FORT BEND INDEPENDENT SCHOOL DISTRICT

GENERAL PROVISIONS

For Purchasing Solicitations and Contracts

September 18, 2026

The following General Provisions are issued in accordance with the laws, rules, and policies set forth through the Texas Education Code, Chapter 44, and Fort Bend Independent School District (FBISD or "District") policy and may be amended as required by FBISD. Prospective Vendors are cautioned to read and understand the General Provisions set forth in this document prior to responding to FBISD Solicitation. Any exceptions to or failure to follow these General Provisions unless otherwise directed within the Solicitation, may be cause for a Vendor's Solicitation Response to be deemed nonresponsive and disqualified by FBISD. These General Provisions will take precedence over the terms and conditions within the Solicitation when they are in conflict unless specific exception is noted within the Solicitation.

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PART I

DEFINITIONS, TERMS AND ACRONYMS

The following terms may be found in this document or may be used in the normal operations of the District's Purchasing Department.

Term	Definition
Addendum	A document that has been issued by the district that has made material changes, modifications, or deletions of information or specifications of a Solicitation.
Agreement/ Contract	A contract that has been agreed upon and signed by both the District and the Vendor.
Bid	Vendor's response to a Request for Bid or RFB. The term may be used to represent all types of solicitations.
Buyer	The Buyer (FBISD Buyer) is the district's approved business representative for all matters of solicitation, evaluation, award, and administration of a Contract Award. There will be only one appointed Buyer at any time for each purchasing action. Vendors shall address all business/contract issues about a Contract Award to the Buyer.
Alternate or Substitute	A good or service substituted for another by a Vendor with approval of the FBISD Buyer.
Conflict of Interest	A Conflict of Interest shall exist when a Vendor or any affiliated person or business entity provides goods or services under a Contract Award whereby one or more personal, business, or financial interests or relationships exist which would cause a reasonable individual with knowledge of the relevant facts to question the integrity or impartiality of those who are or will be acting under a proposed or existing Contract; or any other facts that exist which may cause the District, at its sole discretion, to determine during the Solicitation or the performance of an existing Contract that the Vendor obtained an unfair competitive advantage favoring the interest of the Vendor or any person with whom the Vendor has or is likely to have a personal or business relationship. Conflicts of interest are further defined in FBISD policy and state law.
Contract Award	The acceptance of a Quote, Bid, Proposal or Offer; a Purchase Order, District Contract Agreement, or other formal notification of award issued by an authorized District official.
Contract Documents	A set of documents that create an Agreement that has been agreed upon and signed by both the District and the Vendor. Contract Documents shall include, without limitation, these General Provisions, the Contract, Purchase Orders, and Service Contracts
Contract Term	The length of time a Contract or Agreement will be available for use by the district.
Contractor	The Vendor(s) who receive a Contract Award for a specific Solicitation.
Debarment	Action taken by the district which prevents a Vendor from participating in the solicitation process for a period of time, usually as a result of improper business practices on the part of the Vendor.
Deliverable	Goods or services which are required by a Contract Award to be provided to the District by a Vendor.

Discount Contract	An awarded Contract where pricing is based on a firm-fixed discount from a Vendor's published price list, priced catalog, or other document that is published for the majority of the Vendor's customers.
District	FBISD
District Business Day	Days the District is officially conducting business (excludes weekends, District observed holidays, etc.).
District Web Site	The official District web site, available at http://www.fortbendisd.com
FBISD	Fort Bend Independent School District
Line-Item Contract	An awarded Contract where goods or services are specified and individually priced.
Notice of Award	A formal, written document issued by an authorized official of the District's Purchasing Department informing a Vendor that it has been selected for the Contract Award based on its Solicitation Response.
Offer	Term used in conjunction with or in place of a Vendor's Solicitation Response.
Professional Services Contract	A Contract awarded for performance of technical, professional, and/or unique services by Vendors which are typically licensed such as medical or medical arts professionals, architects, engineers, or lawyers, as described in Texas Education Code 44.031(f).
Proposal	Vendor's response to a Request for Proposal (RFP).
Purchase Order	Formal order for goods, materials and/or services from a Vendor; a binding commitment for the district to remit payment to the Vendor after the specified goods and/or services, and an invoice for the same are received by the district.
Quote	Vendor's response to a Request for Quote.
RFB	Request for Bids. Solicitation method used for acquiring goods or services for one-time purchases or establishing Term Contracts for acquiring goods or services with aggregate values of $50,000 or greater. This solicitation method is formal, and a legal notice is published at time of issuance. This purchasing method is normally used to establish annual contracts for District-wide goods or services, or major one-time purchases. Award is based on Best Value Determination.
CSP	Request for Competitive Sealed Proposal. Solicitation method is used primarily for construction projects. Allows for the use of the formal evaluation process and uses Best Value Determinations for an award. Negotiations are allowed prior to the award.
RFO	Request for Offer. Solely for technology purchases such as those issued through the State of Texas / Department of Information Resources (DIR) procurement processes. May also be used for sale or lease of property belonging to the district.
RFQ	Request for Quote. Used for small dollar purchases valued at less than $50,000. Solicitation method is typically informal (e.g., phone, fax or email) and solicitation requirements are minimal (no advertisement, minimal response time, etc.). May be used for one-time purchases, or to establish low-dollar Term Contracts. May also be used to compare contract pricing from several different contract vehicles such as cooperatives.

