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Addendum 2
for 27-002JO Storage Area Network Replacement
Standard Terms and Conditions and Insurance requirements

STANDARD TERMS AND CONDITIONS

FACTS, STATISTICS, AND DEFINITIONS

1. Pflugerville ISD (also referred to as "the district" or "PFISD") currently has in excess of 26,000 students and operates twenty-one elementary schools with grades Pre-K through grade five; seven middle schools with grades 6-8; four high schools with grades 9-12 and two alternative campuses. Other District facilities include Administration, Support Services, Technology, and Transportation Buildings.
2. Throughout the standard terms and conditions, the district will make use of the term "bid". Use of this term should be considered descriptive and is intended to reference all procurement options currently used by the district. This includes bids, sealed proposals, requests for proposals, requests for qualifications and formal quotes. The terms and conditions contained herein apply to all procurement methods the district may use.

BID SUBMITTAL

3. Vendors must include the properly executed bid forms, attachments and addenda as specified in the bid documents. Responses that do not include all requested information may be disqualified.
4. All prices and quotations must be typed or written in ink. Mistakes may be crossed out and the correction inserted adjacently, corrections must be initialed. In case of calculation errors, unit price shall govern.
5. It is understood that quantities, where listed, are to be considered estimated needs only. Pflugerville ISD reserves the right to increase or decrease quantities ordered as needed.
6. Bids are to be sealed and clearly labeled as "original" or "copy" and must include the bid number, bid title, due date and time of opening. Failure to follow these instructions may result in rejection of bid.
7. **PFLUGERVILLE ISD WILL NOT ACCEPT LATE, FAXED OR EMAILED, BIDS. PFLUGERVILLE ISD IS NOT RESPONSIBLE FOR BID DELIVERED INCORRECTLY OR MISPLACED BIDS. THE DATE/TIME STAMP IN THE PFLUGERVILLE ISD PURCHASING OFFICE SHALL BE THE OFFICIAL TIME OF RECEIPT.**
8. All bids shall be deemed final. No offer shall be subject to correction or amendment for errors or miscalculations after the bid deadline. Bids may be withdrawn or amended until the date and time due, at which time they become the sole property of Pflugerville Independent School District.
9. Pflugerville ISD reserves the right to request additional or clarifying information after the bid response has been submitted. This information may be used to further evaluate the response or qualify overall cost associated with a proposed solution.
10. Any problems or discrepancies that are discovered in relation to this bid process should be directed to the PFISD Director of Purchasing for a determination or clarification prior to the bid due date. If the vendor fails to make such request, no excuse will thereafter be entertained for failure to carry out the work in a satisfactory manner.
11. If any of the information is considered to be confidential or a trade secret belonging to the vendor and, if released would give advantage to a competitor or vendor, that information should be filed with the submittal in a separate envelope marked **CONFIDENTIAL**

- DO NOT DUPLICATE WITHOUT PERMISSION -. Acceptance of such materials does not constitute an admission by PFISD that the materials are confidential or a trade secret. (Government Code, Article 262.049)

12. Samples, if applicable or when requested, shall be furnished at no cost to Pflugerville ISD. If not destroyed during the evaluation, samples will be returned to the bidder upon request at the bidder's expense. If no return request is received within seven (7) days of bid award, the sample may be destroyed.
13. Bidders are expected to fully inform themselves as to the conditions, requirements and specifications before submitting bids. Failure to do so will be at the bidder's own risk and bidder cannot secure relief on the plea of error.
14. Any catalog, brand name or manufacturer's reference used herein is intended to be descriptive, not restrictive. It is used to indicate the type and quality desired. Bids on items of like quality will be considered. Pflugerville ISD retains sole authority to determine if items being bid are of like quality and to accept or reject proposed substitutions as deemed to be in the best interests of the district.
15. The apparent silence of these specifications as to any detail or the apparent omission of detailed descriptions concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
16. Withdrawal of bids will not be allowed for a period of 90 days following the bid opening.

DEVIATIONS FROM SPECIFICATIONS

17. All deviations from the general conditions and/or specifications must be listed on the Deviations Page of this bid document. Listing of deviations is an integral and required part of the official bid of each firm. Failure to list deviations as directed will hold the bidder strictly accountable to the District's specifications as written. PFISD shall be the sole interpreter as to the acceptance of any substitution. All substitution must be pre-approved by Pflugerville ISD.

