Vendor warrants that products and/or services are suitable for and will perform in accordance with the purposes for which they are intended.

5.39.3 Vendor shall assume all liabilities incurred within the scope of consequential damages and incidental expenses, as set forth in the Vendor or manufacturer's warranty, which result from either delivery or use of product, which does not meet the specifications within this Contract, the CSP, or Purchase Order.

5.40.0 NOTIFICATION OF MATERIAL CHANGE. Vendor is required to notify SBISD's Director of Purchasing Services in writing when any material change in operations occurs, including changes in distribution rights for awarded products, bankruptcy, material changes in financial condition, change of ownership, and the like, within three (3) business days of such change.

CONTRACT TERMS AND CONDITIONS, continued

- 5.41.0 CONFIDENTIAL AND PROPRIETARY INFORMATION.** The District and the Vendor may provide technical information, documentation and expertise to each other that is either (1) marked as being confidential or, (2) if delivered in oral form is summarized in writing within 10 working days and identified as being confidential ("Confidential Information"). The receiving party shall for a period of five (5) years from the date of disclosure (i) hold the disclosing party's Confidential Information in strict confidence, and (ii), except as previously authorized in writing by the disclosing party, not publish or disclose the disclosing party's Confidential Information to anyone other than the receiving party's employees on a need-to-know basis, and (iii) use the disclosing party's Confidential Information solely for performance of this project. The foregoing requirement shall not apply to any portion of a party's Confidential Information which (a) becomes publicly known through no wrongful act or omission on the part of the receiving party; (b) is already known to the receiving party at the time of the disclosure without similar nondisclosure obligations; (c) is rightfully received by the receiving party from a third party without similar nondisclosure obligations; (d) is approved for release by written authorization of the disclosing party; (e) is clearly demonstrated by the receiving party to have been independently developed by the receiving party without access to the disclosing party's Confidential Information; or (f) is required to be disclosed by order of a court or governmental body or by applicable law, provided that the party intending to make such required disclosure shall notify the other party of such intended disclosure in order to allow such party to seek a protective order or other remedy.
- 5.42.0 DATA AND PROPRIETARY INFORMATION.** All work, regarding this project, shall be deemed "Work Made For Hire" as defined by the United States Copyright Law, and SBISD retains for itself sole ownership of all proprietary rights in and to all designs, engineering details and other data pertaining to any discoveries, inventions, patent rights, software, improvements and the like made by the Vendor's personnel in the course of performing the work. SBISD acknowledges and agrees that (i) as between Vendor and SBISD, Vendor owns all right, title and interest in and to Vendor's Intellectual Property, (ii) nothing in this Contract shall confer in SBISD or any of its affiliates any right of ownership in any of Vendor's Intellectual Property, and (iii) SBISD shall not now or in the future contest the validity of any of Vendor's Marks.
- 5.43.0 TEXAS PUBLIC INFORMATION ACT (TPIA).** Vendor acknowledges that the District is subject to the Texas Public Information Act (TPIA). As such, upon receipt of a request under the TPIA, the District is required to comply with the requirements of the TPIA. In the event that the request involves documentation that the Vendor has clearly marked as confidential and/or proprietary, the District will provide the Vendor with the notices under the TPIA. Vendor acknowledges that it has the responsibility to file exceptions with the Texas Attorney General's Office on why the documents identified as confidential and/or proprietary fall within an exception to public disclosure. Vendor waives any claim against and releases from liability SBISD, its respective officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by Vendor, SBISD, and determined by SBISD, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.
- 5.44.0 STUDENT CONFIDENTIALITY.** Vendor acknowledges that the District has a legal obligation to maintain the confidentiality and privacy of student records in accordance with applicable law and regulations, including, but not limited to the Family Educational Rights and Privacy Act ("FERPA"). Any student information provided to Vendor shall be provided in compliance with the requirements and exceptions outlined in FERPA. Vendor must comply with said law and regulations and safeguard student information. Vendor may not disclose student information to a third party without prior written consent from the parent or eligible student. Vendor must destroy any student information received from the District when no longer needed for the purposes of the Agreement.

CONTRACT TERMS AND CONDITIONS, continued

5.45.0 RECORDS RETENTION. Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all material(s) and/or service(s) provided by the Vendor to SBISD under this Contract. These records and accounts shall be retained by Vendor and made available for review by SBISD for a period of **not less than five (5) years** from the date of completion of the service(s), receipt of material(s), the date of the receipt by SBISD's final invoice or claim for payment in connection with this Contract, or the date SBISD makes final payments and closes pending matters in connection with a federal grant, whichever is later. If an audit or a compliance review has been announced, the Vendor shall retain its records and accounts until such audit or compliance review has been completed.

For Bond funded projects, Vendor shall retain these records and accounts and make available for review by SBISD indefinitely.

5.46.0 RIGHT TO REVIEW, AUDIT, AND INSPECT. SBISD, any federal agency that has awarded federal funds/grant(s) to SBISD, and/or any of their authorized representatives, shall, upon written notice, have the right to audit and examine all of Vendor's records and accounts relating to this Contract. Inspect any project performed by the Vendor relating to this Contract. Records subject to audit/review shall include, but are not limited to, all purchase orders resulting from this Contract and records which may have a bearing on matters of interest to SBISD in connection with the Vendor's work for SBISD, and shall be open to inspection and subject to audit/review and/or reproduction by SBISD, and/or its authorized representative(s) to the extent necessary to adequately permit evaluation and verification of:

5.46.1 Vendor's compliance with this Contract and the requirements of the CSP.

5.46.2 Compliance with provisions for computing billings to SBISD.

5.46.3 Any other matter related to this Contract.

5.47.0 PENALTIES. If the Vendor is unable to provide the product(s) or services at the prices quoted in Vendor's proposal or if Vendor fails to fulfill or abide by the terms and conditions of the Contract or the CSP, SBISD may take the following action(s), in the sole discretion of SBISD, and Vendor agrees to comply with the chosen action(s):

5.47.1 Insist that the Vendor honor the quoted price(s) specified in Vendor's proposal, as applicable;

5.47.2 Have the Vendor pay the difference between the Vendor's price and the price of the next acceptable proposal, as determined by SBISD;

5.47.3 Have the Vendor pay the difference between Vendor's price and the actual purchase price of the product or service on the open market; and/or

5.47.4 Recommend to SBISD Board of Trustees that the Vendor no longer be given the opportunity to submit a proposal to SBISD and/or that this Contract be terminated.

5.48.0 PERFORMANCE AND PAYMENT BONDS (IF APPLICABLE). Vendor agrees to provide performance bonds and/or payment bonds as required by law, based on the amount or estimated amount of any Purchase Order for a public work contract, which is defined as a contract for constructing, altering, or repairing a public building or carrying out or completing any public work. TEX. GOV'T. CODE § 2253.001(4). Pursuant to TEX. GOV'T. CODE § 2253.021, a performance bond is required if a Purchase Order is in excess of \$100,000.00 for SBISD; a payment bond is required if a Purchase Order is in excess of \$25,000.00 for SBISD. Such bonding shall be executed by a corporate surety duly authorized to do business in this state and be payable to the Spring Branch Independent School District.

CONTRACT TERMS AND CONDITIONS, continued

- 5.49.0 DEBARMENT AND SUSPENSION.** Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Non-Federal entities are prohibited from contracting with or making sub-awards under covered transaction to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement of goods or services. Vendors receiving awards of contracts all sub-recipients must certify that the organizations and its principals are not suspended or debarred. **(See 14.0 Debarment or Suspension Signature Form)**

- 5.50.0 INDEMNIFICATION.** VENDOR SHALL INDEMNIFY AND HOLD HARMLESS SBISD, INCLUDING SBISD'S TRUSTEES, OFFICERS, ADMINISTRATORS, EMPLOYEES, AND AGENTS, FROM ALL CLAIMS, LIABILITIES, COSTS SUITS OF LAW OR IN EQUITY, EXPENSES, ATTORNEYS' FEES, FINES, PENALTIES OR DAMAGES ARISING FROM ACTS OR OMISSIONS OF VENDOR, VENDOR'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS, IN CONNECTION WITH THIS CONTRACT, INCLUDING WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENTS, TRADEMARKS, COPYRIGHT OR OTHER CORRESPONDING RIGHT(S) WHICH IS RELATED TO ANY ITEM VENDOR IS REQUIRED TO DELIVER. VENDOR'S OBLIGATIONS UNDER THIS CLAUSE SHALL SURVIVE ACCEPTANCE AND PAYMENT BY SBISD.

- 5.51.0 MATERIAL SAFETY DATA SHEETS (MSDS) (IF APPLICABLE).** Material Safety Data Sheets (MSDS) on chemicals or any other products customarily requiring MSDS Sheets must be provided for each ordering department. MSDS Sheet must be delivered along with the shipment within the contract period. Additional MSDS Sheets must be provided in a timely manner at no charge upon request to the District. If OSHA or Federal or State laws provide for additional requirements, those requirements shall be met by Vendor, in addition to the MSDS requirement.

- 5.52.0 ELECTRICAL ITEMS (IF APPLICABLE).** All electrical items must meet all applicable OSHA standards and regulations, and must bear the appropriate listing from US, FMRC, NEMA, or UL Laboratories.

- 5.53.0 SAFETY.** Vendor, its subcontractor(s), and their respective employees shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules, and regulations in the performance of services under this Contract, including, without limitation, those promulgated by SBISD, and by the Occupational Safety and Health Administration ("OSHA"). In case of conflict, the most stringent safety requirements shall govern. Vendor shall comply with all other safety guidelines and standards as required by SBISD. Vendor shall indemnify and hold SBISD harmless from and against all claims, demands, suits, actions, judgments, fines, penalties, and liability of every kind arising from the breach of Vendor's obligations under this provision.

- 5.54.0 SBISD'S PROPERTY.** In the event of loss, damage, or destruction of any property owned by or loaned by SBISD that is caused by Vendor or Vendor's representative, agent, employee, or contractor, Vendor shall indemnify and pay to SBISD the full value of or the full cost of repair or replacement of such property, whichever is greater, within thirty (30) days of Vendor's receipt of written notice of SBISD's determination of the amount due. If Vendor fails to make timely payment, SBISD may obtain such money from Vendor by any means permitted by law, including, without limitation, offset or counterclaim against any money otherwise due to Vendor by SBISD.