RFP	Request for Proposal. Solicitation method is used to acquire highly technical, negotiated goods or services. Standard RFPs will allow for evaluations based on specific criteria established within the RFP. Used primarily for higher dollar valued purchases but may be used for smaller purchases where requirements warrant this Solicitation method. Negotiations are allowed prior to the award.
School Business Days	Days the District is officially conducting school (excludes weekends, District observed holidays, etc.)
Service Contract	An awarded Contract for performance of a service by a Vendor for a specified period of time.
Solicitation	General term used to refer to an RFB, CSP, RFO, RFQ or RFP.
Solicitation Response	Vendor's response to an RFB, CSP, RFO, RFQ, RFP or other Solicitation issued by the district
Solicitation Tabulation	Official tabulation of Solicitation Responses, issued by the Purchasing Department after Contract Award.
Subcontractor	Company or business that has contracted with the prime contractor for performing services for the district. The prime contractor is responsible to the district for the work performed by its subcontractor(s). No contract will exist between the subcontractor and the district.
Term Contract	An awarded Contract for delivery of goods or performance of services by a Vendor for a specific period of time.
Vendor	Bidder, Vendor, Offeror, Proposer, or Contractor.
Vendors of Record	The compiled bid list of Vendors for a specific Solicitation, that is to include Vendors that were selected to receive the Solicitation or have notified the district that they have an interest in the Solicitation and are added to the initial list of Vendors.

PART II

SOLICITATION INFORMATION AND INSTRUCTIONS

1. **DISTRICT OVERVIEW**
   - 1.1. Fort Bend Independent School District spans over 170 square miles and is located in the northeast part of Fort Bend County, just southwest of Houston and Harris County. FBISD encompasses the incorporated cities of Missouri City, Sugar Land, Arcola, and Meadows Place, a small portion of Houston, and the communities of Clodine, DeWalt, Rosharon, and Fresno.
   - 1.2. The district currently has eighty-two (82) plus campuses and multiple other sites for administration, athletics, agriculture, and support services.
2. **TYPES OF CONTRACTS** Each Solicitation will identify the type of Contract being advertised. One of the following contracting methods will typically be used, but FBISD reserves the right to use any contracting method it deems to be in the best interest of the district:
   - *2.1.* ***Firm-Fixed Price***
     - 2.1.1. Prices shall be firm fixed for the term specified in the Contract, and all extensions exercised by the district.
     - 2.1.2. No increases will be allowed during the Contract term.
     - 2.1.3. Price decreases are acceptable at any time during the term of the Contract.
   - 2.2. ***Fixed-Price with a Price Adjustment Allowance***
     - 2.2.1. Prices shall be firm for a term specified in the Contract.

2.2.2. Prices can be adjusted based on escalation provisions as identified in the Contract.

2.2.3. The district reserves the sole right to evaluate the applicability of any price adjustment and accept or reject any formula included in any Solicitation Response or accept or reject any Solicitation Response containing a price adjustment proposal.

2.2.4. FBISD recognizes this product or service has a price component that may have a commodity with changing costs. The Contractor/Supplier may request a Price Adjustment no more frequently than once each quarter (3-month period).

2.2.5. A Price Adjustment request must be made in writing and include the reason for the request, documentation supporting the request (i.e., commodity increases), the current pricing, and the requested revised pricing. FBISD will review the Price Adjustment request. If the Price Adjustment is deemed reasonable the Price Adjustment request will be accepted by written acknowledgement. If the request is not accepted the FBISD may entirely reject the request or may counter with revised pricing. In either case the FBISD will provide a written explanation in support of the decision. The Director of Procurement Services may use available indexes (e.g., CPI or PPI) to determine if the requested Price Adjustment is reasonable. Typically, a Price Adjustment that exceeds 5% will not be approved unless very unusual and significant changes have occurred in the industry.

2.2.6 In the event industry costs decline, FBISD shall have the right to request to receive, from the Contractor, a reasonable reduction in prices/pricing that reflect such cost changes in the industry. FBISD will make a written request to the Contractor for a Price Adjustment in writing with supporting documentation.

2.3. ***Firm-Fixed Discount Percentage, Discount-from-List, or Cost Markup-From-List***

2.3.1. Discount or cost mark-up shall be firm fixed for the period specified in the Contract, but prices may vary based upon changes in a District approved price list or other pricing document, by the method and frequency as identified in the Contract.

2.3.2. Used when the pricing is based on a discount or a cost-plus mark-up percentage from an established, publicly recognized price list.

2.3.3. Prices shall be from a current Vendor's price list or a cost-plus percentage add-on to a Vendor's distributor/producers price list.

2.3.4. Vendor's price list shall be the current price list published and available to and recognized by the trade. A price list specially prepared for a given Solicitation will not be accepted. FBISD, in its sole discretion, shall determine the acceptability of such price lists.

2.3.5. Unless otherwise indicated within the Solicitation, the period of acceptance shall be no earlier than onetwenty (120) District Business Days from receipt and approval.

2.3.6. In order for a price list to be changed, if permitted by the Contract terms, a new or amended price list must be submitted to the District's Purchasing Department by the Vendor and approved in writing by the FBISD Buyer within the Contract time specified prior to the requested price change. Otherwise, the last FBISD approved price list remains in effect until such time that FBISD approves the price change. Price changes will not be approved without vendor's documentation supporting cause for increase.