AWARD OF CONTRACT(S)

18. Pflugerville ISD reserves the right to award the Contract(s) to the vendor(s) offering the best value, and not necessarily to the vendor proposing the lowest price. However, the district reserves the right to award single or multiple contracts; waive technicalities or to not award any contracts as a result of this bid process. PFISD reserves the right to award in any manner deemed to be in the best interest of the district.
19. PFISD is environmentally conscious and prefers that vendors doing business with PFISD use packaging materials made from recycled paper, plastics, cardboard, wood, etc.
20. The specific criteria to be used for evaluation and award of this contract shall be outlined under the Special Terms and Conditions.
21. It is not the policy of the Pflugerville Independent School District to purchase on the basis of low price alone.
22. Vendors submitting an "All or None" bid will not be considered for anything other than the entire award. Therefore, a vendor who specifies "All or None" and does not submit a bid for all items solicited will be deemed non-responsive.
23. Successful vendors will be notified by an award notification letter.

24. Pflugerville ISD reserves the right to accept or reject any or all offers, to waive formalities and to accept the offer(s) that is determined to be in the best interest of the District
25. These conditions are applicable and form a part of any contract documents resulting from this bid process, including purchase orders. In case of conflict, the bid documents shall take precedence.
26. If during the life of the contract, the successful bidder's net prices to other customers for items awarded herein are reduced below the contracted price, it is understood and agreed that the benefits of such reduction shall be extended to Pflugerville ISD.
27. During the term of the contract, items that may not have been included on the initial bid may be included by mutual consent of the awarded vendor and the district.
28. Unless otherwise specified within these documents, Pflugerville ISD appoints the Director of Purchasing as contract administrator with designated responsibility to ensure compliance with contract requirements.
29. Prices and/or discounts are to remain firm for one (1) year from date of award, unless otherwise specified.
30. If this is a renewable contract, PFISD reserves the right to extend the prices, terms, and conditions of this contract with any or all vendors that agree to a contract extension. The prices, terms, and conditions of this Agreement will govern all extensions and renewals with Vendor(s), unless mutually amended in writing and duly authorized by both parties.
31. Successful Bidder agrees to defend, indemnify and hold harmless Pflugerville ISD and all its officers, agents and employees from any and all claims or liabilities regarding death, injuries, or property damages arising out of Vendor's activities under this agreement. Successful bidder shall pay any judgment with costs which may be obtained against Pflugerville ISD for such damages.
32. The successful bidder shall not sell, assign, transfer or convey this contract in whole or in part without the prior written consent of the Pflugerville ISD Director of Purchasing. Payment can only be made to the vendor(s) awarded as a result of this bid.
33. Vendor agrees to provide and pay for all labor, materials, and equipment necessary for the proper execution and completion of work under this Agreement.
34. Vendor shall secure and pay for any fees, licenses, or permits necessary for the successful completion and proper execution of the work, be it community, city, county, or state requirement.
35. Vendor shall at all times enforce strict discipline and good order among its employees and shall not employ on the work site any unfit person or anyone not skilled in the required tasks.
36. Vendor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by its operations.
37. Vendor agrees that all work related to this contract shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the District. Seller shall maintain all necessary insurance coverage as required by statute as well as any additional coverage specifically required within this bid document.
38. Upon receipt of a written deficiency notice, contractor shall have ten (10) days to provide a satisfactory response to PFISD. Failure to adequately address all issues of concern may result in contract cancellation.

DELIVERIES

39. Deliveries of in stock merchandise (when applicable) shall be made within five business days of receiving the purchase order. If delivery cannot be made within the required days, then notice must be given to PFISD with an expected delivery date.
40. If the vendor is unable to deliver within thirty (30) days from the date of the purchase order, or in the manner specified in the contract, Pflugerville ISD reserves the right to purchase like goods on the open market and charge the difference to the vendor, deduct charges from existing invoice totals due at the time, or cancel the contract unless:
 - A. Prior approval is given for an extended delivery date by the department affected.
 - B. The purchase order states an extended date.
 - C. The merchandise ordered by PFISD is lost in shipment and PFISD is advised and agrees to accept a later delivery date.
 - D. The vendor takes exception to the 30 days requirement and specifically addresses the required time frame for delivery of specific goods or services on the deviations page provided within this proposal.
41. All deliveries shall be shipped FOB Pflugerville ISD and shall include inside delivery in the bid price. PFISD will accept responsibility for deliveries after final inspection and acceptance of said items. If the quoted delivery terms do not include transportation costs, Pflugerville ISD shall have the right to designate what method of transportation shall be used to ship the goods.
42. The title and risk of loss of the goods shall not pass to Pflugerville ISD until PFISD actually receives and takes possession of the goods in good order at the point or points of delivery.
43. All items shall be subject to inspection and rejection by PFISD for defects and/or noncompliance with the purchase order. If for any reason, any item that is rejected, proposing vendor will cover all shipping costs to and from PFISD, Pflugerville, Texas. Rejected items not picked up within one (1) week after notification will become a donation to Pflugerville ISD for disposition.

