



Purchasing Department
601 Camp Craft Road, Austin TX 78746
512.732.9036 - 512.732.9000 X20502

REQUEST FOR PROPOSALS (RFP)

Single Serving Snacks

RFP # 20192020-002

The Eanes Independent School District (“District”) invites qualified companies to submit Proposals for Single Serving Snacks. This Request for Proposal can be reviewed and downloaded at the following website:

<https://www.eanesisd.net/dept/purchasing/bid>

If you are an interested company, the District invites your firm to electronically submit a Proposal Response by e-mailing at purchasing@eanesisd.net. **Electronic submissions are greatly preferred**, you may however still mail your response to the address listed above. The envelope for your Proposal Response should be plainly marked:

RFP # 20192020-001 Single Serving Snacks

Vendors are encouraged to submit responses as soon as possible. The District may choose to award multiple vendors. Applicants will then be notified via email of the District’s decision.

Proposal responses will be accepted through Tuesday, October 15 @ 10:00 AM.

Awarded vendors’ contract period will be for one year from October 23, 2019 to October 31, 2020, with 4 optional annual renewals as long as both parties agree.

THIS IS A NEGOTIATED PROCUREMENT, and as such, the District reserves the right to negotiate any terms, conditions, or pricing with a proposer prior to an award. The Board of Trustees reserves the right to reject any and/or all proposals, to award contracts for individual products or services as may appear advantageous, and to negotiate separately in any manner necessary to serve the best interest of the District.

No Proposals may be withdrawn for a period of ninety (90) days subsequent to the deadline for receipt of Proposals without the prior written consent of the Board of Trustees, Eanes Independent School District.

Sylvie Pouget
Purchasing Coordinator, Eanes ISD

SCOPE

It is the intent of this Request for Proposal to establish the terms, conditions and prices for Single Serving Snacks such as Frozen Treats, Nuts and Dried Fruits at all nine (9) campuses. Not all awarded Single Serving Snacks will be served at all nine (9) campuses. Product must be individually wrapped, meant for single serving resale and clearly marked with ingredient listing and expiration date. Any product not meeting the requirements of the specifications is to be returned to vendor for full credit or replacement as per the EISD Director of Child Nutrition.

TIMELINE

Tuesday, September 17, 2019	RFP Issued
Tuesday, October 15, 2019 @ 10:00 AM	RFP Deadline

CHECKLIST

ITEMS TO BE PROVIDED WITH ALL PROPOSAL SUBMITTALS

- **Cover Letter**
- **Offeror's Questionnaire & Information Form** must be completed in its entirety.
- **Attachments/ Exhibits** must be reviewed, signed and returned.
- **List of Personnel.** List of resumes of professional personnel responsible for performance of the contract, if applicable.
- **References.** List of 3 references (preferably school districts) that we may contact, including detailed explanation of experience in similar engagements.
- **Proposal.** Your proposal for work described in Section B and your response to the requested information and questions contained therein.
- **Pricing.** Your pricing must be on the form provided as Section C along with any supporting documentation you feel is necessary.

SECTION A

General Terms & Conditions

1. **Types of Contracts.** Each Solicitation will identify the type of contract being advertised in the Scope of Work. One of the following contracting methods will typically be used, but EISD reserves the right to use any contracting method it deems to be in the best interest of the District.
 - 1.1 **Firm-Fixed Price.** Prices shall be firm-fixed for the period specified in the contract, and all extensions thereof. Price decreases are acceptable at any time during the term of the contract.
 - 1.2 **Fixed-Price with a Price Adjustment Allowance.** Prices shall be firm for period specified in the Contract. Prices can be adjusted for extension term(s), based on escalation provisions as identified in the Contract.
 - 1.2.1 The District shall give preference to Firm-Fixed Priced Contracts unless specifically stated otherwise in the Solicitation.
 - 1.2.2 The District reserves the sole right to evaluate the applicability of any price adjustment formula and to accept or reject any formula included in any Solicitation Response or to accept or reject any Solicitation Response containing a price adjustment proposal.
 - 1.3 **Firm-Fixed Discount or Cost Markup-From-List.** Discounts shall be firm-fixed for the period specified in the Contract but prices may vary based upon changes in an approved price list or other pricing document, by the method and frequency as identified in the Contract.
 - 1.3.1 This type of Contract provides for discounts from a current manufacturer's price list, or a cost-plus percentage add-on to a manufacturer's distributor/ producers type price list. Manufacturer's price list shall be the current price list published in some form by the manufacturer of a product and available to and recognized by the trade. A price list especially prepared for a given Solicitation will not be accepted. EISD shall be the sole determinate as to acceptability.
 - 1.3.2 In order for a price list to be changed, a new or amended price list must be submitted to the Purchasing Department by the Vendor and approved by the Purchasing Department within the Contract time specified prior to the requested price change. Otherwise the last EISD approved price list remains in effect until such time that EISD approves the price change.
 - 1.3.3 Prices for this type of Contract cannot be increased for 30 days after the Contract begins unless otherwise specified in the Solicitation. Price reductions shall be offered immediately upon becoming available to a Vendor at any time after award.
2. **Quantities.** Any quantities listed within the Solicitation are a close approximation based on requirements and available funds, but EISD reserves the right to purchase more or less than the estimated quantities, at the current Contract price, for the term of the agreement.
3. **Questions.** Vendor shall direct all questions related to the Solicitation to the Purchasing Department. No contact shall be made with the District requester unless specifically authorized by the Purchasing Department. Failure to comply with this requirement may be grounds for rejection of Solicitation Response.
4. **Delivery Terms.** All products included in the Solicitation shall be F.O.B. destination. All items will be considered freight prepaid and allowed, and included in the unit price unless otherwise specified by the Vendor in the Solicitation. The place of delivery shall be that set forth in the "Ship To" block of the purchase order. The District expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables.
5. **Brand Name and Part Number.** Manufacturer, trade and/or brand name and number shall be indicated for each item on the Solicitation Form. If the Solicitation space is left blank, the Vendor will be required to furnish the brand name material in the specification. Private brands and/or merchandise or indeterminate quality will be rejected.