CONTRACT TERMS AND CONDITIONS, continued

5.55.0 INSURANCE. Vendor is required to provide SBISD with copies of certificates of insurance, naming SBISD as additional insured's for Texas Workers Compensation and General Liability Insurance, within 14 business days of contract award and prior to the commencement of any work under this Contract. Certificates of insurance, name and address of Vendor, the limits of liability, the effective dates of each policy, and policy number shall be delivered to SBISD prior to commencement of any work under this Contract. The insurance company insuring Vendor shall be licensed in the State of Texas, and shall be acceptable to SBISD. Vendor shall give SBISD a minimum of thirty (30) days' notice prior to any modifications or cancellation of said policies of insurance. Vendor shall require all subcontractors performing any work under or relating to this Contract to maintain coverage as specified below. Vendor shall, at all times during the term of this Contract, maintain insurance coverage with not less than the type and requirements shown below.

All policies of insurance shall waive all rights of subrogation against SBISD and its officers, employees and agents. Upon approval notice, certified copies of original insurance policies shall be furnished to SBISD. SBISD, as requested, shall be named as an "additional insured" on insurance policies. SBISD reserves the right to require additional insurance should SBISD deem additional insurance necessary, in its sole discretion.

Spring Branch Independent School District Insurance Requirements for Contractors

Policy Type	Individual Consultants*	Professional Service Providers	Educational Entertainment**	Vendors, Construction, Repair, Maintenance, Service	Charter Bus Service
	Speakers, Presenters, Prof. Staff Development Providers, Motivational Speakers, Judges, Choreographers, Private Music Lesson Providers, etc. (Waiver required)	Professionals including Licensed Individuals and Companies	Rentals, Dancers, Animal Exhibitions, Inflatable Bouncers, Carnival Rides, Etc. (Including PTA's, PTO's, Corporate Sponsors or other event holders on premises)	Construction, Installation, Renovation, Building Modifications, Service, Maintenance or Repair Projects	
General Liability					
Each Occurrence	500,000	1,000,000	1,000,000	1,000,000	1,000,000
Damage to Rented Premises	Not Required	Not Required	100,000	100,000	100,000
Medical Expenses	Not Required	5,000	5,000	5,000	5,000
Personal & Advertising Injury	Not Required	1,000,000	1,000,000	1,000,000	1,000,000
General Aggregate	Not Required	1,000,000	1,000,000	2,000,000	1,000,000
Products - Completed Operations	Not Required	1,000,000	1,000,000	2,000,000	Not Required
Blanket Contractual	Not Required	Not Required	Not Required	Yes	Not Required
Independent Contractors	Not Required	Not Required	Not Required	Yes	Not Required
Broad Form Property Damage	Not Required	Not Required	Not Required	Yes	Not Required
Per Project Aggregate Limit	Not Required	Not Required	Not Required	Yes	Not Required
Pollution Liability (If applicable)	Not Required	Not Required	Yes	Yes	Not Required
Explosion, Collapse, Underground (If applicable)	Not Required	Not Required	Yes	Yes	Not Required
Sexual Abuse & Molestation	Not Required	100,000/300,000	100,000/300,000	1,000,000	1,000,000
Endorsements Required in favor of SBISD:					
Additional Insured	Not Required	Yes	Yes	Yes	Yes
Waiver of Subrogation	Not Required	Yes	Yes	Yes	Yes
Notice of Cancellation or Non Renewal	Not Required	30 Days	30 Days	30 Days	30 Days
Auto Liability (required if on SBISD property)					
Combined Single Limit	500,000	500,000	500,000	\$1,000,000 per occurrence	\$1,000,000 per occurrence
Uninsured/Underinsured Motorist Limit	Not Required	included	included		\$85,000 per occurrence
Medical Payments or Personal Injury Protection	Not Required	included	included		5,000
Sexual Abuse & Molestation	Not Required	included	included		1,000,000
Endorsements Required in favor of SBISD:					
Additional Insured	Not Required	Yes	Yes	Yes	Yes
Waiver of Subrogation	Not Required	Yes	Yes	Yes	Yes
Notice of Cancellation or Non Renewal	Not Required	30 Days	30 Days	30 Days	30 Days
Umbrella Liability (Excess)					
Excess of General, Automobile and Employers Liability	Not Required	100% of Proposal or Project; For Projects Over \$1 million	100% of Proposal or Project; For Projects Over \$1 million	100% of Proposal or Project; Minimum Limit \$1,000,000, Maximum Limit \$25,000,000	5,000,000
Endorsements Required in favor of SBISD:					
Additional Insured	Not Required	Yes	Yes	Yes	Yes
Waiver of Subrogation	Not Required	Yes	Yes	Yes	Yes
Notice of Cancellation or Non Renewal	Not Required	30 Days	30 Days	30 Days	30 Days
Statutory Workers' Compensation	If required by law	Required	Required	Required	Required
Employers Liability	Varies	Varies	1,000,000	1,000,000	1,000,000
Do you accept accident policies & District waivers (not DWC) in lieu of workers comp?	Yes, unless Workers Comp is required by law	No, <u>Worker's Compensation required</u>	No, <u>Worker's Compensation required</u>	No, <u>Worker's Compensation required</u>	No, <u>Worker's Compensation required</u>
Endorsements Required in favor of SBISD:					
Waiver of Subrogation	Not Required	Yes	Yes	Yes	Yes
Notice of Cancellation or Non Renewal	Not Required	30 Days	30 Days	30 Days	30 Days
All Risk Builders Risk/Installation Floater if contract is with other than Vendor	Only if applicable	Only if applicable	Only if applicable	Greater of Value of Project or Property at Risk	Only if applicable
Deductible	Only if applicable	Only if applicable	Only if applicable	Subject to approval	Only if applicable
Flood	Only if applicable	Only if applicable	Only if applicable	Required	Only if applicable
Terrorism	Only if applicable	Only if applicable	Only if applicable	Required	Only if applicable
Permission to Occupy Granted	Only if applicable	Only if applicable	Only if applicable	Required	Only if applicable
Endorsements Required in favor of SBISD:					
Additional Insured	Not Required	Yes	Yes	Yes	Yes
Waiver of Subrogation	Not Required	Yes	Yes	Yes	Yes
Notice of Cancellation or Non Renewal	Not Required	30 Days	30 Days	30 Days	30 Days
Professional Errors & Omissions Liability for certified professionals	Not Applicable	1,000,000	Not Applicable	100% of Proposal or Project; Minimum Limit \$1,000,000, Maximum Limit \$10,000,000	Not Applicable
Retroactive Date preceding Date of Contract	Not Applicable	Required	Not Applicable	Required	Not Applicable
Extended Reporting Period	Not Applicable	Required	Not Applicable	Required	Not Applicable
Insurance Company A.M. Best Rating	A- X	A- X	A- X	A- X	A- X
Bonds					
Proposal (Bid) Bond or Proposal Security	Not Applicable	Not Applicable	Not Applicable	10% of proposal sum	Not Applicable
Payment Bond	Not Applicable	Not Applicable	Not Applicable	100% of contract sum	Not Applicable
Performance Bond	Not Applicable	Not Applicable	Not Applicable	100% of contract sum	Not Applicable

* Non-business third-parties may contact the Purchasing Department for assistance with meeting the insurance requirements for individual consultants.

** Includes PTA's, PTO's, Corporate Sponsors, or other Event Holders using District property. Event coverage in the limits specified must be obtained. SBISD, its officers, employees, and elected representatives must be named as additional insured on the policies.

CONTRACT TERMS AND CONDITIONS, continued

5.56.0 PARTICIPATION. Vendor acknowledges and agrees that continued participation is subject to SBISD's sole discretion and that Vendor may be removed at any time, with or without cause, in SBISD's sole discretion. All work resulting from this Contract must cease immediately after completion of the final accepted Purchase Order. Nothing in this Contract or in any other communication between SBISD and Vendor may be construed as a guarantee that SBISD will submit any Purchase Order to Vendor at any time.

5.57.0 EQUAL OPPORTUNITY. It is the policy of SBISD not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.

5.58.0 SEXUAL AND VERBAL HARASSMENT. The policies of SBISD, along with sections of Federal and State Laws, prohibit sexual and verbal harassment of any employees, students, faculty or guests. Sexual harassment includes any unwelcome sexual advance, any request for sexual favor or any other verbal or physical conduct of sexual nature that is so pervasive as to create a hostile or offensive work environment or offensive academic environment. Verbal harassment includes, but is not limited to, the use of profanity, loud or boisterous remarks, inappropriate speech, inappropriate suggestive conduct or body movements or comments that could be interpreted by the hearer as being derogatory in nature. This type of behavior and conduct is not tolerated or condoned. Vendors and contractors are required to exercise control over their employees, agents, and subcontractors so as to prohibit acts of sexual and verbal harassment and agree as a term and condition that such vendor, contractor, agents, employees or subcontractors may be immediately removed from the project site and from SBISD premises.

5.59.0 FORCE MAJEURE. Neither SBISD nor Vendor shall be deemed to have breached any provision of this Contract as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or internet equipment or service, other catastrophes, or any other occurrences which are reasonably beyond SBISD or Vendor's control.

SBISD and Vendor are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision.

The party seeking relief due to force majeure is required to promptly notify the other parties in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Contract has not been terminated. Delay or failure of performance, by either party to this Contract, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. SBISD and Vendor shall not have any claim for damages against any other party resulting from delays caused solely by force majeure. Notwithstanding any other provision of this Contract, in the event the Vendor's performance of its obligations under this Contract is delayed or stopped by a force majeure event, SBISD shall have the option to terminate this Contract. This section shall not be interpreted as to limit or otherwise modify any of SBISD's contractual, legal, or equitable rights.