ORDERING

44. All orders must be accompanied by a purchase order or purchase order number. Ordering shall be allowed by phone, fax, in person, or by mail as long as a purchase order number is provided.
45. Pflugerville ISD is not liable for orders accepted without a valid purchase order. Payment will not be made for services rendered or goods provided without a valid district purchase order. Failure to observe this requirement may result in contract termination.

PAYMENT

46. Sellers shall submit separate invoices, on each purchase order after each delivery. Invoices shall indicate the purchase order number, and bid number, shall be itemized and transportation charges, if any, shall be listed separately. Invoices should detail all work performed and materials provided, by date and quantity.
47. Invoices should be mailed to Pflugerville Independent School District, Attn: Accounts Payable, 1401 West Pecan, Pflugerville, TX 78660. Payment shall not be due until the above instruments are submitted after delivery. Suppliers should keep

the Finance Department advised of any changes in your remittance addresses.

48. Do not include Federal Excise, State or City Sales Tax. PFISD is exempt from payment of these taxes and will furnish a tax exemption certificate, if requested.
49. PFISD agrees to pay the supplier within thirty (30) days after receipt of uncontested invoices for the receipt of all supplies, aids or equipment, or the day on which services were completed, or the day on which the invoice was received, whichever is later.
50. PFISD agrees to notify the supplier of an error or contested invoice. PFISD and supplier hereby agree to mutually resolve disputed invoices within sixty (60) days of receipt of notice of the dispute.

INTERPRETATION

51. PFISD shall be sole interpreter of the terms, conditions, specifications, and performance requirements contained herein.

WARRANTY AND RETURNS

52. Warranty Conditions for all supplies and/or equipment shall be considered manufacturer's minimum standard warranty unless otherwise agreed to in writing. Vendor shall be an authorized dealer, distributor or manufacturer for the product. Equipment proposals received shall be for new equipment only. Equipment refers to all hardware, software, materials and incidentals, etc. Substitutions for new equipment must be clearly stated in writing. Warranty period will be deemed to commence upon delivery and acceptance of the goods or service by PFISD.
53. Vendor expressly warrants that all goods or services furnished under this Agreement shall conform to all specifications and appropriate standards and shall be free from defects in material or workmanship. Vendor warrants that all such goods or services shall conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled.
54. Pflugerville ISD reserves the right to return damaged, defective, or materials shipped in error, at the vendor's expense, for exchange or credit at the district's option within thirty (30) working school days of receipt of such materials.
55. Merchandise received from a vendor shall be new, not used or shop worn.
56. All items must meet OSHA standards of compliance and be asbestos free.
57. All items which use electrical currents must be U.L. Listing approved.
58. Pflugerville ISD will not accept "factory seconds" or otherwise inferior goods and reserves the right to return such item(s) within thirty (30) days of receipt at vendor's expense.

TERMINATION OF AGREEMENT

59. This contract may be terminated by the PFISD for cause or convenience with a 30day written notice. In the event of cancellation, the district will not be held responsible for loss of business or any termination expenses incurred by the bidder.
60. This contract is conditioned on a best efforts attempt by the District to obtain and appropriate funds for payment of the contract. Loss of funding shall constitute grounds for termination of the parties' contractual relationship by PFISD, in whole or in part, without penalty, pecuniary risk or further liability to PFISD.

61. In the event the proposal expires before a mutually agreed contract renewal is executed, vendor shall extend the contract on a month-to-month basis by mutual agreement.

PENALTIES FOR NON-PERFORMANCE

62. If the vendor or its subcontractors fail to fulfill or abide by the terms, conditions, or specifications of the contract (including price), Pflugerville ISD's remedies include but are not limited to:
 - a. Purchase on the open market and charge the proposing vendor the difference between contract and actual price, or
 - b. Deduct charges from existing invoice totals due at the time, or
 - c. Cancel the contract within (30) days written notification, or
 - d. Award to the next lowest responsible vendor, if acceptable to PFISD.

NOTIFICATION OF CRIMINAL HISTORY

63. The attached criminal history form must be completed and returned as a part of this bid, if applicable.
64. All Vendor employees who will have direct contact with students shall supply information required by Texas Education Code Section 22.0834 to the appropriate authorities. Under no circumstances shall Vendor be allowed to use employees, agents or subcontractors on district property who have been convicted of a felony or a crime involving sexual misconduct. Vendor shall require all employees, agents and subcontractors to comply with campus access policies, designated parking policies and other requirements necessary to comply with Texas Education Code Section 22.0834.
65. The awarded vendor(s) shall insure that all entities with which it contracts shall supply information regarding criminal records history of any employee, agent or consultant who shall be present on Pflugerville ISD property at any time.

UNIFORM COMMERCIAL CODE

66. If applicable, this agreement shall be governed by the Uniform Commercial Code. Wherever the Uniform Commercial Code is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas effective and in force on the date of this agreement.