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

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

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

2.3.10. Prices for this type of Contract cannot be increased during the first year of the contract. For periods beyond year one, prices cannot be increased for 30 days after the Contract renewal commences unless otherwise specified in the Solicitation. Price reductions shall be offered immediately upon becoming available to a Vendor at any time after award.

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

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

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

2.3.11. ***Pricing, Purchase Orders, Invoices, and Payments***

If pricing for products or services available under this Contract are provided at a lower price to an eligible Customer who is not purchasing those products or services under this Contract or any other entity or consortia authorized by Texas law to sell said products and services to eligible Customers, then the available Customer Price in this Contract shall be adjusted to that lower price. This requirement applies to products or services quoted by Vendor or its resellers under this contract for a quantity of one (1) under like terms and conditions and does not apply to volume or special pricing purchases. This Contract shall be amended within ten (10) business days to reflect the lower price.

3. **CONFLICT OF INTEREST**

3.1. ***Disclosure of Certain Relationships with Local Government Officials***

3.1.1. Any individual or business entity that contracts or seeks to contract for the sale or purchase of property, goods, or services with FBISD must file a Vendor Conflict of Interest Questionnaire with the FBISD Purchasing Office in accordance with Texas Local Government Code Chapter 176, and in the event that a conflict arises, no later than the 7th business day after the recipient becomes aware of facts that require filing.

3.1.2. This requirement applies to a person who is an agent of a vendor in the Vendor's business with the district. The Texas Ethics Commission's website at: www.ethics.state.tx.us/data/forms/conflict/CIS.pdf.

3.2. ***Employee***

3.2.1. Pursuant to FBISD Policy CH (Local) Purchasing and Acquisition, and DBD (Local) Employment Requirements and Restrictions, all Vendors must disclose the name of any FBISD employee who owns, directly or indirectly, an interest in the Vendor's firm or any of its branches.

3.2.2. Failure to provide such conflict-of-interest information may be grounds for disqualification of the Solicitation Response or cancellation of a contract resulting from this Solicitation.

3.2.3. Purchase of services or equipment from a business owned in whole or in part by a District employee shall be permitted only when approved by the Superintendent and executed through a documented competitive process.

4. **SOLICITATION PRICING** Solicitation prices must be firm for one hundred twenty (120) days from Solicitation opening/bid closing date until award unless otherwise specified in the Solicitation.

5. **QUANTITIES** Any quantities listed within the Solicitation are a close approximation based on requirements and available funds, but FBISD reserves the right to purchase more or less than the estimated quantities, at the current Contract price, for the term of the agreement unless otherwise specified in the Solicitation. Unless otherwise agreed in writing, FBISD will engage Contractor on an "as needed if needed" basis and does not guarantee the purchase of any quantity or dollar amount of Services.

6. **REQUEST FOR EXPLANATION / INTERPRETATION**

6.1. Any explanation desired by a Vendor regarding the meaning or interpretation of this Solicitation must be submitted in writing to the Buyer identified in the Solicitation in accordance to the Solicitation instructions, in order to allow a response to all interested Proposers before the submission of a bid.

6.2. The district has provided an email address or method of communication intended for interested Proposers to direct requests for clarification, interpretations, and/or questions of current Solicitations in each respective solicitation.

6.3. All requests must include all contact and Solicitation information to be considered. Failure to provide this information may delay a response from the district. Any interpretations, corrections, additions, or changes to the Solicitation will be communicated to all interested Vendors though the issuance of an Addendum. It is the responsibility of the Vendors, prior to submitting their Solicitation Response, to determine whether an Addendum has been issued. All Vendors shall comply with the requirements specified in any Addendum(a) issued by the district.

6.4. Once a request is received, a notification of receipt by the district will be forwarded to the Vendor's contact email address.

7. **DELIVERY TERMS**

7.1. All goods or products included in the Solicitation shall be F.O.B. ("Free on Board") destination full freight allowed, unless otherwise indicated within the Solicitation.

7.2. All goods or products will be considered full freight prepaid and allowed and included in the unit price.

8. **SUPPLIER DIVERSITY INITIATIVE** The FBISD Supplier Diversity Initiative (SDI) ensures that the District will use its best efforts to encourage small businesses to participate in current and future purchasing of all goods and services.

8.1. ***Program Definitions***

8.1.1. *"Small Business"* is defined as a business entity which is independently owned and operated, and which is not dominant in its field of operation. The business employs less than 50 employees and/or has less than $3 million in annual business volume from this local operation.

8.2. ***Certification***

8.2.1. Any business wishing to be identified by FBISD as a small business shall be certified as such by the:

8.2.1.1. Port of Houston Authority SBE Certification.

8.2.1.2. Metropolitan Transit Authority of Harris County (METRO) SBE Certification.

8.2.1.3. City of Houston SBE Certification; or

8.2.1.4. Small Business Administration - SBA 8A (if authorized by the district for a particular procurement).

9. **SAMPLE REQUIREMENTS**

9.1. 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 contract.

9.2. The Vendor should not submit a sample with the Solicitation Response unless directed to do so.

9.3. ***Request of Sample***

9.3.1. 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 Buyer.

9.3.2. Samples must be received by the District's Purchasing Office by the deadline established in the Buyer's written notification.

9.3.3. A representative sample of the item(s) offered must be provided. Award recommendations will be based on samples and any future items ordered will be of the same quality and grade of the sample submitted.

9.3.4. The Vendor will cover all costs in shipping and providing the sample product to the district.

9.3.5. Failure to provide a requested sample may disqualify the Vendor from further consideration in award of the associated Solicitation item.