CONTRACT TERMS AND CONDITIONS, continued

- 5.60.0 SEVERABILITY.** In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.
- 5.61.0 WAIVER.** No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.
- 5.62.0 ENTIRE AGREEMENT.** This Contract, the CSP, Vendor's proposal submitted in response to the CSP, the attached and incorporated attachments, addendum, and/or exhibits, if any, contain the entire agreement of the parties relative to the purpose(s) of the Contract and supersede any other representations, agreements, arrangements, negotiations, or understandings, oral or written, between the parties to this Contract. In the event of a conflict between this Contract and the CSP or Vendor's proposal submitted in response to the CSP, this Contract shall control. In the event of a conflict between the CSP and Vendor's proposal submitted in response to the CSP, the CSP shall control. This Contract supersedes any conflicting terms and conditions on any Purchase Order, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by Vendor after the Effective Date of this Contract.
- 5.63.0 ASSIGNMENT OF CONTRACT.** Vendor may not assign this Contract or any of its rights, duties or obligations hereunder without the prior written approval of SBISD. Any attempted assignment of this Contract by Vendor shall be null and void. Any Purchase Order made as a result of this Contract may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Vendor without the prior written approval of SBISD.
- 5.64.0 NOVATION.** If contractor sells or transfers all assets or the entire portion of the assets used to perform this contract, a successor in interest must guarantee to perform all obligations under this contract. SBISD reserves the right to accept or reject any new party. A simple change of name agreement will not change the contractual obligations of contractor.
- 5.65.0 NOTICE.** Any notice provided under the terms of this Contract by the parties to any other shall be in writing and shall be given by hand-delivery, certified registered mail, return receipt requested, email, or fax. Notice shall be sufficient if made or addressed to the party at the address listed in the signature line of this Contract. Notice shall be deemed effective upon receipt.
- Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified mail, return receipt requested, fax, or email.
- 5.66.0 CAPTIONS.** The captions herein are for convenience and identification purposes only. They are not an integral part and are not to be considered in the interpretation of any part hereof.
- 5.67.0 INTERPRETATION.** Vendor agrees that the normal rules of construction that requires that any ambiguities in this Contract are to be construed against the drafter shall not be employed in the interpretation of this Contract.

6.0 EVALUATION AND AWARD OF PROPOSAL(S)

6.1.0 AWARD OF CONTRACT

In accordance with applicable laws, rules, and regulations for public procurement, award(s) will be made to the responsible Vendor(s) whose proposal(s) is/are determined after evaluation by SBISD to be the best value to SBISD. To qualify for evaluation, a proposal must have been submitted sealed and on time and must materially satisfy all mandatory requirements identified in this document.

6.2.0 COMPETITIVE RANGE

It may be necessary for SBISD to establish a competitive range of acceptable proposals as part of the evaluation process. Proposals not in the competitive range are unacceptable and will not receive further award consideration.

6.3.0 DEVIATIONS AND EXCEPTIONS TO REQUIREMENTS

Deviations or exceptions stipulated in a Vendor's response may result in disqualification. Any language to the effect that the Vendor does not consider this CSP to be part of a contractual obligation may result in the Vendor's proposal being disqualified.

6.4.0 EVALUATION OF PROPOSALS

The evaluation of the proposal will be performed by a committee consisting of designees of the District. It is critical to the ultimate award of this contract that this proposal be complete and accurate. While cost is an important factor, it should be understood that the district is under no obligation to accept the lowest proposal. In evaluating qualified proposals the following considerations will be taken into account for award recommendations (if applicable):

- (1) The price of eligible goods and services;
- (2) The price of ineligible goods and services;
- (3) The reputation of the vendor and of the vendor's goods or services;
- (4) The quality of the vendor's goods or services;
- (5) The extent to which the goods or services meet the district's needs;
- (6) The vendor's past relationship with the district;
- (7) The impact on the ability of the districts to comply with laws and rules relating to historically underutilized businesses;
- (8) The total long-term cost to the district to acquire the vendor's goods or services;
- (9) For a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner;
 - (A) Has its principal place of business in the State of Texas; or
 - (B) Employs at least 500 persons in the State of Texas; and
- (10) Any other relevant factor specifically listed in the request for bids or proposals

6.4.1 Vendor Business Capabilities:

- Responsiveness of the proposal related to the scope of the work.
- The ability, capacity, and skill of the proposer to perform the services on a timely basis.
- Reputation of the proposer as evidenced by SBISD and outside referrals.
- Experience and qualifications of the business and individual members of the business in accomplishing similar services
- The sufficiency of financial resources and ability of business to perform the contract.
- Past performance in the area of customer support will play an important part in the evaluation of proposals.

EVALUATION AND AWARD OF PROPOSAL(S), continued

A committee of SBISD employees will review and evaluate this CSP and make a contract award recommendation to the SBISD Board of Trustees. SBISD will base its recommendation on the following:

Evaluation Factors**Weighted Value**

(1)	Value/Price	30 points	
	• Price of eligible goods and services	20 pts.	
	• Price of ineligible goods and services	5 pts.	
	• Pricing as determined by the proposal submitted (Pricing may also be based upon usage and coverage).	5 pts.	
(2)	Proposer's Experience and Reputation	20 points	
	• References for local governmental entities	5 pts.	
	• Proposer's experience providing/performing the requested services for other complex institutions or educational institutions.	5 pts.	
	• Other projects completed within the past 5 years	5 pts.	
	• Qualification of Proposer's team, including education and experience.	5 pts.	
(3)	Quality of Proposer's products/services	15 points	
	• Project Management	5 pts.	
	• Quality of Proposer's Products/Service	5 pts.	
	• The soundness of the Proposer's approach.	5 pts.	
(4)	The extent to which the products/services meet SBISD needs	10 points	
	• Whether the goods and services meet SBISD's needs.	5 pts.	
	• The Proposer's demonstrated ability to minimize SBISD's costs.	5 pts.	
(5)	Proposer completed and submitted all required documents.	10 pts	
(6)	Proposer's past relationship with the District.	5 pts	
(7)	Whether Proposer's financial capability is appropriate to the size and scope of the project and the total long-term cost to SBISD to acquire the products/services	5 pts	
(8)	Value-Add Products/Services*	5 pts	
TOTAL POINTS:		100 pts	

* "Value-Add" is other products and services that will enhance and add value to the contract for SBISD. SBISD reserves the right to accept or reject additional proposed services or products in the best interests of the district.

7.0 SPECIFICATIONS

7.0.0 SPECIFICATIONS

7.1.0 CURRENT SERVICES. For Internet access, SBISD currently has two active 10 Gbps Internet Ports rate limited for a total of 5 Gbps Internet Services. The circuits are under separate contracts with different contract renewal periods. They are terminated in the SBISD Main Hub Site at the colocation facility located at 1510 Primewest Parkway, Katy, TX 77449. SBISD procures fiber cross connects from the SBISD equipment to the ISP Ports.

7.2.0 SERVICES DESIRED UNDER THIS PROPOSAL. Spring Branch ISD students and staff require 24x7x365 100% uptime Internet access to fulfill their educational and business needs. Therefore, it is the intention of SBISD to procure dedicated Internet service delivered at the Data Center, 1510 PrimeWest Parkway, Katy, TX 77449, location. The service must provide a burstable 10 Gbps Internet Port service which can be rate limited from 2 to 10 Gbps. Burst billing formulas with examples must be provided in proposal. SBISD will provide fiber cross connects to the service and requires LR or ER optics.

The current circuit will be replaced by the successful Proposer of this CSP. Internet Service Provider must have dual entries into the facility with delivery to the "East Meet Me Room" where existing cross connect is located.

SBISD requires circuit to be operational ten days prior to contract date for testing purposes only. This will help ensure a seamless transition to the new circuit when moved into production on July 1, 2019. Service will be cutover during the SBISD maintenance window (Friday, 5:30 PM to 5:00 AM Saturday) or at an alternate time specified by Spring Branch ISD Technology.

The ISP must provide DNS service to the internet. The service request is for a 10 Gbps Internet Port service starting with 2 Gbps scaling upwards to 10 Gbps. The provider should be a Tier 1 provider or a high capacity/quality Tier 2 provider. The transport service to the backbone Internet connection should be a dedicated connection for the contracted Internet bandwidth.

To ensure E-rate compliance, the district requests a scalable contract. The contract itself should include pricing for each additional service level from 2-10 Gbps and must allow SBISD the ability to upgrade to any of those service levels at any time (possibly multiple times) during the term of the contract, without entering into a new contract. The contract may reference an attachment with those pricing levels as long as the attachment is submitted at the same time as the contract (e.g. – "Service provider will allow upgrades during the term of this contract to any service level/price identified in Attachment A").

The ISP must provide appropriate technicians on site and have appropriate technicians available at the "home office" to support the installation.

The proposal should include but not limited to the following:

- 1) cost effectiveness
- 2) unlimited data transfers
- 3) high quality service
- 4) dedicated, non-oversubscribed transport
- 5) dedicated Internet Port Service
- 6) bandwidth monitoring to ensure good throughput to the internet
- 7) easy to maintain connectivity solution
- 8) high reliability
- 9) IPv4 and IPv6 routing

Spring Branch ISD will provide:

The District Autonomous Systems Number.

SBISD will utilize the districts IPv4 IP blocks with the service but may begin migrating to IPv6 addressing during this contract period.

SBISD will provide the BGP router to support the connection.

SBISD requires a proposal from a single vendor capable of supplying maintenance and support. The proposal should include no out-of-pocket expenses for Spring Branch Independent School District.

Respondents will attach their proposed contract and terms for delivering and monitoring connectivity to the body of their response to this CSP.

7.3.0 SERVICE LEVEL GUARANTEES

Successful proposals will include the vendor's written service level guarantee for the services and products proposed. Final service level guarantee will be subject to negotiation. The vendor's proposal should reflect the best balance of cost and exposure to the district in the event of failure or outages.

7.4.0 REFERENCES

Please supply five current references of districts preferably in the Houston area that you are providing a similar service. If your company does not have five references in the Houston area please supply references in Texas.