ORDINANCE, LAW, DISPUTE RESOLUTION AND VENUE

67. The contractor shall comply with all local, state, and federal ordinances, laws and regulations pertaining to the operations covered under this contract. It shall be the obligation of the contractor to apply for, pay for, and obtain all permits and licenses as required by the various agencies of state and local governments.
68. Both parties agree that a good faith effort will be put forth to resolve any and all disputes arising from this contract. After thirty days of impasse, outside arbitration may be sought by the District.
69. This agreement will be governed and construed according to the laws of the State of Texas. Both parties agree that the venue for any litigation arising from this contract shall lie in Pflugerville, Travis County, Texas
70. Neither party shall be liable in damages for any delay or default in the performance of this contract if such delay or default is caused by conditions beyond its own control including, but not limited to, Acts

of God, government restrictions, wars, insurrections, and/or any other cause beyond the reasonable control of the party whose performance is affected.

71. Successful bidder shall be required to comply with applicable equal employment opportunity laws and regulations.
72. Successful bidders agree to protect PFISD from claims involving infringement of patent or copyright.
73. Any required notice provided to successful bidder by Pflugerville ISD shall be deemed to have been given and received on the next day after such written notice has been sent via Certified Mail to the bidder's address as provided in response to this bid opportunity.
74. **ALL PROVISIONS LISTED WITHIN THIS BID BECOME A PART OF THE TERMS AND CONDITIONS OF ANY RESULTING CONTRACT UNLESS SPECIFICALLY EXCLUDED AND AGREED TO BY PFLUGERVILLE ISD. ANY EXCEPTIONS MUST BE LISTED ON THE DEVIATIONS PAGE WITHIN THIS INQUIRY. ANY AND ALL CONDITIONS SPECIFIED WITHIN THIS PROPOSAL DOCUMENT WILL AUTOMATICALLY BECOME A PART OF ANY ADDITIONAL CONTRACT TERMS WHETHER OR NOT THEY ARE SPECIFICALLY STATED WITHIN THAT ADDITIONAL AGREEMENT.** Vendor understands and agrees that any terms and conditions submitted by Vendor as part of its bid are not incorporated into any agreement **UNLESS SPECIFICALLY LISTED ON THE DEVIATIONS PAGE** AND included in any final agreement executed between Vendor and the duly authorized representative of PFISD. In the event a separate agreement is not executed by PFISD and Vendor following the bid award, these Contractual Terms and Conditions, along with ALL OTHER Proposal Terms and Conditions and any PFISD Special Terms and Conditions shall constitute the entire agreement governing the parties' relationship.

CONFLICT OF INTEREST

75. Individuals and business entities that wish to do business with PFISD must file a Conflict of Interest form with the PFISD purchasing department in accordance with Texas Local Government Code Chapter 176.008. The Conflict of Interest form is attached to this document and must be completed and returned as a part of your bid response.

INSURANCE

76. The successful contractor(s) will be required to furnish an insurance certificate with the minimum coverage listed below. PFISD requires that vendor's insurance be placed with companies that have achieved an "A" rating or better with A.M. Best. Pflugerville ISD must be named as an additional insured and proof of insurance is required prior to the start of the project. Any certificates of insurance furnished as evidence of the insurance maintained by vendor shall include a clause obligating the insurer to notify PFISD (in writing) thirty (30) days prior to cancellation or any material change in the insurance. The immunity of the owner shall not be a defense to be used by the insurance carrier.
77. All bidders must furnish a certificate of insurance with their bid. Only the selected bidder(s) will be required to name Pflugerville ISD as an additional insured.

78. Required insurance coverage amounts include:

<u>TYPES OF COVERAGE</u>		<u>LIMITS OF LIABILITY</u>
Employer's Liability		\$500,000 each accident
		\$500,000 disease policy limit
		\$500,000 disease each emp.
Commercial General Liability		\$1,000,000 combined single limit policy aggregate
		\$500,000 combined single limit each occurrence
(Property damage deductible not to exceed \$500 per accident.)		
	Business	Auto Liability
		\$100,000/\$300,000/\$100,000

00 (Hired/non-owned coverage must also be provided.)

(Hired/non-owned coverage must also be provided.)

INSURANCE REQUIREMENTS

1. Required insurance coverage amounts include:

TYPES OF COVERAGE	LIMITS OF LIABILITY
Worker's Compensation	Statutory
Employer's Liability	\$500,000 each accident \$500,000 disease policy limit \$500,000 disease each employee
Commercial General Liability	\$1,000,000 combined single limit policy aggregate \$500,000 combined single limit each occurrence
Property damage deductible not to exceed \$500 per accident.	
Business Auto Liability \$100,000/ \$300,000/ \$100,000 minimum requirement	