9.3.6. 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.

9.4. ***Sending Samples***

9.4.1. If a sample is required by the district, samples must be clearly marked with the following information:

9.4.1.1. The word "Sample" in large print.

9.4.1.2. The name of the company submitting the sample; and 9.4.1.3. The number and title of the Solicitation or Contract.

9.5. ***Return of Samples***

9.5.1. Unless specifically requested, all samples provided shall become the property of FBISD.

9.5.2. If the sample is required by the Vendor to be returned, any and all costs associated with the return of the sample will be the responsibility of the Vendor. FBISD shall not be liable for any damage to the sample.

PART III SOLICITATION RESPONSE

1. **PREPARATION OF A SOLICITATION RESPONSE** In preparation of a Solicitation Response, each Vendor shall:
   - 1.1. Furnish all information required by the Solicitation by the due date and time.
   - 1.2. Ensure Solicitation Responses are signed and/or submitted only by individuals who have been given authority to bind the Vendor under contract.
   - 1.3. Have all erasures or other changes initialed by the signer of the Solicitation Response.
   - 1.4. Solicitation Responses submitted on other forms or with different terms or provisions may be deemed nonresponsive by FBISD and disqualified.
   - 1.5. Unless otherwise instructed by the Solicitation, Vendors shall submit the lowest and best price, F.O.B. destination, freight prepaid and allowed, on each item, including packaging and transportation.
   - 1.6. An unsigned Solicitation Response may be deemed non-responsive by FBISD and disqualified. Solicitation Responses cannot be signed after the Solicitation opening time even though the Vendor or a representative is present at the Solicitation opening.
   - 1.7. By submitting a proposal, vendor acknowledges that it agrees to the terms and conditions of the proposal.
   - 1.8. By submitting a proposal, vendor agrees to any Terms & Conditions of this solicitation. In the event of a conflict with other documents provided by the vendor, these Terms and Conditions take precedence and prevail unless specifically identified in writing signed by both parties.
   - 1.9. All Solicitation Responses and accompanying samples or documents of any kind become the property of FBISD and are subject to the Texas Public Information Act. The District will be under no obligation to return any part of a Solicitation Response to a Vendor.
   - 1.10. FBISD's Board Policy Manual is publicly available at https://www.fortbendisd.com/Page/580. This site provides access to Board adopted policies governing ethical conduct, conflicts of interest, and procurement requirements, including policies BBFB, CAA, CH (Local), CHE, and CV. Vendors participating in FBISD procurement processes are required to comply with all applicable District policies related to the solicitation and contract. Pursuant to FBISD Policy CH (Local) – Purchasing and Acquisition, and DBD (Local) – Employment Requirements and Restrictions, vendors must disclose the name of any FBISD employee who owns, directly or indirectly, an interest in the vendor's firm or any of its branches. Failure to disclose such relationships may result in disqualification or termination of contract.

2. **ADDENDA**
   - 2.1. Should an addition or correction become necessary after a Solicitation is issued, an Addendum or notice of the availability of such an Addendum will be posted on the District e-bidding Web Site https://fortbendisd.bonfirehub.com/portal/openOpportunities. Vendors of Record with FBISD are those Vendors having received a copy of the initial Solicitation or notice of the availability of a copy on-line.
   - 2.2. Vendors shall acknowledge an 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.
   - 2.3. Failure to return or acknowledge an Addendum may be deemed non-responsive by FBISD and result in disqualification.

3. **BRAND NAME AND PRODUCT NUMBER REFERENCE**

3.1. If applicable to the Solicitation, the use of referenced brand/stock numbers in a Solicitation are for brevity in establishing minimum specifications and are not intended to be restrictive.

3.2. "Buyers approved equal" indicates that the district will consider other manufacturer's product that meets or exceeds the published specifications. The district shall make the final determination of acceptable substitutions.

3.3. Unless no exception is made to the reference manufacturer's product, the alternate manufacturer, trade and/or brand name and number must be indicated for each item bid. The Bidder will be required to forward any illustrations that render its equivalency. Any additional specifications must reference the line-item number that it corresponds to.

3.4. Products of inferior quality will be rejected.

3.5. If the bid space is left blank, the district will consider it a 'no bid'.

4. **ATTACHMENTS**

4.1. Vendors may include attachments to describe goods or services being offered and/or to exhibit that products offered meet all written specifications.

4.2. Page and paragraph numbers shall properly reference each page of an attachment in the Solicitation Response.

4.3. The name of the Vendor submitting the attachment shall also be prominently displayed on each page of the attachment.

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

4.5. **WARNING:** ***Any added terms or conditions may result in disqualification of a Solicitation Response, e.g., Solicitation Reponses subject to laws of a state other than Texas, requirements for prepayment, limitations on remedies, waiver of immunities, change in venue, etc.***

5. **SITE VISITATION**

5.1. The Vendor shall be responsible for fully understanding the scope of the Solicitation, and if considered applicable to the goods or services being solicited, the district recommends that Vendors visit the FBISD site and examine the space and/or equipment to be serviced. Vendors shall obtain prior FBISD Buyer approval for any site visit.

5.2. Pre-submittal conferences may be established by the district to allow Vendors access to the associated facility.

5.3. The prospective Vendor shall carefully examine the venue(s), specifications, and requirements.

5.4. If necessary, Vendors shall secure additional information from the FBISD Buyer that may be requisite to a clear and full understanding of the work.