7.5.0 CONTRACT TERM

SBISD intends to award Internet Service for a period of one (1) or up to three (3) years, whichever is most advantageous to the District. SBISD Prefers to receive all services through one vendor. Therefore, SBISD is interested in receiving proposals for one (1) year with the option to renew annually for up to an additional two (2) years, providing any subsequent renewal is agreed to in writing by both parties as follows:

- July 01, 2019 through June 30, 2020
- July 01, 2020 through June 30, 2021 (optional renewal)
- July 01, 2021 through June 30, 2022 (optional renewal)

The term of the contract will commence July 1, 2019 with the option to renew annually. Each renewal shall be subject to the same terms, conditions, requirements and specifications as listed herein unless noted and agreed to by both parties in writing. All contracts are subject to availability of funding and may be canceled by the district for non-appropriation of funding.

7.6 E-Rate Eligibility

SBISD participates in the E-Rate program. Therefore:

- Proposer must agree to participate in the Universal Service Fund (USF) Program (AKA “E-Rate”) for the corresponding funding year(s).
- Proposer must include the correct Service Provider Identification Number (SPIN) on your bid.
- By submitting a bid, Proposer certifies that the Proposer does have a valid (non-red light status) SPIN for the E-Rate program at the time of submission. Should the Applicant discover that the Proposer is on red light status, or if the FCC classifies the Proposer as on red light status before work is performed and invoices are paid, the contract will be null and void and the Applicant will have no payment obligations to the Proposer.
- Proposer is expected to provide the lowest corresponding price per E-Rate rules. See <http://www.usac.org/sl/service-providers/step02/lowest-corresponding-price.aspx> for details.
- Contracts will be contingent upon E-Rate funding and written notice to proceed unless stated otherwise.
- **Proposer must provide equipment lists for each location with model and serial numbers in a format appropriate for 471 submission. All E-Rate equipment will be tagged and labeled for easy identification in a manner approved by SBISD.**
- Proposer must agree to provide the Applicant the choice of discount methods (SPI or BEAR).
- Proposer will be automatically disqualified if the District determines that the proposing company has offered any employee of the District any individual gift of more than \$20.00 or gifts totaling more than \$50.00 within a 12 month period.
- Depending on E-Rate funding, the district may choose to proceed with all or part of the projects, at the district’s discretion.
- All contracts awarded under this CSP bidding process may be voluntarily renewed by the applicant, upon written notice to the provider, for up to three (3) consecutive one year terms.

SBISD must have the option to upgrade the Internet connection at any time during the contract term. To ensure E-Rate compliance, any changes, additions, modifications, upgrades, etc. made during the effective dates of the initially signed contract **MUST** be taken care of with an **Amendment** to the contract, signed by both parties, and not in any way replace, supersede or negate the original contract rather than requiring a new contract to be signed.

8.0 PROPOSAL FORM/SUBMISSIONS

8.1.0 PRICING

Proposers **must** complete the **Pricing** table below as part of their proposal:

Please include any applicable right of way fees, taxes and other expenses that will be required.

Description	One-time price	Monthly Recurring Price	Other (describe)
2.0 Gbps Internet Service			
3.0 Gbps Internet Service			
4.0 Gbps Internet Service			
5.0 Gbps Internet Service			
6.0 Gbps Internet Service			
7.0 Gbps Internet Service			
8.0 Gbps Internet Service			
9.0 Gbps Internet Service			
10.0 Gbps Internet Service			
Fees and Applicable Taxes			
Other			

8.2.0 DISCOUNTS PROVIDED ON PRICE LISTS AND CATALOGS — Detail the average discount provided by the Proposer on stated prices.

8.3.0 FREIGHT, DELIVERY, INSPECTION & ACCEPTANCE

All deliveries shall be **Freight Prepaid, F.O.B. Destination, Full Freight Allowed, and Inside Delivery** and shall be included in all pricing in Proposer's proposal unless otherwise clearly stated in writing in Proposer's proposal. Deliveries shall be made during SBISD's Regular Hours.

If defective or incorrect products are delivered, SBISD may make the determination, at its sole discretion, to return the products to Proposer at no cost to SBISD. Proposer agrees to pay all shipping and handling costs for any such return shipment. Proposer also shall be responsible for arranging the return of the defective or incorrect products.

8.3.1 Describe Proposer's service procedure and state the proposed time frame from customer request to product or service delivery and completed.

8.3.2 Describe how Proposer deals with shipping delays. How does Proposer notify its customers of delays?

8.3.3 Detail Proposer's average percentage of on-time delivery.

8.4.0 WARRANTY/GUARANTEE

All products purchased under this CSP shall be NEW and free from defects.

8.4.1 PRODUCT INFORMATION

8.4.2 WARRANTY INFORMATION

Provide information and answers to the following:

- Does Proposer offer extended parts and labor warranties? If yes, state length of warranty.
- Does Proposer provide extended warranties and/or maintenance Contracts at an additional cost to SBISD? If so, the extended warrantee maintenance contract must be submitted as a separate line item.

- c) Give examples of governmental entities where Proposer has extended labor warranties. Include length of these warranties.
- d) Is warranty coverage dependent on any specific requirements?
- e) Who performs Proposer's start-up procedure?
- f) Detail and provide documentation verifying the warranty protection covering installation, details, materials, workmanship, inspection and preventive maintenance programs, if any.
- g) Detail how Proposer tracks warranties and updates warranty periods as units or components are replaced.
- h) What is Proposer's standard warranty on materials?
- i) What is Proposer's standard warranty on installation?
- j) Does Proposer differentiate its standard warranty if financing is part of the contract? If so, describe.

8.5.0 TECHNICAL RESOURCES (IF APPLICABLE)

- a) Describe what technical resources Proposer will provide to support SBISD's projects.
- b) Describe the measurement options Proposer intends on providing SBISD.

8.6.0 TRAINING (IF APPLICABLE)

- a) Describe how Proposer will interact with SBISD. Include a process map.
- b) Describe Proposer's training program with SBISD staff and a proposed schedule of topics and include any proposed training literature or materials.
- c) Indicate who will be providing training, including their title, telephone number, fax number and e-mail address. Include résumé.
- d) Indicate who will be providing technical assistance, including their title, telephone number, fax number, and e-mail address. Include résumé.
- e) Describe the scope of training opportunities Proposer will make available to SBISD, as needed.

8.7.0 PRODUCTS & SERVICES SUMMARY MATRIX

Provide a matrix that will allow SBISD to readily appraise Proposer's products and service offering versus other proposers, if available.

8.8.0 VALUE ADD SERVICES DESCRIPTION

Include any additional information you think SBISD should have when making its decision to select/award Proposers. What valued added options does Proposer offer that are not defined or addressed in this format? If they are best described in the line item format, please add to designated area at the end of the line item list.

8.9.0 PROPOSAL QUESTIONNAIRE. Questions in this package shall be completed and returned with the proposal. Proposers shall answer each question. Use additional pages if necessary, maintaining proper identification of items. If any question is not applicable (N/A) to your proposal, Proposer shall indicate in space for answering the question "N/A" rather leaving the question blank.

8.10.0 INFORMATION ON YOUR ORGANIZATION. Submit general information about your organization. Comment in detail any potential changes anticipated in the organization structure or ownership. The District requires that if there are changes made in your organization which may affect the proposal submitted or the contract to be entered into with the District, it shall be incumbent upon the new organization to comply and meet with the terms of the proposal submitted and/or negotiated.

PROPOSAL FORM/SUBMISSIONS, continued

8.11.0 CONFLICT OF INTEREST FORM COMPLETED AND SIGNED. For the District to award a contract, the District must have on file the completed Conflict of Interest Questionnaire. The Conflict of Interest Questionnaire must be complete with Company Name, Signature and Date even if company has no conflict of interest. **(See 13.0 Conflict of Interest Questionnaire)**

8.12.0 IRS FORM W-9** To receive payment under this Contract, the awarded Vendor(s) shall have a current I.R.S Tax Identification Number and W-9 Form on file with SBISD's Purchasing Department.

8.13.0 SPRING BRANCH ISD CERTIFICATE OF INTERESTED PARTIES – FORM 1295. SBISD is required to comply with House Bill 1295, which amended the Texas Government Code by adding Section 2252.908, Disclosure of Interested Parties. Section 2252.908 prohibits SBISD from entering into a contract resulting from this CSP with a business entity unless the business entity submits a Disclosure of Interested Parties (Form 1295) to the District at the time business entity submits the signed contract.

"Interested Party" means a person:

- a) Who has a controlling interest in a business entity with whom SBISD contracts; or
- b) Who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

"Business Entity" means an entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation.

As a "business entity," all vendors must electronically complete, print, sign, and submit Form 1295 with their proposals even if no interested parties exist.

Proposers must file Form 1295 electronically with the Texas Ethics Commission using the online filing application, which can be found at:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

Proposers must use the filing application on the Texas Ethics Commission's website to enter the required information on Form 1295. Proposers must print a copy of the completed form, which will include a certification of filing containing a unique certification number. The Form 1295 must be signed by an authorized agent of the business entity.

The completed Form 1295 with the certification of filing must be filed with SBISD by attaching the completed form to the vendor's solicitation response.

SBISD must acknowledge the receipt of the filed Form 1295 by notifying the Texas Ethics Commission of the receipt of the filed Form 1295 no later than the 30th day after SBISD receives the Form 1295. After SBISD acknowledges the Form 1295, the Texas Ethics Commission will post the completed Form 1295 to its website within seven business days.

Changes to the law requiring certain businesses to file a Form 1295 are in effect for contracts entered into or amended on or after January 1, 2018. The changes exempt businesses from filing a Form 1295 for certain types of contracts and replace the need for a completed Form 1295 to be notarized. Instead, the person filing a 1295 needs to complete an "unsworn declaration" which includes, among other things, the date of birth and address of the authorized representative signing the form.

A completed Form 1295 is not required for: a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity; a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code; or a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.