6. **Samples.** The District may require a sample of a product at any time for evaluation and testing, from a Vendor participating in a Solicitation process or a Vendor supplying items to the district under a District Contract.
- 6.1 **Sample Requirement as Part of a Solicitation Process.**
- 6.1.1. If a sample requirement is included in the Solicitation, the requirement will appear in the “Special Instructions” section of the Solicitation. Samples must be received on or before the Solicitation opening date (unless the Solicitation instructs otherwise).
 - 6.1.2. If it is determined that a sample is required as part of the Evaluation Process, the requirement will be issued in writing to the Vendor by the Purchasing Department. Samples must be received within ten (10) working days after written notification is issued (unless the notification instructs otherwise.)
 - 6.1.3. An exact sample of the items(s) offered must be provided.
 - 6.1.4. The Vendor will cover all costs in shipping and providing the product to the District.
 - 6.1.5. Failure to provide a requested sample may disqualify the Vendor from further consideration in award.
 - 6.1.6. If a sample is found to not meet the Solicitation specifications or the intended purpose of the product, the associated Solicitation item will be disqualified.
- 6.2 **Sample Requirement after Contract Award.**
- 6.2.1. If a sample is required during a Contract term, written notice will be issued to the Vendor by the Purchasing Department, indicating the reason for the sample request, and the testing process to be conducted on the requested product.
 - 6.2.2. Samples must be received within ten (10) working days after written notification is issued (unless the notification instructs otherwise).
 - 6.2.3. An exact sample of the items(s) under contract must be provided.
 - 6.2.4. The Vendor will cover all costs in shipping and providing the product to the District.
 - 6.2.5. Failure to provide a requested sample may be grounds for termination of the Contract.
 - 6.2.6. If a sample is found to not meet the Contract specifications or the intended purpose of the product, the associated item(s) will be cancelled from the Contract and the Vendor will bear the cost of testing.
 - 6.2.6.1. If a product is found to not meet the contract specifications, the Vendor must provide a District approved replacement product for the remaining period of the Contract. The price of the replacement product cannot be greater than the current contract price. If the replacement product is less in cost than the contract item, the contract price shall be reduced based on the factored difference from the original product.
 - 6.2.6.2. If a product substitution acceptable to the District cannot be made, the associated item will be cancelled from the contract and if the District chooses, the District may make a re-award to another Vendor for a comparable substitution and the original Vendor will be assessed damages for the amount of the difference for the term of the contract.
 - 6.2.7. If a sample is found to meet the Contract specifications the District will cover the cost of shipping, the cost of the sample product, and will bear all testing costs.
- 6.3 **Sending of Samples.** If a sample is required by the District, samples must be clearly marked with the following information:
- 6.3.1. The word “Sample” in large print;
 - 6.3.2. The name of the company submitting the sample;
 - 6.3.3. The number and title of the Solicitation or Contract; and
 - 6.3.4. The Solicitation opening date (if prior to the Solicitation opening).
- 6.4 **Testing of Samples.**
- 6.4.1. The samples will be tested based on the specifications contained in any or all of the following as applicable; the Solicitation, Vendor’s Solicitation response, Contract specifications.
 - 6.4.2. The District reserves the right to use any testing method or process necessary to determine that the product meets specifications and performs its intended purpose.
 - 6.4.3. The District assumes not responsibility for the handling of samples in any manner.
 - 6.4.4. Cost of supplying the sample items for testing shall be at the Vendor’s expense unless provided elsewhere herein and the District provides not guarantee of return.
 - 6.4.5. Tested samples will not be returned after testing is complete unless prior to testing, the District determines the item is on significant value and will not be severely altered or destroyed by the testing process and it is not necessary for the item to be retained for proper documentation of the testing process. The District will contact the Vendor to make arrangements for pick-up for items that may be returned. All costs for returned test items shall be borne of the Vendor.

7. **Specification Documentation.** The Vendor must furnish product specification documents with their Solicitation response, if offering other than specified brand. Product specification documents shall be submitted with the Solicitation Response, properly referenced and clearly marked so as to indicate the related item. Failure to provide supportive information may be grounds for disqualification of the Vendor's Solicitation Response.
8. **Preparation of a Solicitation Response.** In preparation of a Solicitation Response, each Vendor shall;
 - 8.1. Furnish the information required by the Solicitation;
 - 8.2. Sign the Solicitation Response and other required documents.
 - 8.3. Have all erasures or other changes initialed by the signer of the Solicitation Response.
 - 8.4. Solicitation Responses submitted on other forms or with different terms or provisions may not be considered by EISD as responsive.
 - 8.5. Unless otherwise instructed by the Solicitation, Vendor's shall submit the lowest and best price, F.O.B. destination, freight prepaid and allowed, on each item, including packaging and transportation.
 - 8.6. An unsigned Solicitation Response will be disqualified. Solicitation Responses cannot be signed after the Solicitation opening time even though the Vendor or a representative is present at the Solicitation opening.
9. **Addendums.** Should an addition or correction become necessary after a Solicitation is issued, an addendum relating the necessary information will be posted on the Eanes ISD website @ <https://www.eanesisd.net/dept/purchasing/bid>
 - 9.1. Response without receipt of all addenda issued may be deemed to have submitted a non-responsive Solicitation response.
 - 9.2. Vendors are required to acknowledge the addendum by returning the addendum in a separate response or with the Solicitation, or by physically noting the change or addition on the Solicitation Response with a notation acknowledging the addendum.
 - 9.3. Failure to return or acknowledge an addendum may be grounds for disqualification of the associated bid.
10. **Interlocal Agreement.** As governed by the Texas Education Code, Chapter 44, and unless otherwise indicated within the Solicitation, the Contract established by this Solicitation shall be made available to any State of Texas governmental jurisdiction wishing to adopt the terms and conditions set forth within the Contract with exception of any requirements directly related to EISD and its own operations. Such adoption shall be made with the consent of the awarded Vendor.
11. **Solicitation Response Certification.** By signing and submitting a Solicitation Response, the Vendor certifies and represents to EISD that:
 - 11.1 The Vendor is duly authorized to execute the Solicitation Response and the person signing the Solicitation Response has the authority to bind the represented company to a Contract;
 - 11.2 The company, corporation, firm, partnership or individual has not prepared the Solicitation Response in collusion with any other vendor.
 - 11.3 The contents of the Solicitation Response as to price, terms and conditions or other details of the Solicitation Response have not been communicated by the Vendor nor by any employee or agent to any other person engaged in this type of business prior to the official opening of the Solicitation; and
 - 11.4 The Solicitation Response has been manually signed by an authorized representative of the company or firm submitting the bid, proposal, offer or other Solicitation Response document.
12. **Late Solicitation Responses.** Late Solicitation Responses will NOT be considered under any circumstances. A Solicitation Response will be considered late if the Solicitation Response is not received at the Purchasing Department on or before the date and time indicated in the Solicitation. The Purchasing Department will not be responsible for and no allowances will be made for mis-routing of a Solicitation Response within the District or delays caused by the Post Office or other Courier services.
13. **Attachments.** Vendors may include attachments to describe commodities or services being offered and/or to exhibit that products offered meet all written specification; however, Vendors should not submit samples unless requested to do so. Page and paragraph number must properly reference each page of an attachment in the Solicitation Response. The name of the company submitting the attachment must also be prominently displayed on each page of