6. **REFERENCES**

6.1. 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 include school districts or other local government organizations similar to FBISD in size and structure as references, if possible. References should include the company name, address, contact name, phone number and email address.

6.2. The district reserves the right to use the results of the reference check in the evaluation process, including information obtained from references other than those identified by the Vendor. A negative reference or references may cause a Solicitation Response to be rejected.

7. **CERTIFICATIONS AND REPRESENTATIONS**

7.1. The Vendor shall complete, sign and provide all documents as required by the Solicitation. Document must be signed by an authorized representative who may legally bind the company and is to be included with the

Solicitation Response for the response to be considered. Failure to sign and submit required documents may disqualify the Solicitation Response

7.2. Based on the type of Solicitation, the forms that may be required are:

7.2.1. Felony Conviction Notice. State of Texas Education Code, Section 44.034 requires that a person or business entity (excluding publicly held corporations) that enters into a Contract with the District give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony.

7.2.2. Proposal Submission Form (Proposals only).

7.2.3. Conflict of Interest Disclosure. Prior to and as a condition of doing business with FBISD, Vendor shall complete a Conflict-of-Interest Disclosure Form, and shall disclose any business relationship, past or present, with a sitting Board member or FBISD employee. Failure to disclose the existence of any such relationship may disqualify the Solicitation Response or be grounds for termination of an award or agreement.

7.2.4. Relationships with Foreign Entities.

7.2.4.1. In accordance with Texas Government Code Chapter 2252, Subchapter F, Vendor shall certify that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, the Government of Iran, the Government of Sudan, or a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.

7.2.4.2. Vendor shall certify, pursuant to Texas Government Code Chapter 2270, neither Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any (the "Vendor Companies"), boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of any award or agreement.

7.2.5. W-9 Certificate. The Vendor is required to register in Bonfire and upload a copy of a W-9 Vendor Identification Number Certificate to expedite the payment process if awarded a Contract. A copy of the form can be found at https://www.irs.gov/forms-pubs/about-form-w-9.

7.2.6. If you have previously submitted your W9, you are required to submit an updated version if there are any changes.

7.2.7. Suspension and Debarment Certification

7.2.8. EDGAR Certifications

7.2.9. Data Protection Addendum This document is required for Solicitations that involve the district's data

7.2.10. Vendor ACH/Direct Deposit Authorization Form will be requested if awarded a Contract.

7.2.11. Certification Regarding Lobbying

This certification is a prerequisite for making or entering into a transaction imposed by Section 1352, Title 31, US Code.

7.2.12. Certificate of Residency

Texas Education Code Chapter 2252, Subchapter A addresses non-resident contractors. As a result, Fort Bend ISD obtains this form as part of the Solicitation Response to determine the residency of its proposers.

8. SUBMISSION OF SOLICITATION RESPONSES

8.1. A Solicitation Response shall represent a true and correct statement and shall contain no cause for claim of omission or error.

8.2. If directed by the Solicitation, the Vendor shall provide any and all certifications, forms, and documents as stated within the Solicitation.

8.3. Responses

8.3.1. Solicitation Response must contain:

8.3.1.1. The signed proposal document page of the Solicitation.
8.3.1.2. Specification documents, if applicable.
8.3.1.3. The certifications and representations as applicable.
8.3.1.4. Any additional documents required by the Solicitation.

9. **WITHDRAWAL OF A SOLICITATION** Any Vendor who, in FBISD's sole discretion, is extended the privilege of withdrawing a Bid because of having proven mechanical error in the Solicitation Response may not be considered for an Award on similar items for a length of time deemed appropriate by the district, usually considered to be one (1) year or longer.
10. **SOLICITATION RESPONSE CERTIFICATION** By signing and submitting a Solicitation Response, the Vendor certifies and represents to FBISD that:
    10.1. The Solicitation Response has been reviewed by an authorized representative of the company or firm submitting the bid, proposal, offer or other Solicitation Response document.
    10.2. The Vendor's firm or any of its individuals have not colluded, conspired, connived or agreed, directly or indirectly, with an entity or person, to put in a sham Solicitation Response or bid or to refrain from responding to the Solicitation, and have not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix its Solicitation Response price, or that of any other vendor, or to fix any overhead, profit or cost element of said Solicitation Response price, or of that of any other Vendor, or to secure any advantage against FBISD or any person interested in the Solicitation, and that all statements in its Solicitation Response are true;
    10.3. 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 or by any employee or agent to any other person engaged in this type of business prior to the official opening of the Solicitation; and
    10.4. Vendor has read and understands the Solicitation and these General Conditions (including without limitation, the Contract Terms, Conditions, and Requirements set forth in Part V, below).
11. **LATE SOLICITATION RESPONSES**
    11.1. Late Solicitation Responses, or components of a solicitation response, will **NOT** be considered under any circumstances.
    11.2. A Solicitation Response will be considered late if the Solicitation Response is not received at the Purchasing Department Solicitation Response Desk by the deadline provided in the Solicitation.
    11.3. The Purchasing Department will not be responsible for, and no allowances will be made for, misrouting of a

    Solicitation Response within the District, delays caused by the Post Office, technical delays or problems, courier services, or any other delays.
    11.4. The official deadline date and time is determined by the Purchasing Department. 12. 12.

THE DISTRICT IS TAX-EXEMPT

12.1. FBISD is tax-exempt. Proposal prices should not include taxes.

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

14. **INTERPRETATION**

14.1. A Solicitation represents the basis for any Award and supersedes all prior offers, negotiations, exceptions, and understandings (whether orally or in writing). Submitted Solicitation Responses should be self-explanatory and should not require any clarification or additional information.