CERTIFICATE OF INTERESTED PARTIES		FORM 1295																															
<p style="background-color: yellow; margin: 5px 0;">Complete Nos. 1 - 4 and 6 if there are interested parties.</p> <p style="background-color: yellow; margin: 5px 0;">Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.</p>		OFFICE USE ONLY																															
<p>1 Name of business entity filing form, and the city, state and country of the business entity's place of business.</p> <p style="color: red; font-weight: bold; font-size: 1.2em;">VENDOR'S NAME</p>																																	
<p>2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.</p> <p style="color: red; font-weight: bold; font-size: 1.2em;">SPRING BRANCH INDEPENDENT SCHOOL DISTRICT</p>																																	
<p>3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.</p> <p style="color: red; font-weight: bold; font-size: 1.2em;">SPRING BRANCH CONTRACT NUMBER AND TITLE</p>																																	
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2" style="width: 35%; text-align: center; padding: 5px;">4 Name of Interested Party</th> <th rowspan="2" style="width: 30%; text-align: center; padding: 5px;">City, State, Country (place of business)</th> <th colspan="2" style="text-align: center; padding: 5px;">Nature of Interest (check applicable)</th> </tr> <tr> <th style="width: 20%; text-align: center; padding: 5px;">Controlling</th> <th style="width: 15%; text-align: center; padding: 5px;">Intermediary</th> </tr> </thead> <tbody> <tr> <td colspan="4" style="text-align: center; color: red; font-weight: bold; font-size: 1.2em;">THIS IS A SAMPLE</td> </tr> <tr> <td colspan="4" style="text-align: center; color: red; font-weight: bold; font-size: 1.2em;">Vendor's must complete this form electronically</td> </tr> <tr> <td colspan="4" style="text-align: center; color: red; font-weight: bold; font-size: 1.2em;">on the Texas Ethics Commission's website located at:</td> </tr> <tr> <td colspan="4" style="text-align: center; color: red; font-weight: bold; font-size: 1.2em;">https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm</td> </tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>				4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)		Controlling	Intermediary	THIS IS A SAMPLE				Vendor's must complete this form electronically				on the Texas Ethics Commission's website located at:				https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm											
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<p>5 Check only if there is NO Interested Party. <input type="checkbox"/></p>																																	
<p>6 UNSWORN DECLARATION</p> <p>My name is _____, and my date of birth is _____.</p> <p>My address is _____, _____, _____, _____, _____.</p> <p style="text-align: center;">(street) (city) (state) (zip code) (country)</p> <p>I declare under penalty of perjury that the foregoing is true and correct.</p> <p>Executed in _____ County, State of _____, on the _____ day of _____, 20____.</p> <p style="text-align: center;">(month) (year)</p> <p style="text-align: center; margin-top: 20px;">_____ Signature of authorized agent of contracting business entity (Declarant)</p>																																	
ADD ADDITIONAL PAGES AS NECESSARY																																	

9.0 PROPOSER'S INFORMATION

Legal name of proposer: _____

Data universal numbering system (duns) number: _____

Type of business/description of products and/or services provided: _____

Proposer's mailing address: _____

City: _____ State: _____ Zip code: _____

Proposer's street address: _____

City: _____ State: _____ Zip code: _____

Telephone: _____ Fax: _____

Contact person's name: _____

Contact person's telephone number: _____ Fax: _____

Contact person's e-mail address: _____

1. Type of business entity: ☐ publicly traded corporation ☐ private corporation
☐ limited partnership ☐ partnership ☐ sole proprietorship ☐ not for profit entity

2. Number of full time employees: _____ Number of part time employees: _____

3. City and state of Proposer's principal place of business: _____

If not Texas, does the state have preferential treatment on bids? ☐ Yes ☐ No

if yes, what percentage: _____%

4. Number of years Proposer has been in continuous operation: _____

5. Number of years Proposer has been in business under its present business name: _____

6. Has Proposer conducted business with the district under another name? ☐ Yes ☐ No

If yes, provide other name(s) : _____

PROPOSER'S INFORMATION, continued

7. Number of years doing business with SBISD: _____

8. Does Proposer have a parent company or subsidiary that currently conducts or that has previously conducted business with the District? ☐ Yes ☐ No

If yes, name of parent company and/or subsidiary: _____

9. Does Proposer have any owners, principal shareholders or stockholders, officers, agents, salespeople or key employees who have been members of the SBISD Board of Trustees during the last 5 years?

☐ Yes ☐ No

If yes, name(s) and title(s): _____

10. Does any officer, partner, owner, sales representative and/or spouse work for SBISD?

☐ Yes ☐ No

11. Does Proposer have any owners, principal shareholders or stockholders, officers, agents, salespeople or key employees who are district employees or who are members of a district employee's immediate family who either work or who may potentially work on this contract with the district?

☐ Yes ☐ No

If yes, name(s) and title(s): _____

12. Names of authorized agents, including any person or entity authorized to 'act with' or 'act on your behalf,' such as consultants, sub-contractors, re-sellers, lobbyists, confidants, etc., whether compensated or not compensated:

13. Does Proposer have relationship(s) with any political action committees? ☐ Yes ☐ No

If yes, name(s) of PAC(s): _____

14. Has Proposer (including any owner, principal shareholder or stockholder, officer, agent, salesperson, or employee) been involved in past, pending, or present litigation involving the District?

☐ Yes ☐ No

If yes, please provide the style and status of the case as well as the type of litigation:

PROPOSER'S INFORMATION, continued**15. Financial and business references, including bank with which Proposer conducts business:**

Name of bank with which Proposer conducts business: _____

Bank officer: _____ Officer's phone number: _____

Name of other banking/financial institution(s): _____

16. Name of insurance companies:

Insurance Companies	Insurance Companies

17. Check one of the following: ☐ Proposer will provide goods and services with own work force☐ Proposer will purchase goods directly from the manufacturer or other proposer**18. SBISD can only do business with equal opportunity employers.**Do you advertise as an equal opportunity employer? ☐ Yes ☐ NoDo you have a written non-discriminatory policy of employment? ☐ Yes ☐ NoHas this policy been circulated throughout your organization? ☐ Yes ☐ No

Person to contact regarding equal opportunity information issues:

Name: _____ Title: _____

I attest that I have answered the questions regarding proposer information truthfully and to the best of my knowledge.

Name of Proposer's Authorized Official: _____

(Type or printed)

Title of Proposer's Authorized Official: _____

(Type or printed)

Signature of Proposer's Authorized Official: _____

Date Signed: _____

10.0 REFERENCES

(School Districts preferred, SBISD will consider two (2) Large Organizational references)

1. School System _____
Contact Name _____
Address _____
Telephone number _____
Fax number _____

2. School System _____
Contact Name _____
Address _____
Telephone number _____
Fax number _____

3. School System _____
Contact Name _____
Address _____
Telephone number _____
Fax number _____

4. School System _____
Contact Name _____
Address _____
Telephone number _____
Fax number _____

5. School System _____
Contact Name _____
Address _____
Telephone number _____
Fax number _____

11.0 FELONY CONVICTION NOTICE

State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, *Subsection (a), states, "a person or business entity that enter into a contract with a school district must give advance notice to the District if the person or 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".

THIS NOTICE IS NOT REQUIRED OF A PUBLICLY-HELD CORPORATION.

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge.

Proposer's Name: _____
(Legal/Official Company Name)

Proposer's Authorized Official's Name _____
(Please print clearly or type)

A. My firm is a publicly-held corporation; therefore, this reporting requirement is not applicable:

Signature of Proposer's Official: _____ **Date:** _____

B. My firm is not owned or operated by anyone who has been convicted of a felony.

Signature of Proposer's Official: _____ **Date:** _____

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): _____

Detail of Conviction(s): _____

Signature of Proposer's Official: _____ **Date:** _____

NOTE:

Name and signature of company official should be the same as on the affidavit (Proposal Response Form.

Vendor is responsible for the performance of the persons, employees and/or sub-contractors assigned to provide services for SBISD pursuant to this Bid/Proposal on any and all SBISD campuses or facilities. Vendor will not assign individuals to provide services at SBISD campus or facility who have a history of violent, unacceptable, or grossly negligent behavior or who have a felony conviction.

12.0 CERTIFICATE OF RESIDENCY

The State of Texas has passed a law concerning non-resident contractors. This law can be found in Texas Government Code under Chapter 2252, Subchapter A. <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm>. This law makes it necessary for the SBISD to determine the residency of its Proposers. In part, this law reads as follows:

“Section: 2252.001

- (3) ‘Non-resident Proposer’ refers to a person who is not a resident.
- (4) ‘Resident Proposer’ refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

Section: 2252.002

A governmental entity may not award a governmental contract to a nonresident Proposer unless the nonresident underbids the lowest proposal submitted by a responsible resident Proposer by an amount that is not less than the amount by which a resident Proposer would be required to underbid the nonresident Proposer to obtain a comparable contract in the state in which the nonresident’s principal place of business is located.”

I certify that _____
(Proposer’s Legal/Official Company Name)

is, under Section: 2252.001 (3) and (4), a

_____ Resident Proposer _____ Non-resident Proposer

My or Our principal place of business under Section: 2252.001 (3) and (4), is in the city of

_____ in the state of _____.

If not Texas, does the state have preferential treatment on bids? ☐ Yes ☐ No

If yes, what percentage: _____%

Name of Proposer’s Authorized Official: _____
(Type or printed)

Title of Proposer’s Authorized Official: _____
(Type or printed)

Signature of Proposer’s Authorized Official: _____

Date Signed: _____

Revised 11/30/2015

last updated 08.10.18

14.0 DEBARMENT OR SUSPENSION CERTIFICATION FORM

FEDERAL FUNDS

As the awarded vendor on this contract, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification by completing and signing this form.

Debarment:

Federal Executive Order (E.O.) 12549 “Debarment and Suspension” requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Your signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Proposer's Name: _____
(Legal/Official Company Name)

Address: _____

City/State/Zip: _____

Telephone: _____

Name of Proposer's Authorized Official: _____
(Type or printed)

Title of Proposer's Authorized Official: _____
(Type or printed)

Signature of Proposer's Authorized Official: _____

Date Signed: _____

14.0 DEBARMENT OR SUSPENSION CERTIFICATION FORM

NON - FEDERAL FUNDS

As the awarded vendor on this contract, you are required to provide debarment/suspension certification indicating that you are in compliance with the below SBISD – Non Federal Funds Certification by completing and signing this form.

Non-Federal entities are prohibited from contracting with or making sub-awards under covered transaction to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement of goods or services, Vendors receiving awards of contracts all sub-recipients must certify that the organizations and its principals are not suspended or debarred.