the attachment. No terms or conditions recorded on any attachment will be considered binding unless specifically made a part of the Solicitation Response in writing.

14. **References.** If required in the Solicitation, the Vendor is to submit references that have contracted with their company to provide like products or services. It is recommended that the Vendor show school districts or other local government organizations equal to EISD in size and structure, if possible.
15. **Reservations.** The District expressly reserves the right to:
 - 15.1. Waive as informality, minor deviation from specifications, if it determines that total cost is lower and the overall function is improved or not impaired;
 - 15.2. Waive any minor informality in any Solicitation procedure;
 - 15.3. Reject or cancel any or all Solicitation Responses;
 - 15.4. Reissue a Solicitation;
 - 15.5. Extend the Solicitation opening time and date;
 - 15.6. Specify approximate quantities;
 - 15.7. Increase or decrease the quantity specified in the Solicitation, unless the Vendor specifies otherwise;
 - 15.8. Consider and accept alternate or multiple Solicitations, if specified in the Solicitation, when it is considered in the best interest of the District;
 - 15.9. Procure any item by other means.
16. **Competitive Selection.** If stated within the Solicitation, the Solicitation may be a negotiated procurement, and as such, award will not necessarily be made to the Vendor submitting the lowest price offered. The District shall accept the offer it deems to be in the best interest of the District. In making the Determination, the District shall:
 - 16.1. Consider the offered rates, the Vendor's experience, references and record for responsibility, or any other relevant factor that the District deems necessary to determine best value;
 - 16.2. Upon receipt of the Solicitations, the Districts Evaluation Team will review the offers and may request additional information, including conducting interviews, or any other requirements deemed appropriate.
 - 16.3. Base the award on the Evaluation Team's recommendation of the offer that achieved the highest evaluated score.
 - 16.4. Evaluate all offers on the criteria set forth in the Solicitation;
 - 16.5. Require oral presentations by any or all Vendors. EISD may make an award without discussion with any offerer, after Proposals are received. EISD reserves the right to offer oral presentations of only one or limited number of Vendors. Proposals should, therefore, be submitted on the most favorable terms.
 - 16.6. Vendor must have its principal place of business in the state of Texas; or employ at least 500 persons in this state.
17. **Contract Award Types.** After the determination has been made that a Vendor's offering of a product or service meets the specifications and requirements of the Solicitation, the District may make the following types of awards:
 - 17.1. Low Response by Line Item. Individual award for a single item, without consideration for other items within a group of items on the Solicitation Response.
 - 17.2. Low Total Response. Lowest total for a group of items or services in a Solicitation Response.
 - 17.3. Low response Meeting Specifications. The lowest, most responsive Solicitation Response for an item. Used when the apparent low Vendor(s) failed to meet the specifications or requirements for a particular item.
 - 17.4. Multi-award. Used when two or more Vendors are awarded like items or services within a single Contract, and a determination had been made, and specified within the Solicitation, that it is in the District's best interest to award in such a way to insure availability of commodities or services, or to provide for a wide variety of product selections within a class of items.
 - 17.5. Multi-tiered. Used when there may be a need for additional, available Vendors if the first or sequential Vendor cannot complete the work or provide the product in the time the District seems necessary. The ordering department must attempt to give all awarded Vendors an opportunity to perform in the order of the tier.
18. **Best Value.** If applicable and indicated in a Solicitation, EISD may use the Best Value method to determine the awarded Vendor(s). The Solicitation will indicate the criteria and ranking to be used to determine Best Value. In determining Best Value the District may consider any or all of the following:

- 18.1. Price;
 - 18.2. Reputation of the Vendor (references) or the Vendor's products or services;
 - 18.3. Quality of the Vendor's products or services;
 - 18.4. Extent to which the products or services meet the needs of the District;
 - 18.5. Vendor's past relationship with the District;
 - 18.6. Total long-term cost to the District to acquire the product or service;
 - 18.7. Warranty;
 - 18.8. Service levels as outlined in the Solicitation;
 - 18.9. Other areas indicated and identified within the Solicitation.
19. **Tie Solicitation Responses.** Two or more Solicitation Responses will be considered tied if and only if all factors considered for award are equal. In case of tie Solicitation Responses, the award will be made by one of the following methods:
- 19.1. If one of two Vendors submit identical Solicitation Responses, and one of the Vendors is a resident of the District, the District shall select that Vendor. If two or more Vendors are residents of the District, the District must select one of the District-resident Vendors by the casting of lots.
 - 19.2. If two or more Vendors submit identical Solicitation Responses and none of the Vendors reside within the District, the District must select from the identical Solicitation Responses by the casting of lots.
 - 19.3. Unless directed by law or District School Board action or policy, casting of lots shall be performed by the EISD Purchasing Department in a fair, equitable manner, and the process shall be documented and initialed by the attending District personnel.
20. **Debarment or Suspension.** Federal Law (A-102) Common Rule and OMB Circular (A-110) prohibits non-federal entities, including school districts, from Contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principles are suspended or debarred. Covered transactions include procurement Contracts for goods or services equal to or in excess of \$100,000 and all non-procurement transactions (e.g., sub-awards to sub-contractors) Contractors (Vendors) receiving individual awards for \$100,000 or more and all sub-recipients must certify that the organization and its principals are not suspended or debarred. By signature of this Solicitation, the Vendor affirms that neither they nor their principals are suspended or debarred by a federal agency.
21. **Notification of Criminal History.** State of Texas Education Code, Section 44, requires that a person or business entity (excluding publicly-held corporations) that enters into a contract with a school district must give advance notice to the District if the person or an owner or operator of the business entity has been convicted of a felony. School districts 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 the Education Code or misrepresents the conduct resulting in the conviction. Vendor's must complete, execute and return as part of his/her Solicitation Response, the Felony Conviction Notice form included in the Solicitation.
22. **Acceptance.** EISD shall indicate acceptance of a Vendor's Solicitation Response by issuance of a purchase order or other form of Notice of Award to awarded Vendor(s) at the completion of the evaluation of Solicitations.
23. **Site Visitation.** If applicable to the service, the District recommends that the respondents visit the site and examine the space and/or equipment to be serviced. The respondent shall carefully examine these specifications and, if necessary, secure additional information from the purchaser that may be requisite to a clear and full understanding of the work.
24. **Award of Contract.** Award of contract may be in the form of a Purchase Order issued by EISD or a formal Contract, duly executed by each of the contracting parties.
- 24.1. If the Contract is issued in the form of a Purchase Order, the Purchase Order, together with any other documents which the Purchasing Department has attached thereto as part of the Purchase Order, constitutes an offer by the District to purchase from the Vendor the goods and/or services indicated on the Purchase Order, subject to these terms and conditions. The Purchase Order is the sole and complete contract between the District and the Vendor with respect to the goods and services ordered, and supersedes all prior oral and written understandings. No additional terms or modifications to the Purchase Order propose by the Vendor in any acknowledgement, sales order, or other form of communication shall be binding on the

District unless the Purchasing Department expressly assents thereto in writing. Purchasing Department's failure to object to provisions contained in any communication from the Vendor shall not be deemed a waiver of the provisions hereof or an approval of the terms therein.

- 24.2.** Acceptance of the Purchase Order is conditional of Vendor's assent to the terms and conditions herein. EISD hereby expressly object to and rejects any terms or conditions addition to or different from those herein, whether previously or hereafter proposed in any writing from Vendor unless Purchasing Department has expressly agreed therewith in writing, if the terms and conditions herein are not acceptable, the Vendor must contact the Purchasing Department in writing upon receipt of the order and withhold performance until the matter is resolved in writing. The Vendor shall be deemed to have accepted the order on the terms herein upon commencement of performance.
- 24.3.** If a formal contract is issued (in addition to – or in the place of a Purchase Order), the terms and conditions of the contract shall be governed in the following order;
- 24.3.1.** The original Solicitation;
- 24.3.2.** Any addenda submitted prior to the open of the Solicitation;
- 24.3.3.** The accepted portions of the vendor's submission to the Solicitation; and
- 24.3.4.** Any subsequent contractual documents agreed upon by both parties.
- 24.4** Partnership and/or Subcontracting. If the Vendor has joined with one or more business partners or is subcontracting any work to respond to the Solicitation, EISD reserves the right to:
- 24.4.1.** Reject the Vendor's offer based on that/ those partnership(s) and/ or Subcontractors.
- 24.4.2.** Accept, at its opinion, subsequent offers with new partnership(s) and or Subcontractors, should those in initial offer be unacceptable for any reason.
- 25. Competence of Vendor.** To be entitled to consideration, the Vendor shall have available, the necessary organization and facilities to fulfill all the services required under the purchase order. Only personnel trained in services of this type shall be employed under and for the purchase order. Vendor shall obtain all licenses/ permits required for the performance of the service. The vendor shall employ only orderly and competent workers, skilled in the performance of the services, which they will perform under the Contract. The 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, or tobacco products while on the job or on the District's property, nor shall any such workers be intoxicated, or under the influence of alcohol or drugs while on the District's property.
- 26. Right to Audit.** The District has the right to audit the Vendor's books and records pertaining to the service during the hours of the normal workday during the term of the agreement and for a period of five (5) years following expiration of the Contract.
- 27. Term of Contract.** The Contract established by the Solicitation award shall be in effect from the date of award or the start date; whichever is later, through the termination date as indicated within the Solicitation. If allowed for by the original Solicitation, EISD reserves the right to extend the Contract at the District's sole discretion in the increments indicated in the Contract. Extensions will be automatic unless the District chooses to issue the extensions in writing prior to the end of the then-current Contract term. Any purchase orders dated during the term of the Contract must be honored even if received after the Contract expiration date. Vendors may not specify a "final order" receipt date. Pricing is established by the date the order is placed unless otherwise stated in the Contract.
- 28. Emergency Contract Extension.** If it is determined by the District that additional time is required to avoid a Contract lapse, EISD may, at its sole discretion, extend the Contract in 30 day increments, up to 90 days, under the current Contract pricing, terms and conditions. Such extension will be done in writing prior to the end of the current Contract term.
- 29. Vendor's Obligations.** The Vendor shall fully and timely provide all Deliverables described in the Solicitation and in the Vendor's Solicitation Response in strict accordance with the terms, covenant, and conditions of the Contract and all applicable Federal, State, and local laws, rules and regulations.
- 30. Delays.** The District reserves the right to delay a scheduled delivery or other due dates by written notice to the Vendor if the District deems it is in its best interest.