15. **SOLE SOURCE**

15.1. In order to become a Sole Source Vendor, a Vendor must meet the requirements of Texas Education Code § 44.031(j) Sole Source, as described below.

15.1.1. Selected purchases may be exempt from competitive procurement if they meet the established criteria for a sole source purchase:

15.1.1.1. Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of a patent, copyright, secret process, or monopoly.

15.1.1.2. Identification and confirmation that the product is a film, manuscript, book, utility service (including electricity, gas, or water), or a captive replacement part or component for equipment.

15.1.1.3. Sole source does not apply to mainframe data-processing equipment and peripheral attachments with a single item purchase price in excess of $15,000.

15.2. It is incumbent upon the district to obtain and retain documents from the Vendor which clearly delineate the reasons that qualify for the purchase to be made on a sole source basis. In order to do business with FBISD as a Sole Source Vendor, FBISD must receive a notarized Sole Source Affidavit along with proof of Vendor's company qualifying as a sole source.

16. **GENERAL CORPORATE AND CONTACT INFORMATION**

Vendors are required to attach all the following in the Solicitation Response:

- Describe the company's official registered name and its principals.
- Provide a brief history of the company, including the year it was established.
- Provide the company's organizational chart.
- Provide the company's Dun & Bradstreet (D&B) number.
- Provide a description of the company's relevant market and the company's position within it.
- State whether the Vendor or the Vendor's ultimate parent company or majority owner: (A) has its principal place of business in this state; or (B) employs at least 500 persons in this state.
- Vendor agrees to provide the district with the following financial information if requested by FBISD at any point during the procurement process, including before or after contract award: If public, the Vendor's income statement, balance sheet, and cash flow for the past three (3) years; if private, the Vendor's audited financial statements for the past two years (if available). A Vendor's failure to provide this financial information may impact the FBISD administration's recommendation to the FBISD's Board of Trustees for the award of the contract.

PART IV SOLICITATION EVALUATION AND AWARD

1. **RESERVATIONS** The District expressly reserves the right to:

1.1. Waive minor deviations from specifications, if the district determines that overall cost of the goods or service will be lower, and the overall function is improved or not impaired.

1.2. Waive any minor informality or deficiency in any Solicitation procedure.

1.3. Accept, reject, or negotiate modifications in any terms of a proposed Vendor's Solicitation Response, or any parts thereof.

1.4. Waive any formalities or technicalities if deemed in the best interest of the district.

1.5. Reject any or all Solicitation Reponses.

1.6. Cancel the Solicitation.

1.7. Reissue a Solicitation.

1.8. Extend the Solicitation opening time and date, the Contract Award date, or both.
1.9. Specify approximate quantities.
1.10. Increase or decrease the quantity specified in the Solicitation.
1.11. Consider and accept alternate Solicitations, if specified in the Solicitation, when it is considered in the best interest of the district.
1.12. Procure any goods or services by other means.
1.13. Purchase no goods or services.
1.14. Award one or more contracts, in part or in whole, to a single or to multiple prospective Vendors. The decision to award multiple contracts, award only one contract, or to make no awards rests solely with FBISD. FBISD may make multiple awards, and this fact should be taken into consideration by each Vendor.
1.15. Award contracts for individual products or services as may appear advantageous.
1.16. Negotiate separately in any manner necessary to serve the best interests of the district; and
1.17. Be sole judge of quality and equality.
1.18. FBISD assumes no financial responsibility for any costs incurred by prospective Vendors in developing and submitting a Solicitation Response, participating in bid conferences (if any), participating in any negotiation sessions or discussions, or any other costs incurred by Vendors prior to award of a contract pursuant to any Solicitation.

2. **COMPETITIVE SELECTION USING BEST VALUE**

2.1. ***Solicitation***

2.1.1. All formal Solicitations will be evaluated using the Best Value method as defined in Texas Education Code 44.031(b).

2.1.2. The Solicitation will usually indicate the criteria and ranking to be used to determine Best Value. In the absence of criteria in the Solicitation, the criteria in 2.1.3 will be used.

2.1.3. In determining Best Value, the District will consider any or all of the following:

2.1.3.1. Purchase price.
2.1.3.2. Reputation of the Vendor and of the Vendor's goods or services.
2.1.3.3. Quality of the vendor's goods or services.
2.1.3.4. Extent to which the goods or services meet the district's needs.
2.1.3.5. Vendor's past relationship with the district.
2.1.3.6. Total long-term cost to the district to acquire the Vendor's goods or services.
2.1.3.7. Any other relevant evaluation criteria specifically listed in the Solicitation.

2.2. ***Award***

2.2.1. Award will not necessarily be made to the Vendor submitting the lowest priced offer.

2.2.2. After Solicitation Responses are received, FBISD may make an Award or Awards without discussion with any Vendor. FBISD reserves the right to conduct interviews, oral presentation, negotiations if applicable, or any other requirements deemed appropriate with only one, with some, or with all Vendors, in compliance with applicable procurement laws. Solicitation Responses should, therefore, be submitted on the most favorable terms.

3. **EVALUATION** The District will evaluate all Solicitations based on the following procedures:

3.1. **Objective** Objective evaluation is:

3.1.1. Based on a set of pre-determined criteria using formulas and/or sets of ranges; and 3.1.2. By normal District processes, does not include an evaluation team.