Your signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Proposer's Name: _____
(Legal/Official Company Name)

Address: _____

City/State/Zip: _____

Telephone #: _____

Name of Proposer's Authorized Official: _____
(Type or printed)

Title of Proposer's Authorized Official: _____
(Type or printed)

Signature of Proposer's Authorized Official: _____

Date Signed: _____

15.0 NON-COLLUSION STATEMENT

"The undersigned affirms that he/she is duly authorized to execute this Proposal, that this company, corporation, firm, partnership or individual has not prepared this Proposal in collusion with any other Proposer, and that the contents of this Proposal as to prices, terms or conditions of said Proposal have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this Proposal"

Proposer's Name: _____
(Legal/Official Company Name)

Address: _____

City/State/Zip: _____

Telephone # : _____ Fax # : _____

Name of Proposer's Authorized Official: _____
(Type or printed)

Title of Proposer's Authorized Official: _____
(Type or printed)

Signature of Proposer's Authorized Official: _____

Date Signed: _____

16.0 HISTORICALLY UNDERUTILIZED BUSINESS QUESTIONNAIRE

SBISD will use its best efforts to encourage small, minority and women-owned businesses to participate in current and future purchasing of all goods and services.

A Historically Underutilized Business (HUB)

- is a for-profit entity that has not exceeded the size standards prescribed by 34 TAC §20.23, and has its principal place of business in Texas, and
- is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or Service Disabled Veteran, who reside in Texas and actively participate in the control, operations and management of the entity's affairs.

1. Are you a certified HUB?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Office Location (City & County)		
Length of time at above location		

2. Are you proposing to utilize any Certified HUB sub-consultants for this project?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
HUB sub-consultant name		
HUB sub-consultant office location (City & County)		
HUB sub-consultant length of time at above location	HUB sub-consultant fee (% of total fee)	%
HUB sub-consultant role		
HUB sub-consultant name		
HUB sub-consultant office location (City & County)		
HUB sub-consultant length of time at above location	HUB sub-consultant fee (% of total fee)	%
HUB sub-consultant role		
HUB sub-consultant name		
HUB sub-consultant office location (City & County)		
HUB sub-consultant length of time at above location	HUB sub-consultant fee (% of total fee)	%
HUB sub-consultant role		

17.0 EDGAR CONTRACT ADDENDUM

VENDOR NAME

In accordance with §200.326 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (sometimes referred to as the new “EDGAR”), this Addendum (“**Addendum**”) is proof of the vendor’s willingness and ability to comply with certain requirements which may be applicable to specific SBISD purchases using federal grant funds. It amends and is hereby incorporated into an existing agreement between the parties as follows:

REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS – APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, 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.

Pursuant to Federal Rule (A) above, when federal funds are expended by SBISD, SBISD reserves 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? YES _____ Initials of Authorized Representative of vendor

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

Pursuant to Federal Rule (B) above, when federal funds are expended by SBISD, SBISD reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor, in the event vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. SBISD also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if SBISD believes, in its sole discretion that it is in the best interest of SBISD to do so. The vendor will be compensated for work performed and accepted and goods accepted by SBISD as of the termination date if the contract is terminated for convenience of SBISD. Any award under this procurement process is not exclusive and SBISD reserves the right to purchase goods and services from other vendors when it is in the best interest of SBISD.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor.

(C) 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 Federal Rule (C) above, when federal funds are expended by SBISD on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does vendor agree to abide by the above? YES _____ Initials of Authorized Representative of vendor

EDGAR CONTRACT ADDENDUM, continued

(D) 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 sub recipient 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 Federal Rule (D) above, when federal funds are expended by SBISD, during the term of an award for all contracts and sub grants for construction or repair, the vendor will be in compliance with all applicable Davis-Bacon Act provisions.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity 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 Federal Rule (E) above, when federal funds are expended by SBISD, the vendor certifies that during the term of an award for all contracts by SBISD resulting from this procurement process, the vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or sub recipient 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 sub recipient 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.

EDGAR CONTRACT ADDENDUM, continued

Pursuant to Federal Rule (F) above, when federal funds are expended by SBISD, the vendor certifies that during the term of an award for all contracts by SBISD resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(G) 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 sub grants 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 Federal Rule (G) above, when federal funds are expended by SBISD, the vendor certifies that during the term of an award for all contracts by SBISD resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by SBISD, the vendor certifies that during the term of an award for all contracts by SBISD resulting from this procurement process, the vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(I) 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 Federal Rule (I) above, when federal funds are expended by SBISD, the vendor certifies that during the term and after the awarded term of an award for all contracts by SBISD 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). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for 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.

EDGAR CONTRACT ADDENDUM, continued

- (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 sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub recipients shall certify and disclose accordingly.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

RECORD RETENTION REQUIREMENTS FOR CONTRACTS PAID FOR WITH FEDERAL FUNDS – 2 CFR § 200.333

When federal funds are expended by SBISD for any contract resulting from this procurement process, the vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The vendor further certifies that vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or sub grantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

CERTIFICATION OF NON-COLLUSION STATEMENT

Vendor certifies under penalty of perjury that its response to this procurement solicitation is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Vendor's Name/Company Name: _____

Address, City, State, and Zip Code: _____

Phone Number: _____ Fax Number: _____

Printed Name and Title of Authorized Representative: _____

Signature of Authorized Representative: _____

Email Address: _____

Date: _____

18.0 SIGNATURE PAGE

This Signature Page must be signed and returned with your proposal response to acknowledge and affirm agreement to all of the statements and terms & conditions contained in this CSP.

The undersigned, in submitting this Proposal and endorsement of same, represents that he/she is authorized to obligate his/her firm, that he/she is an equal opportunity employer and will not discriminate with regard to race, religion, color, national origin, age, sex or disability unrelated to job performance of this Bid/Proposal.

I hereby acknowledge receipt of the following addenda, which have been issued and incorporated into the Proposal Document. (Please initial in ink beside each addenda received.)

Addendum No. 1 _____

Addendum No. 3 _____

Addendum No. 2 _____

Addendum No. 4 _____

Having carefully examined the Proposal Notice, Terms, Conditions, Specifications and Proposal Form, the undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the specifications and conditions at the prices quoted unless noted in writing.

The undersigned agrees to deliver all goods and/or services within _____ calendar days after receipt of order.

SUBMITTED BY:

Proposer: _____
(Legal/Official Company Name)

**MUST BE SIGNED IN INK TO
BE CONSIDERED RESPONSIVE**

By: _____
(Signature)

Name: _____
(Printed Name of Authorized Representative)

Title: _____
(Printed Title of Authorized Representative)

(Date)

Address: _____

City/State/Zip _____

Telephone #: _____ Fax #: _____

Email: _____

Taxpayer Identification #: _____

Prompt Payment Discount: _____ % _____ Days

CONTRACT FOR ANNUAL CONTRACT FOR INTERNET SERVICE

**A signed copy of this contract MUST be submitted along with
respondent's proposal.**

MASTER SERVICES CONTRACT
BETWEEN
SPRING BRANCH INDEPENDENT SCHOOL DISTRICT
AND
SINGLE PROVIDER FOR
CSP #12990

Annual Contract for Internet Service

THIS MASTER SERVICES CONTRACT ("Contract") is made and entered into by and between the Spring Branch Independent School District ("SBISD"), 955 Campbell Road, P.O. Box 19432 Houston, Texas 77024, and multiple Providers, as shown on the attached signature pages (each of which is a "Provider").

WHEREAS, SBISD desires to hire Provider, to perform services as outlined in the scope section in this Contract;

WHEREAS, SBISD has determined that such services are in support of its educational objectives;

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:

Provider agrees to provide to SBISD:

Services and or materials in a timely and satisfactory manner as outlined in Competitive Sealed Proposal ("CSP") # 12990 **Annual Contract for Internet Service**, Function/Scope of Work, and Pricing Schedule that will be attached to the purchase order submitted by the schools where Provider services are rendered. Pricing will not exceed the rates listed in the Pricing Schedule of the CSP submission.

All work outlined herein shall be deemed "Work" under the terms of this Contract.

II. SERVICES TO BE PROVIDED BY SBISD:

SBISD agrees to provide to Provider (if applicable):

- Space for Provider services
- Other items necessary must be agreed upon between SBISD and Provider and listed in an exhibit that will be attached to the purchase order

III. TERM OF CONTRACT

The term of this Contract shall be from July 1, 2019 to June 30, 2020; provided, however, this Contract may be terminated prior to the expiration of the term as provided in the Termination Section of this Contract.

IV. TERMINATION

This Contract may be terminated prior to the expiration of the term hereof as follows:

- By SBISD upon three (3) days' notice if the work is not provided in an acceptable and professional manner as determined by SBISD.
- By mutual written agreement of the parties;
- By SBISD without cause, upon thirty (30) days prior written notice to the consultant; or
- By SBISD immediately if Provider commits a material breach of any of the terms of this Contract.

In the event this contract is terminated because of a violation or breach of the contract terms by the Provider, SBISD shall be entitled to all administrative, contractual and legal remedies, including sanctions and penalties as may be appropriate.

V. COMPENSATION

For and in consideration of the services to be provided by Provider under this Contract, SBISD will pay Provider for the performance of services at the rates set forth in the Pricing Schedule of the CSP submission and **upon submission of an original or electronic invoice(s).**

- Payments for services rendered by the Provider will be paid in monthly installments.

Original invoices should be sent for processing to the Accounts Payable Office. Upon receipt by the Accounts Payable Office, the invoice will be processed for payment within thirty (30) days of its receipt if services are complete.

Electronic invoices can be sent to accountspayable@springbrancSBISD.com.

In the event the contract is terminated prior to the end of the stated term, payments will only be made to the extent that work has been performed prior to termination.

The term of this Contract is a commitment of SBISD's current revenue only and if funding for the continuance of the services required under this Contract is withdrawn, SBISD reserves the right to terminate this Contract in accordance with Article IV – Termination.