31. **Gratuities.** The District, may, by written notice to the Vendor, cancel a Contract without liability if it is determined by the District that gratuities were offered or given by the Vendor or any agent or representative of the Vendor to any officer or employee of the District with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such Contract. In the event the Contract is canceled by the District pursuant to this provision, the District shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Vendor in providing such gratuities.
32. **Copyrighted Products or Services.** If commissioned by the District, paid or unpaid, to create a design, artwork, or custom-made product or service, the District shall be sole bearer of any copyrights available for the end product.
33. **Warranty.**
- 33.1. **Price.** The Vendor warrants the prices offered are no higher than the Vendor's current prices on orders by others for like Deliverables under similar terms or purchase. The Vendor certifies that the prices in the Solicitation Response have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor. In addition to any other remedy available, the District may deduct from any amounts owed to the Vendor, or otherwise recover, any amounts paid for items in excess of the Vendor's current prices on orders by others for like Deliverables under similar terms of purchase.
- 33.2. **Title.** The Vendor warrants that it has good and indefeasible title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests and encumbrances. The Vendor shall indemnify and hold the District harmless from and against all adverse title claims to the Deliverables.
- 33.3. **Deliverables.** The Vendor warrants and represents that all Deliverables sold to the District under this Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Vendor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the Deliverables shall be new or recycled merchandise and not used or reconditioned. Recycled Deliverables shall be clearly identified as such.
- 33.4. **Exclude or Disclaim.** The Vendor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the Deliverables or from the date of acceptance of any replacement Deliverables. If during the warranty period, one or more of the above warranties are breached, the Vendor shall promptly upon receipt of demand either repair the non-conforming Deliverables, or replace the non-conforming Deliverables with fully conforming Deliverables, at the District's option and at no additional cost to the District. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Vendor. The District shall endeavor to give the vendor written notice of the breach of warranty within thirty (30) days of discovery of the breach of warranty, but failure to give timely notice shall not impair the District's rights under this section.
- 33.5. **Failure to Repair or Replace.** If the Vendor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the District, then in addition to any other available remedy, the District may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Vendor, and purchase conforming Deliverables from other sources. In such event, the Vendor shall pay to the District upon demand the increased cost, if any, incurred by the District to procure such Deliverables from another source.
- 33.6. **Damage Assessment.** If a Vendor is in default on an order, EISD reserves the right to purchase the item in default and charge the increase in price, if any, and cost of handling to the Vendor. Failure to pay a damage assessment is cause for Contract cancellations and/or suspension or removal of the Vendor from the District's Solicitations list for a minimum of one year.
- 33.7. **Transfer of Manufacturer's Warranty.** If the Vendor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Vendor shall transfer and assign such manufacturer's warranty; the Vendor shall transfer and assign such manufacturer's warranty to the District. If for any reason the manufacturer's warranty cannot be fully transferred to the District, the Vendor shall assist and

cooperate with the District to the fullest extent to enforce such manufacturer's warranty for the benefit of the District.

- 33.8. Services.** The Vendor warrants and represents that all services to be provided the District under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- 33.9. Limitation of Warranty.** The Vendor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
- 33.10. Warranty Period.** Unless otherwise specified in the Contract, the warranty period shall be at least one year from acceptance of the commodities or services. If during the warranty period, one or more of the above warranties are breached, the Vendor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the District. All costs incidental to such additional performance shall be borne by the vendor. The District shall endeavor to give the Vendor written notice of the breach of warranty within thirty (30) days of discovery of the breach warranty, but failure to give timely notice shall not impair the District's rights under this section.
- 33.11. Delivery of Goods or Performance of Services.** If the Vendor is unable or unwilling to deliver goods or perform its services in accordance with the District terms of the Contract, then in addition to any other available remedy, the District may reduce the amount of the Contract from the Vendor, and purchase conforming goods and services from other sources. In such event, the Vendor shall pay to the District upon demand the increased cost, if any, incurred by the District to procure such goods or services from another place.
- 34. Usage Reports.** The District reserves the right to request the awarded vendor to provide usage reports of the products or services purchased from this vendor during the contract period. This right may be extended beyond the end of the contract period for a maximum of two years. The report will be an agreed upon format that is useful by the District and made available to the District.
- 35. Invoices and Payment.** The Vendor shall submit separate invoices in duplicate on each purchase order after each delivery. If the District authorized partial shipments or deliveries it will be shown on the purchase order and a separate invoice must be sent for each shipment or delivery made.
- 35.1.** Invoices shall indicate the purchase order number and shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. **Invoices shall be emailed to accountspayable@canesisd.net**
- 35.2.** Federal excise taxes, State taxes, or District sales taxes must not be included in the invoiced amount. The District will furnish a tax exemption certificate upon request.
- 35.3.** All proper invoices received by the District will be paid within 30 days of the District's receipt of the Deliverables or of the invoice, whichever is later.
- 35.4.** The District's payment obligations are payable only and solely from funds appropriated and available for the purpose of the purchase. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any Deliverables delivered but unpaid shall be returned to the Vendor. The District shall provide the Vendor written notice of the failure of the District to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the District to pay its obligations under the Contract.
- 36. Right to Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
- 37. Termination for Cause.** In the event of a default by the Vendor, the District shall have the right to terminate the Contract for cause, by written notice effective ten (10) days unless otherwise specified, after the date of such notice, unless the Vendor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the District's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the District shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the District as a result of the Vendor's default, including, without limitation, cost of cover,

reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Vendor, the District may remove the Vendor from the District's Vendor list for three (3) years and any Quote, bid, offer or proposal submitted by the Vendor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

38. **Termination without Cause.** The District shall have the right to terminate the Contract, in whole or in part, without cause anytime upon thirty (30) days' prior written notice. Upon receipt of a notice of termination, the Vendor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The District shall pay the Vendor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
39. **No Warranty by District Against Infringements.** The Vendor represents and warrants to the District that the:
- 39.1. Vendor shall provide the District good and indefeasible title to the Deliverables and;
 - 39.2. Deliverables supplied by the Vendor in accordance with the specifications in the Contract will not infringe, directly or contributory, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables, and the Vendor does not know of any valid basis for any such claims.
 - 39.3. Vendor shall, at its sole expense, defend, indemnify, and hold the District harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from:
 - 39.3.1. Any claim that the District's exercise anywhere in the world of the rights associated with the District's ownership, and if applicable, license rights, and its use of the Deliverables infringes the intellectual property rights of any third party; or
 - 39.3.2. The Vendor's breach of any of Vendor's representations or warranties stated in this Contract. In the event of any such claim, the District shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the District's behalf. Further, Vendor agrees that the District's specifications regarding the Deliverables shall in no way diminish Vendor's warranties or obligations under this paragraph and the District makes no warranty that the production, development, or delivery of such Deliverables will not impact such warranties of Vendor.
 - 39.3.3. Nothing in the contract shall limit or waive the District's legal remedies available at law or in equity during or following any applicable warranty period for Deliverables or Services.
40. **Advertising.** The Vendor shall not advertise or publish, without the District's prior consent, the fact that the District has entered into Contract, except to the extent required by law.
41. **No Contingent Fees.** The Vendor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, except bona fide employees of bona fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty, the District shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Vendor, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.
42. **Assignment-Delegation.** The Contract shall be binding upon and ensure to the benefit of the District and the Vendor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Vendor without the prior written consent of the District. Any attempted assignment or delegation by the Vendor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer right or benefits on any person, firm or entity not a party hereto; to being the intention of the parties that there be no third party beneficiaries to the Contract.
43. **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing

signed by the aggrieved party. No waiver by either the Vendor or the District of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other excising or future default or defaults, whether or a similar or different character.

44. **Modifications.** The Contract can be modified or amended only by a writing signed by both parties. No pre-printed similar terms on either the Vendor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of this Contract.
45. **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.
46. **Jurisdiction and Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the District to seek and secure injunctive relief from any competent authority as contemplated herein.

By signature below, Proposer acknowledges and agrees to these General Proposed Terms and Conditions and any accompanying Special Terms & Conditions, and understands that such Terms and Conditions will govern the relationship between Proposer and the District for the goods and services made subject of this proposal.

Contractor

By: _____

Name: _____

Title: _____

Date: _____

SECTION B

Special Terms & Conditions

1. This offer is intended to be used to provide Eanes ISD with their requirements for Commercially Prepared Food, in accordance with specifications and conditions embodied in this inquiry.
2. **The Contract period will be for a one year period from October 23, 2019 to October 31, 2020, with 4 optional annual renewals as long as both parties agree.**
3. Quantity requirements are a close approximation, based on past experience. The actual quantities may vary due to participation and availability of commodities. EISD reserves the right to increase or decrease quantities as need dictates. Suppliers are expected to carry sufficient inventories during the Contract period to cover needs of EISD.
4. The use of brand names and manufacturers are for the purpose of brevity in establishing type and qualities of merchandise required and are not restrictive. Manufacturer, trade, and or brand name must be indicated on each item and descriptions and ingredients must be included with Bid. Private brands, special blends, or new offerings but be approved before submittal.
5. **A copy of your valid Food Manufacturer license or Food Wholesaler license or Food Wholesaler must accompany your response. Failure to submit the appropriate license with your bid response will disqualify your bid from consideration. IF your company is awarded this bid and your license expires during the contract period, a copy of the renewed license must be given to EISD as soon as it is available. Failure to keep a copy of your valid license on file with EISD is grounds for contract termination.**
6. All items delivered shall be subject to inspection and rejection by EISD for un-servable conditions such as overcooking, undercooking, uneven topping distribution, temperature violations, less toppings than specified, and other conditions that would prevent the product from selling the end-user including safety violations and esthetic.
7. By signing and submitting this Proposal, Vendor agrees to hold proposal prices open for 60 days after the deadline.
8. Orders shall be delivered F.O.B. Destination, Inside within the time specified after receipt of order by email, in-person, or by phone.
9. Vendor shall furnish goods and services in strict compliance with the General Conditions, Special Conditions, and Specifications.
10. Payment(s) will only be made from an original invoice. Payment will not be made from a statement. The Vendor shall submit separate invoices at the time of each delivery. Invoices shall be itemized and transportation costs, if any, shall be listed separately. An invoice shall accompany each delivery with the

name of the school, the number of units, unit price, and total price of the ticket, and shall be signed by the food service manager or designee on site.

11. Invoices shall be emailed to: accountspayable@eanesisd.net
12. Do not include Federal Excise, State or City Sales Tax. EISD shall furnish a tax exemption certificate.
13. EISD agrees to notify the supplier of an error or contested invoice. EISD and supplier hereby agree to mutually resolve disputed invoices within sixty (60) days of receipt of notice of dispute.

END OF SPECIAL TERMS AND CONDITIONS

SECTION C

Questionnaire & Information Form

Federal Tax ID # _____ (please attach a current W9 to response)

Business Name: _____

Submit Address: _____

City/ State/ Zip _____

Phone # _____ Fax # _____

Contact Name: _____ Title: _____

E-Mail: _____

Web Site: _____

Type of Business Entity: Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietor ☐
Other _____

Signature: _____ Title: _____

Printed Name: _____ Date: _____

ATTACHMENT 1

References

All Proposers shall submit a list of at least three references for which similar contracts are in effect or have been completed. Austin area references are preferred.

1. Company Name: _____

Address: _____

Contact: _____ E-Mail: _____

Phone Number: _____ Fax: _____

2. Company Name: _____

Address: _____

Contact: _____ E-Mail: _____

Phone Number: _____ Fax: _____

3. Company Name: _____

Address: _____

Contact: _____ E-Mail: _____

Phone Number: _____ Fax: _____

ATTACHMENT 2

Deviations

DEVIATIONS: In the event the undersigned Bidder intends to deviate from the general terms, conditions, special conditions or specifications contrary to those listed in the “Terms and Conditions” and other information attached hereto, all such deviations must be **listed on this page**, with complete and detailed conditions and information also being attached (attach additional pages as necessary).

Vendors must list all specifications for item(s) bid that differ from any specifications/brands listed in the RFP. EISD will be the sole judge to determine if deviations are acceptable in meeting the needs of EISD and participating members. Check the “D” column on the vendor response form and reference on this page the line number and deviation.

NO DEVIATIONS: In the absence of any deviation entry on this form, the Bidder assures EISD of their compliance with the Terms, Conditions, Specifications, and information contained in this bid.

This image shows a blank sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

All Bidders MUST COMPLETE this page.

RETURN with bid or bid may be considered NON RESPONSIVE.

ATTACHEMENT 5

Central Texas Purchasing Alliance Adoption Clause

USE OF CONTRACT(S) BY MEMBERS COMPRISING THE CENTRAL TEXAS PURCHASING ALLIANCE (CTPA).