3.2. ***Subjective***

Subjective evaluation is:

3.2.1. Based on a set of pre-determined criteria; and

3.2.2. By normal District processes, includes the use of an evaluation team to determine the scoring.

4. **AWARD OF CONTRACT**

4.1. FBISD will indicate acceptance of a Vendor's Solicitation Response by issuance of a Purchase Order, Contract, or other form of Notice of Award to awarded Vendor(s) at completion of the evaluation of Solicitation Responses and upon approval by the Board of Trustees.

4.2. If the Contract is issued in the form of a Purchase Order, the Purchase Order together with any other documents which the FBISD Buyer has attached and/or referenced as part of the Purchase Order, constitutes an offer by the FBISD Buyer to purchase from the Vendor the goods and/or services indicated, subject to these General Provisions. The Purchase Order, together with these General Provisions, and their attachments and/or referenced documents, is the sole and complete Contract between the District and 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 proposed by the Vendor in any acknowledgement, sales order, or other form of communication shall be binding on the district. The FBISD Buyer's failure to object to provisions contained in any communication from the Vendor shall not be deemed a waiver of the provisions or an approval of the terms.

4.3. Acceptance of the Purchase Order is conditional on Vendor's consent to the terms and conditions in these General Provisions. FBISD expressly objects to and rejects any terms or conditions in addition to or different from those contained in these General Provisions, whether previously or hereafter proposed in any form from Vendor unless the FBISD Buyer has expressly agreed to them in writing. By submitting a Solicitation Response to the District to provide goods or services, Vendor acknowledges receipt and willingness to accept all terms and conditions contained in these General Provisions.

4.4. ***Order of Precedence***

4.4.1. If a formal Contract, Agreement or Purchase Order is issued, the terms and conditions of the Contract shall be governed in the following order of importance/precedence:

4.4.1.1. The formal Contract, Agreement, or purchase order.

4.4.1.2. These General Provisions.

4.4.1.3. Any Addenda to the Solicitation submitted prior to the opening of the Solicitation.

4.4.1.4. The original Solicitation.

4.4.1.5. The accepted portions of the Vendor's Solicitation Response; and 4.4.1.6.

Any subsequent contractual documents agreed upon by both parties.

4.4.2. Failure to accept this obligation may result in the cancellation of any award.

4.4.3. Any damages suffered by the district as a result of the Vendor's failure to Contract shall be recovered from the Vendor.

4.5. ***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, FBISD reserves the right to:

4.5.1. Reject the Vendor's offer based on that/those partnerships(s) and/or Subcontractors.

4.5.2. Accept, at its option, subsequent offers with new partnership(s) and or Subcontractors, should the Subcontracting Vendors in the initial offer be unacceptable for any reason.

4.6. ***Multiple Vendors*** FBISD reserves the right to award Contracts to multiple Vendors if such Vendors offer items that are unique and have value to FBISD.

4.7. ***Formation of Contract*** A response to a Solicitation is an offer to contract with FBISD based upon the terms, conditions, scope of work, and specifications contained in the Solicitation and in these General Provisions. A Solicitation Response does not become a contract unless and until it is accepted and executed by FBISD.

PART V CONTRACT *TERMS, CONDITIONS, AND REQUIREMENTS*

1. **GENERAL TERMS**

1.1. ***Titles***. The awarded Vendor shall be hereby known in the section as “Contractor”.

1.2. ***Term of Contract, Renewals and Extensions***

1.2.1. The Contract established by the Contract Award shall be in effect from date of award or the commencement date, whichever is later, and shall continue for the term stated in the Contract. Typically, the base term is one year.

1.2.2. Any Purchase Orders dated during the term of the Contract must be honored even if received after the Contract expiration date. Contractors may not specify a "final order" receipt date.

1.2.3. Pricing is established by the date the order is placed unless otherwise stated in the Contract.

1.2.4. Renewal Contracts. In addition to the initial base contract term, the district shall have the right to renew the contract for a period described in the official solicitation. Renewals may be offered for additional terms (for example, one-year base term + 4 one-year renewals = 5/years total) provided both FBISD and Vendor are in mutual agreement.

1.2.5. Short Term Contract Extension.

1.2.5.1. If the District determines that additional time is required to avoid a Contract lapse, it may, at its sole option, extend the Contract in 30-day increments, up to 180 days, under the current Contract pricing, terms and conditions.

1.2.5.2. Such extension will be done in writing prior to the end of the current Contract term.

1.3. ***Price Escalations*** The prices in Contractor’s Solicitation Response shall be firm for the term of the Contract. The district shall only allow price escalations within a Contract if such provisions were identified within the original Solicitation. Contract renewals will allow for escalation only at the time of renewal and Contractor must submit price escalation, along with a justification for such increase, on manufacturer’s letterhead, using the same format used in Contractor’s Solicitation Response. District shall review escalation amount and determine if escalation is acceptable or not. All price changes shall be subject to the district’s prior written approval.

1.4. ***Availability of Funds***

1.4.1. Any Agreement or Purchase Order resulting from a Solicitation is contingent upon the continued availability of appropriations and is subject to cancellation by the district, without penalty, either in whole or in part, if funds are not appropriated by Fort Bend ISD’s Board of Trustees or otherwise not made available to the district.

1.4.2. The district’s payment obligations are payable only and solely from funds appropriated and available for the purpose of the purchase.