- Method of Payment (Vendors are to select one). SBISD processes invoices several times a week for CARD payments.
 - CARD (Ghost Card) SBISD's preferred method of payment.
Card payments are made available to the vendor immediately after file payment submission. After Vendor receives an auto-generated e-mail remittance advice notification, vendor can download the payment to their 'card'. Vendors who accept payments via ghost cards must establish their own contracts with a merchant card bank to fund their bank accounts. Some banks charge a fee for using ghost cards; however, SBISD does not charge a fee. Fees are negotiated in the contract between the vendor and their merchant card bank.
 - Automatic Clearing House (ACH) – Electronic Fund Transfer to vendor's bank account at the end of the week.

VI. PURCHASE ORDERS REQUIRED

This Contract is intended to allow SBISD to purchase services from the Provider through the Purchasing Department by using SBISD's requisition and purchase order process. This Contract shall govern all conditions and service terms between the Provider and SBISD. The Provider agrees that contracted personnel will not begin work at SBISD until the Provider receives a valid SBISD purchase order issued by the Purchasing Department. In the event that the contracted personnel begin work before Provider receives a valid purchase order, the Provider agrees that SBISD is not liable for payment of such services rendered.

VII. RELATIONSHIP OF THE PARTIES

It is understood and agreed that Provider is a separate legal entity from SBISD and neither it nor any of its employees, volunteers, or agents contracted by it shall be deemed for any purposes to be employees or agents of SBISD. Provider assumes full responsibility for the actions of its personnel and volunteers while performing any services incident to this Contract, 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.

VIII. NO WAIVER OF IMMUNITY

SBISD 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 Contract and performance of the functions or obligations described herein.

IX. AUTHORIZATION OF CONTRACT

Each Party represents and warrants to the other that: (i) it has the right and authority to enter into and perform all obligations under this Contract; (ii) it shall materially comply with all Applicable Laws, with respect to its performance of this Contract; (iii) no authorization or approval from any third party is or will be required in connection with such Party's execution, delivery or performance of this Contract (iv) the execution and performance of this Contract does not violate or conflict with the terms or conditions of any other agreement to which it is a party or by which it is bound; and (v) this Contract has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms.

X. INSURANCE

Provider will cover Provider's staffing operations for SBISD with at least the types and limits of insurance or other coverage as set forth below. SBISD reserves the right to require additional insurance coverage to be carried by the Provider as deemed desirable by SBISD, depending on the type of project.

The Provider shall carry insurance with responsible insurance carriers acceptable to SBISD and with minimum limits of liability coverage, as stated below, against claims for damages caused by bodily injury, including death, to employees and third parties, and claims for property damage. The Provider shall furnish certificates of insurance to SBISD indicating compliance with this paragraph.

Type of Coverage	Minimum Limits
1. Workers' Compensation and Employer's Liability	Statutory \$1,000,000 per accident
2. Automobile Liability: Bodily Injury & Property Damage For all owned, non-owned vehicles and hired vehicles.	\$1,000,000 Combined Single Limit
3. Commercial General Liability	\$1,000,000 Each Occurrence

The Provider shall submit evidence at the time of any execution of the Contract that it has in full force and effect all insurance requirements listed above. The Provider shall maintain such insurance in full force and effect throughout the duration of the Contract. In the event that it is not commercially feasible to maintain insurance during the period required by the Contract, Provider shall supply SBISD with equivalent assurance to the required insurance, acceptable to SBISD.

SBISD shall be listed as certificate holder. SBISD shall be named as an additional insured on the automobile and commercial general liability policy. SBISD shall be named as an alternate employer on the workers' compensation policy. A waiver of subrogation shall be issued in favor of SBISD in the workers' compensation, automobile and commercial general liability policies.

The Provider shall provide SBISD with original certificates of insurance after the bid has been awarded and before the beginning of the project when requested by the owner contact. Such certificates shall indicate an agreement by each carrier not to cancel or significantly diminish coverage without a minimum of thirty (30) days prior written notice to SBISD.

XI. NO WAIVER

No waiver of a breach of any provision of this Contract 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.

XII. NOTICE

Any notice required to be given under the provisions of this Contract shall be in writing and shall be duly served when it shall be hand-delivered to the addressees set out below, 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: _____
(Individual or Company Name)

Attn: Name: _____

Title: _____

Address: _____

City, State Zip: _____

Contact Person's Email: _____

To: Spring Branch Independent School District
Attn: Director of Purchasing Services
1031 Witte Rd., Bldg. T-1A
Houston, Texas 77055

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

XIII. NO ASSIGNMENT OR CHANGES

No change, amendment or modification of any provision of this Contract will be accepted. This Contract, including its Exhibits, sets forth the entire Contract and supersedes any and all prior agreements, written or oral, of the Parties with respect to the transactions set forth herein. Neither Party may assign or otherwise transfer this Contract or any rights or obligations hereunder, in whole or in part, without the other Party's prior written consent. Notwithstanding the foregoing, either Party may assign or otherwise transfer this Contract or any rights or obligations hereunder, upon notice to the other Party, to an affiliate, or other person or corporate entity resulting from a sale, merger or other transaction involving the transfer of Provider's assets, stock and/or business.

XIV. LIMITATION ON MARKETING AND SALES ACTIVITIES

Neither Party intends under this Contract to be a marketing or sales agent for the other, nor shall either Party have any obligation to recommend the products or services of the other to any potential clients; provided, however, that SBISD may, pursuant to this Contract, advise its clients, and prospective clients, of the availability of the Provider Services and Materials.

XV. SECTION HEADINGS

The headings of sections contained in this Contract 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 Contract.

XVI. GOVERNING LAW

This Contract is made in Texas and shall be construed, interpreted, and governed by the laws of such state. The parties irrevocably consent to the sole and exclusive jurisdiction and venue of the courts of Harris County, Texas, for any action under this Contract.

In connection with SBISD's defense of any suit against it and/or SBISD's prosecution of any claim, counterclaim or action to enforce any of its rights and/or claims hereunder, in which SBISD prevails as to all or any portion of its defense(s), claims, counterclaims or actions, SBISD shall be entitled to recover its actual attorney's fees and expenses incurred in defending such suit and/or in prosecuting such claim or action.

Provider shall comply with executive order 11246, entitled "Equal Employment Opportunity", as amended by executive order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60).

Provider shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (a)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CRF, Part 15), which prohibit the use under non-exempt federal contracts, grants, or loans or facilities included on the EPA list of violating facilities. Violations shall be reported to the Texas Education Agency and to the USEPA Assistant Administrator for Enforcement (EN-329).

Provider shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

Provider agrees to comply with all applicable requirements of all federal laws, executive orders, regulations, applicable guidelines, and policies governing this program, particularly relating to nondiscrimination. These include but are not limited to: (i) Title VI of the Civil Rights Act of 1964, as amended; (ii) Title IX of the Education Amendments of 1972; as amended; (iii) Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; and (iv) the American with Disabilities Act, as amended.

XVII. TEXAS SENATE BILL 252 AND HOUSE BILL 89

Provider hereby certifies that it 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. Provider further certifies and verifies that neither Provider, nor any affiliate, subsidiary, or parent company of Provider, if any (the "Provider Companies"), boycotts Israel, and Provider agrees that Provider and Provider Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include terminating business activities 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.

XVIII. ORIGINALS

This Contract is executed in multiple counterparts, with a separate signature page as to each vendor, each of which shall have the full force and effect of the original Contract, and each of which shall constitute but one of the same instruments.

XIX. REPORTS

SBISD and Provider shall furnish operating reports to designated representatives on a schedule to be mutually agreed upon (if applicable). No written reports of any kind shall be released to any third parties without prior written approval of SBISD.

XX. INDEMNITY

Provider shall hold SBISD 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 asserted by any third party, occurring or in any way incident to, arising out of, or in connection with any acts of Provider and its agents, employees, and subcontractors done in connection with this Contract.

Nothing in this Contract shall be construed to create a claim or cause of action against the District for which it is not otherwise liable, nor to waive any immunity or defense to which the District may be entitled nor to create an impermissible deficiency debt of the District.

XXI. CRIMINAL HISTORY BACKGROUND CHECK

Pursuant to Sections 22.0834, 22.0835 and 22.085 of the Texas Education Code, Provider hereby certifies that all employees, subcontractors and volunteers of the Provider who are hired by Provider on or after January 1, 2008, and who have or will have continuing duties related to the contracted services, and have or will have direct contact with students, have passed a national criminal history background record information review as required by those sections. Provider must provide a list of the names and dates of birth of all employees who have passed the background check to SBISD.

Provider shall send or ensure that the employee or applicant sends to the Texas Department of Public Safety ("DPS") information that is required by the DPS for obtaining national criminal history record information, which may include fingerprints and photographs. DPS shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

Providers that have more than 1 employee must set up an account with the Texas Department of Public Safety ("DPS") in order to obtain criminal histories on their covered employees. To set up an account with DPS, a Provider should contact the crime records service bureau at 512-424-2474.

Providers with a single employee must obtain a FAST PASS from SBISD in order to obtain their criminal history. Providers should contact SBISD's Purchasing Department to obtain the FAST PASS at 713 251-1100.

Providers must present a list of all employees who may have direct contact with students to SBISD.

Provider must also obtain certifications from all subcontractors that their employees to whom Section 22.0834 applies have also passed a national criminal history background record information review.

Provider must also provide assurances that all of its employees, subcontractors and volunteers, including those hired before January 1, 2008, who have contact with students have passed a criminal history background check current within the last year. If an employee, subcontractor or volunteer of the Provider has a criminal conviction or has received deferred adjudication for a felony offense or a misdemeanor involving moral turpitude, SBISD may elect not to enter into this Contract, or cancel the Contract.

WARNING: Section 44.034 of the Texas Education Code requires that a person or business entity that enters into a contract with a school district must give advance notice to SBISD 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.

SBISD may terminate this Contract if SBISD determines that the person or business entity failed to comply with any of these provisions, failed to give notice as required by Section 44.034 (a) or misrepresented the conduct resulting in the conviction. SBISD will compensate the person or business entity for undisputed services performed before the termination of the contract.

XXII. RELEASE OF INFORMATION

Unless required by law, the existence and terms of this Contract may not be disclosed by Provider to any third party without the prior written consent of SBISD. Provider may not publish or use any publicity materials relating to this Contract or use SBISD's name without the consent of SBISD.