- A. If authorized by the Vendor(s), resultant contract(s) may be adopted by the member districts of the CTPA as indicated below. Authorized members may purchase goods and/or services in accordance with contract pricing and purchasing terms established by the Contract Lead District.
- B. A list of members that may utilize the Vendor's contract is listed on the CTPA website, www.txctpa.org/memberinfo.
- C. Any district member wishing to utilize such contract(s), will contact the Vendor to verify that the contract is available to them and will place its own order(s) directly with the successful Vendor. The Successful Vendor may contact the member districts to inform them about the contract award. There shall be no obligation on the part of any participating district to utilize the contract(s).
- D. A negative reply by the Vendor will not adversely affect consideration of the Vendor's Solicitation response.
- E. Each participating district has the option of executing a separate contract with the successful Vendor, which may contain general terms and conditions unique to that contracting district. If, when preparing such contract, the general terms and conditions of a district are unacceptable to the successful Vendor, the successful Vendor may withdraw its extension of their offer to that district.
- F. The Contract Lead District shall not be held liable for any costs or damages incurred by another district as a result of any award extended to that district by the Successful Vendor.

BY SIGNATURE BELOW, THE VENDOR HEREBY AUTHORIZES THE MEMBER DISTRICTS AS INDICATED BELOW TO ADOPT ANY CONTRACT RESULTING FROM THE VENDOR'S RESPONSE TO THIS SOLICITATION:

_____ YES

_____ NO

_____ YES, with the exception of the following districts:

Vendor Name: _____

Printed Name of Authorized Company Official: _____

Signature of Company Official: _____

Date: _____

ATTACHMENT 6

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. www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm This law makes it necessary for Eanes ISD to determine the residency of its bidders. In part, this law reads as follows:

Section: 2252.001

(3) 'Non-resident bidder' refers to a person who is not a resident.

(4) 'Resident bidder' 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 bidder unless the nonresident underbids the lowest proposal submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located."

I certify that _____
(Name of Company Bidding)

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

_____ Resident Bidder _____ Non-resident Bidder

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

_____ in the state of _____.

Signature of Authorized Company Representative

Print Name

Title

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

- (2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;
or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator 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 the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; 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, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

Eanes Independent School District
601 Camp Craft Road, Austin Texas 78746

FELONY CONVICTION NOTICE

Senate Bill 1 passed by the State of Texas Legislators, Section 44.034, Notification of Criminal History, Subsection (a) states “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or owners 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 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 disclosure is not required of a publicly-held corporation (option A).

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony conviction had been reviewed by me and the following information furnished is true to the best of my knowledge (select one answer).

Choose A, B or C

Vendor's Name: _____

Authorized Company Officer's Name: _____

Title: _____

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

Signature of Company Officer: _____

B. My firm is not owned nor operated by anyone who has been convicted of a felony.

Signature of Company Officer: _____

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

Details of Conviction: _____

Signature of Company Officer: _____

ALL VISITORS TO ANY EANES ISD BUILDING WILL BE REQUIRED TO PRESENT A PICTURE ID AND BE ENTERED INTO THE VISITOR MANAGEMENT SYSTEM IN ORDER TO RECEIVE A VISITOR'S PASS. **NO VISITOR WILL BE ALLOWED ENTRY WITHOUT A VISITOR'S PASS.**

Signature of Company Officer: _____

Date: _____

SUSPENSION OR DEBARMENT CERTIFICATE

Non-Federal entities are prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement for goods or services equal to or in excess of \$100,000.00 contractors receiving individual awards for \$100,000.00 or more and all sub-recipients must certify that the organization and its principals are not suspended or debarred.

By submitting this offer and signing this certificate, the bidder:

1. Certifies that the owner/operator has not been convicted of a felony except as indicated on separate attachment to this offer, in accordance with Section 44.034 of the Texas Education Code, and
2. certifies that no suspension or disbarment is in place, which would preclude receiving a federally funded contract under the Federal OMB, A-102, Common Rule (____.36)

Vendor Name: _____

Address: _____

City/Municipality: _____ State/Province: _____

Zip Code: _____ Country: _____

E-mail Address: _____

Authorized Company Officer's Signature: _____

Print Company Officer's Name: _____

Title of Officer: _____

Date: _____

CERTIFICATION REGARDING TERRORIST ORGANIZATIONS & BOYCOTTING OF ISRAEL

Vendor hereby certifies that it is not a company identified on the Texas Comptroller's list of companies know to have contracts with, or supply 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 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 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. See Texas Government Code § 2270, 808 and 2252.151-2252.154.

Proposer Certification (Terrorist Organizations & Boycotting of Israel):

_____ **YES**, I agree to the above (Initial: _____).

_____ **NO**, I do NOT agree to the above (Initial: _____).

Vendor Name: _____

Address: _____

City/Municipality: _____ State/Province: _____

Zip Code: _____ Country: _____

E-mail Address: _____

Authorized Company Officer Signature: _____

Print Company Officer's Name: _____

Title of Officer: _____

Date: _____

EANES ISD DATA PROTECTION AGREEMENT (“DPA”)

This DPA is made by and between _____ (“Contractor”) and Eanes Independent School District (“EISD”) as a condition of Contractor’s, its employees’ and agents’ (including subcontractors) access to, and use, maintenance, and disclosure of, District Data (as defined below) in connection with Contractor’s provision of products and services (collectively, “Services”) to EISD. This DPA is hereby made part of any agreement(s) between the parties with respect to the Services (each, an “Agreement”), notwithstanding any merger/integration or similar provision contained in any such Agreement(s), and Contractor and EISD agree as follows:

1. “District Data” means all information, including, but not limited to, business, administrative, financial, student, and personnel information, work product, and other intellectual property that is: (1) created by EISD, its employees, contractors, agents, affiliates, students, parents, and users, or provided or otherwise made available to Contractor, its employees and agents by EISD, its employees, contractors, agents, affiliates, students, parents, and users through the Services or otherwise in connection with the Services; or (2) gathered by Contractor, its employees and agents through the Services or other means (e.g., Contractor technology) in connection with the Services. District Data includes, but is not limited to, any information that is protected by law, such as “personally identifiable information” and student “education records” as those terms are defined under the Family Educational Rights and Privacy Act, 20 USC 1232g, as amended (“FERPA”). District Data does not include “de-identified” information as that term is defined by the U.S. Department of Education for purposes of FERPA.