XXIII. RECORDS RETENTION AND AUDITS

SBISD or its authorized representative, shall be afforded unrestricted access to and permitted to inspect and copy all the Provider's records, which shall include but not be limited to accounting records (hard copy as well as computer readable data), correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to this Contract. The Provider shall preserve all such records for a period of five (5) years, or for such longer period as may be required by law, after final payment under this Contract. If this Contract is funded from contract/grant funds provided by the U. S. Government or the State of Texas, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency, or the State of Texas and its duly authorized representatives.

XXIV. STUDENT RECORDS

To the extent that Provider will come into possession of student records and information, and to the extent that Provider will be involved in the survey, analysis, or evaluation of students, incidental to this Agreement, Provider agrees to comply with all applicable requirements of the Family Educational Rights and Privacy Act.

XXV. TEXAS PUBLIC INFORMATION ACT

In the event that SBISD is required to furnish information or records pursuant to the Texas Public Information Act, Provider shall furnish all such information and records to SBISD and SBISD shall have the right to release such information and records.

XXVI. BUSINESS ETHICS

During the course of pursuing contracts, and the course of contract performance, Provider 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 SBISD, its authorized agents and representatives, or to family members of any of them. At any time Provider believes there may have been a violation of this obligation, Provider shall notify SBISD of the possible violation. SBISD is entitled to request a representation letter from Provider, its subcontractors or vendors at any time to disclose all things of value passing from Provider, its subcontractors or vendors to SBISD's personnel or its authorized agents and representatives.

REQUIRED DISCLOSURES

- a. For all contracts in excess of \$50,000.00, or which require Board approval, Provider must execute and electronically file Form 1295 listing all interested parties, including a person who has a controlling interest in Provider's business, or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business, to SBISD at the time it executes the contract in compliance with Section 2252.908 of the Texas Government Code. https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
- b. Provider must also file a completed conflict of interest questionnaire, in compliance with Section 176.006 of the Texas Local Government Code, available on the Purchasing Department website at <https://cms.springbranchisd.com/skin2/Purchasing/Conflict-of-Interest> with the Purchasing Department, if the Provider has an employment or other business relationship with a local government officer of SBISD, or a family member of the officer; has given a local government officer of SBISD, or a family member of the officer, one or more gifts with the aggregate value of more than \$100 in the 12-month period preceding the date of the contract; or has a family relationship with a local

government officer of SBISD. The questionnaire must be filed not later than the seventh business day after the later of: (1) the date that the vendor: (A) begins discussions or negotiations to enter into a contract with SBISD; or (B) submits an application, response to a Competitive Sealed Proposals or bids, correspondence, or another writing related to a potential contract with SBISD; or (2) the date the vendor becomes aware: (A) of an employment or other business relationship with a local government officer, or a family member of the officer of SBISD; (B) that the vendor has given one or more gifts to a local government officer of SBISD of more than \$100 in the aggregate; (C) of a family relationship with a local government officer of SBISD.

XXVII. BUSINESS CERTIFICATES / TAXES

All Provider or Professional Services Providers entering into a contract with SBISD must adhere to the following applicable Texas laws as they pertain to their individual type of ownership.

Corporations (domestic or foreign *) shall be properly registered with the Texas Secretary of State and the Comptroller of Public Accounts as required by TITLE 34, Part 1, Chapter 3, Subchapter V, Rule 3.546 of the Texas Administrative Code. A current "Certificate of Good Standing" from the Texas Comptroller of Public Accounts shall be made available upon request stating that the corporation charter is current and all Texas Franchise Reports and Taxes are paid.

Partnerships and Joint Stock Companies, and Limited Liability Partnerships (domestic or foreign*) shall be properly registered with the Texas Secretary of State in accordance with TITLE 105-- PARTNERSHIPS AND JOINT STOCK COMPANIES, CHAPTER ONE --- PARTNERSHIPS, LIMITED PARTNERSHIPS, TEXAS REVISED LIMITED PARTNERSHIP ACT, Article 6132a-1. "Texas Revised Limited Partnership Act." All partners in a partnership must file a "Certificate of Limited Partnership" with the secretary of state, which shall be made available for inspection upon request.

If commercial personal property is located in the jurisdiction, current renditions of these properties must be filed with the Chief Appraiser, as required by Chapter 22, Section 22.01, of the Texas "PROPERTY TAX CODE".

***Note:** Foreign means formed under laws of another state; Domestic means formed under Texas laws.

Assumed Names

An assumed name certificate (or DBA) shall be properly registered with the Harris County Clerk's Office for anyone wishing to do business under another name. This applies to corporate entities as well as individuals. The contract should be in the name of the individual or entity d/b/a the assumed name, rather than just the assumed name. Chapter 71, Texas Business and Commerce Code.

XXVIII. OWNERSHIP OF AND RIGHTS TO INTELLECTUAL PROPERTY

This Agreement shall not be construed to convey any rights of ownership or any other license, right, title or interest in the other Party's trademarks, copyrights, or patents. Each party to this Agreement retains the right of ownership in its respective intellectual property.

XXIX. CONFIDENTIAL & PROPRIETARY INFORMATION

The parties may provide technical information, documentation and expertise to each other that is either (1) marked as being confidential or, (2) if delivered in oral form is summarized in writing within 10 working days and identified as being confidential ("Confidential Information"). The receiving party shall for a period of five (5) years from the date of disclosure (i) hold the disclosing party's Confidential Information in strict confidence, and (ii), except as previously authorized in writing by the disclosing party, not publish or disclose the disclosing party's Confidential Information to anyone other than the receiving party's employees on a need-to-know basis, and (iii) use the disclosing party's Confidential Information solely for performance of this Contract. The foregoing requirement shall not apply to any portion of a party's Confidential Information which (a) becomes publicly known through no wrongful act or omission on the part of the receiving party; (b) is already known to the receiving party at the time of the disclosure without similar nondisclosure obligations; (c) is rightfully received by the receiving party from a third party without similar nondisclosure obligations; (d) is approved for release by written authorization of the disclosing

party; (e) is clearly demonstrated by the receiving party to have been independently developed by the receiving party without access to the disclosing party's Confidential Information; or (f) is required to be disclosed by order of a court or governmental body or by applicable law, provided that the party intending to make such required disclosure shall promptly notify the other party of such intended disclosure in order to allow such party to seek a protective order or other remedy.

XXX. DATA AND PROPRIETARY RIGHTS

All Work, as defined under this contract, shall be deemed "Work Made For Hire" as defined by the United States Copyright Law, and SBISD retains for itself sole ownership of all proprietary rights in and to all designs, engineering details and other data pertaining to any discoveries, inventions, patent rights, software, improvements and the like made by Provider personnel in the course of performing the Work.

All newly-developed documents created pursuant to the Contract shall, unless expressly provided otherwise in writing, be owned by SBISD. Upon the termination or expiration of the Contract, any and all finished or unfinished newly-developed documents and other newly-developed materials produced by Provider pursuant to this Contract shall, at the request of SBISD, be turned over to SBISD. All pre-existing Provider data and materials provided to SBISD by Provider to perform the requirements of this Contract shall remain Provider's property. Provider hereby grants to SBISD a nonexclusive, nontransferable, noncommercial, and royalty-free license to use and reproduce any pre-existing work provided by Provider solely for the purpose of fulfilling the scope of work requirements of this Contract. Such license does not include the right to create derivative works, or to sublicense Provider's pre-existing work to third parties. For any deliverables that incorporate third party work, Provider will inform SBISD, and SBISD will be responsible for obtaining applicable permissions and licenses in order to use and reproduce those materials.

XXXI. RETURN OF MATERIAL

Upon termination or expiration of this Contract, each Party will return to the other Party any items in its possession containing any intellectual property of SBISD or Provider, as the case may be, to be used in connection with this Contract, including but not limited to: all Marks, patents, patent applications, copyrighted content, hypertext links, domain names, icons, buttons, banners, graphic files, images, technology ("Intellectual Property") and all Confidential Information pertaining to such Intellectual Property. As used herein, the term "Marks" shall mean the words, terms, characters, emblems, logos, service marks, trade names or trademarks, designs or parts thereof, in any size or dimension, presently used or hereafter acquired by any person to identify such Party, its services and/or equipment. As used herein, the term "Confidential Information" shall mean all information and ideas in whatever form, tangible or intangible, pertaining in any manner to the current or contemplated business or operations of the Parties hereto, or their respective affiliates, including but not limited to: customer lists and documents; individual account information; business plans; business concepts; business practices; marketing strategies; ideas and theories; underwriting; origination and servicing systems practices; management processes; systems; practices and strategies; and business development methods, ideas and strategies.

Alternatively, upon request of the disclosing Party, the receiving Party shall destroy all such Intellectual Property or Confidential Information of the disclosing Party and any other materials furnished to the other Party pursuant to this Contract, and certify in writing that they have been destroyed.

XXXII. DEBARMENT AND SUSPENSIONS

Provider certifies, to the best of its knowledge and belief, that it is not presently debarred, suspended for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

XXXIII. COMPLETE UNDERSTANDING

This Contract, along with Competitive Sealed Proposal ("CSP") # **12990, Annual Contract for Internet Service** shall constitute the complete understanding of Provider and SBISD, and may not be modified in any manner. No changes, amendments, or modifications of any provision of this Contract will be accepted.

The terms of this Contract shall control over any conflicting terms contained in any attached Exhibit, Addendum, Purchase Order, website, software pop-up agreement, or other document of any kind.

By signing the Contract, the Provider affirms that there is no personal or financial conflict of interest between the Provider or the Provider's family and SBISD.

IN WITNESS THEREOF, SBISD and Provider have executed this Contract effective on the date of the last signature to this Contract.

CSP #: 12990

Contract Title: Annual Contract for Internet Service

PROVIDER:

Individual/Company Name

Name print/type

Signature

Date

Title

Taxpayer Identification Number

SPRING BRANCH INDEPENDENT SCHOOL DISTRICT

Richard L. Gay, CPPO, RSBO, RTSBA
Director of Purchasing Services

Date