2. All rights in and to District Data shall remain the sole and exclusive property of EISD. Contractor has no rights, implied or otherwise, in District Data, except as expressly stated in this DPA.

3. EISD hereby authorizes Contractor to access, use, and maintain District Data, and disclose District Data to its employees and agents, solely as reasonably necessary to provide Services to EISD, subject to the requirements of applicable law and this DPA. Contractor shall ensure that its employees and agents agree to comply with data protection obligations similar to, and in no event less restrictive than, those applicable to Contractor under this DPA and applicable law. Except as required by law or authorized by EISD in writing, Contractor, its employees and agents shall not disclose District Data to any third party. EISD shall have access to District Data at all times.

4. Contractor shall comply with all laws applicable to the access to, and use, maintenance, and disclosure of, District Data. Contractor acknowledges that it has been designated a school official with legitimate educational interests in any FERPA-protected information contained in District Data and agrees to abide by any requirements imposed by law on school officials. The parties agree that: (1) the Services are services/functions for which EISD would otherwise use its own employees; (2) Contractor meets the criteria in EISD's annual notification of FERPA rights for being a school official in connection with the Services; (3) Contractor is under EISD's direct control with respect to its access to, and use, maintenance, and disclosure of, FERPA-protected information; and (4) Contractor will access, use, maintain, and disclose FERPA-protected information only for the purpose for which it was disclosed and will not re-disclose such information to other parties unless Contractor has specific written authorization from EISD to do so and it is otherwise permitted by FERPA. EISD parents/guardians and students shall not be required to waive any FERPA rights in connection with the Services, and any such waiver shall be null and void.

5. Contractor shall use commercially reasonable security procedures and practices to preserve the confidentiality, integrity, and availability of District Data and protect it from unauthorized acquisition, access, use, or disclosure. Such measures shall be no less protective than those used to secure Contractor’s own data of a similar type. District Data shall not be stored outside the United States without EISD’s prior written consent. If Contractor suspects that District Data has been exposed to unauthorized acquisition, access, use, or disclosure, except as prohibited by law, Contractor shall immediately notify EISD, investigate the incident, and cooperate fully with EISD’s response to the incident.

6. Except as prohibited by law, Contractor shall notify EISD of any legal order or other demand seeking District Data prior to disclosing District Data in response thereto, and Contractor shall reasonably cooperate with EISD's efforts, if any, to protect District Data.

7. Contractor will promptly notify EISD of any change in Contractor's, its employees' or agents' circumstances that are reasonably expected to materially affect District Data, including, but not limited to, any assignment, transfer, or cessation of business or unlawful conduct, and shall reasonably cooperate with EISD's requests related thereto. This DPA shall be binding upon, and inure to the benefit of, Contractor's permitted successors and assigns, if any.

8. Upon the termination of any Services, or as otherwise requested by EISD in writing, Contractor shall ensure that: (a) all applicable District Data is promptly transferred to EISD as reasonably requested by EISD; and (2) all applicable District Data in Contractor's, its employees' and agents' possession is destroyed in a commercially reasonable manner (unless Contractor is expressly permitted by law to retain such District Data). Notwithstanding the termination of the Services or any Agreement(s), this DPA shall continue in full force and effect until all District Data in Contractor's, its employees' and agents' possession has been securely destroyed as required herein.

9. A material breach of this DPA shall constitute a material breach of the applicable Agreement(s), if any. Upon a material breach of this DPA, EISD may suspend or terminate Contractor's, its employees' and agents' access to District Data. If Contractor fails to cure such breach as provided under the applicable Agreement(s), if any, or within ten (10) days after receiving written notice thereof, whichever is later, EISD may terminate the Services and any applicable Agreement(s), without penalty, liability, or further obligation. The foregoing remedies shall be in addition to and without limitation of any other rights or remedies of EISD.

10. This DPA shall be governed by Texas law, without regard to choice of law principles. The mandatory and exclusive venue for any dispute related to this DPA shall be in the state or federal courts for Travis County, Texas, and the parties hereby consent to the jurisdiction of said courts.

11. In the event of a conflict between or among this DPA, any Agreement(s), and/or applicable law, the requirement that affords the most protection to District Data shall supersede and control.

IN WITNESS THEREOF, the Parties have executed this DPA effective _____.

CONTRACTOR: _____

EANES INDEPENDENT SCHOOL DISTRICT

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A to DATA PROTECTION DPA

Other types or categories of District Data:

List Inserted: Yes No

**You MUST check off at least one box and/or add description under
"Other types or categories of District Data" before signing.**

VENDOR: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____

[INSERT LIST, DATA FIELD, ETC. OR "None"]

EANES ISD INSURANCE REQUIREMENTS

Any vendor or contractor working on Eanes School District facilities or property must provide the required insurance. Any large equipment or vehicles brought onto Eanes School Property must also provide the required insurance.

- Minimal coverage should be \$1,000,000 for general liability, each occurrence.
- Minimal coverage should be \$500,000 for automobile liability, each occurrence.
- Minimal coverage should be \$100,000 for workers compensation, each occurrence.
- Policy must be currently in effect during the time of contracted work.
- Additional Insurer must be:

Eanes ISD, its officers, employees and agents.

- Certificate Holder must name:

Eanes Independent School District
601 Camp Craft
Austin, TX 78746

- Certificate of Insurance on an ACCORD form shall be faxed to 512-732-9056 or emailed to mgreer@eanesisd.net, **and a hard copy original must follow by mail from the insurance company to:**

Matt Greer
Director of Safety and Risk Management
Eanes ISD
601 Camp Craft
Austin, TX 78746

Signature: _____ Date: _____

ATTACH THE FOLLOWING FORMS TO YOUR PROPOSAL:

1. Copy of valid Food Manufacturer license or Food Wholesaler license or Food Wholesaler license
2. W9
3. ACCORD formatted Insurance Certificate naming Eanes ISD
4. House Bill 1295 Form: <https://www.ethics.state.tx.us/filinginfo/1295/>