1.4.3. The absence of appropriated or other lawfully available funds may render the Contract Award null and void to the extent funds are not appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor.

1.4.4. The district shall provide the Contractor 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 Award, or the reduction of any appropriation to an amount insufficient to permit the district to pay its obligations.

1.4.5. No penalty shall accrue to FBISD in the event this provision is exercised, and FBISD shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.

1.5. ***Confidentiality*** Subject to the Texas Public Information Act and any legal requirements, neither FBISD nor the Contractor shall disclose any confidential information without prior written approval. As applicable, Contractor shall maintain and process all information it receives from the district in compliance with all applicable data protection/privacy laws and regulations and FBISD policies. Contractor and FBISD understand that the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, governs the privacy and security of educational records and information and agree to abide by FERPA rules and regulations, as applicable. Contractor also acknowledges that FBISD is subject to the Texas Public

Information Act, and Contractor waives any claim against and releases from liability FBISD, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by Contractor and determined by FBISD, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

1.6. ***Federal Funding*** The following shall be applicable to Solicitations that are funded by federal funds:

1.6.1. This section is applicable only for products or services to be paid with federal funds.

1.6.2. If federal funds will be used to pay for products of services, the Parties understand and agree the Agreement is subject to appropriation, approval, and disbursement of such funding by the United States federal government and its funding administrators, including, but not limited to, the Texas Education Agency. As applicable, the Parties agree to comply with any terms, conditions, and policies related to the use of federal funds, including, but not limited to, the Education Department General Administrative Regulations ("EDGAR") and any other requirements related to applying for, receiving, managing, and reporting federal funds. Contractor shall complete the required "EDGAR Certifications." Noncompliance or misrepresentation regarding this certification may be grounds for termination of an Agreement.

1.6.3. If FBISD does not receive sufficient funding, upon written notice to Contractor, FBISD may terminate an Agreement without penalty or further obligation to Contractor at the end of the period for which funding is available.

1.6.4. All contracts paid with federal grants shall be effective only during the period of availability of the funds identified in the Notice of Grant Award ("NOGA"). An Agreement is effective only after the NOGA is issued.

1.6.5. Federal Law (A-102) Common Rule and (A-110) OMB Circular 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 principals 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-recipients). Contractors 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 the Solicitation, the Contractor affirms that neither it nor its principals are suspended or debarred by a federal agency.

1.7. ***Contract Kick-off Meeting***

1.7.1. The district reserves the right to require the Contractor(s) to meet with District representatives prior to the start of the Contract.

1.7.2. The meeting, if any, shall include, at a minimum, discussion of the performance requirements, service specifications, expectations of professionalism, and access issues, if necessary.

1.8. ***Periodic Performance Reviews***

1.8.1. The district reserves the right to require periodic performance reviews with the Contractor(s).

1.8.2. These reviews shall evaluate at a minimum, the Contractor's ability to:

1.8.2.1. Provide goods or perform services within the required specifications and/or performance requirements.

1.8.2.2. Meet the District's schedule; and

1.8.2.3. Perform in a professional manner.

1.9. ***Usage Reports***

1.9.1. The district will have the right to require the Contractor to provide usage reports of the goods or services purchased from the Contractor during the Contract Period. Usage reports will be computer generated format and made available in 5-7 business days after request.

1.9.2. This right may, at the district's option, be extended beyond the end of the Contract term for a maximum of two (2) years.

1.9.3. The reports shall be in a mutually agreed upon format that is useful by the district and made available by the Contractor.

1.10. ***Rights to Work(s) Made for Hire***

1.10.1. All Work(s) Made for Hire, as that term is defined by the U.S. Copyright Law, shall be the sole property of the district. If commissioned by the district, paid or unpaid, to create a design, artwork, or custom made product or service, the district shall be sole owner of any copyrights available for the end product.

1.10.2. Contractor hereby assigns all its rights, title and interest in any and all Work(s) Made for Hire and all drafts thereof, including all worldwide copyright ownership rights in the Work(s) Made for Hire, to the district.

1.10.3. The Contractor shall turn over all relevant items relating to the Work Made for Hire, physical or electronic, to the district upon request. The district has the right to legible and complete copies of any and all such work papers upon the district's request.

1.11. ***Disclosure of Intellectual Property Produced***

1.11.1. Contractor shall promptly disclose to the district all copyrights, trademarks, service marks, and/or patents ("Intellectual Property") which Contractor or Contractor's employees, Subcontractors, or Subcontractor's employees may produce, either solely or jointly with others, during the services performed under the Contract.

1.11.2. All such Intellectual Property shall automatically become the property of the district.

1.11.3. In addition, Contractor shall promptly disclose to the District all Intellectual Property to which Contractor may acquire rights in connection with the performance of the services hereunder.

1.11.4. Any disclosure under this paragraph shall contain sufficient technical detail to convey a clear understanding of the Intellectual Property, and shall identify any publication, sale, public use, or impending publication thereof.

1.11.5. Promptly upon request, Contractor shall supply such additional information related to the Intellectual Property as the District may require.

1.11.6. Modification and Derivative Works.

1.11.6.1. The district shall have the right, in its sole discretion, to independently modify and/or create derivative works of any Intellectual Property incorporated in the services for the district's own purposes and use, through the services of its own employees or independent contractors.

1.11.6.2. The district shall own all Intellectual Property Rights to such modifications and/or derivative works.

1.11.6.3. Contractor shall comply with all laws and regulations relating to Intellectual Property. Contractor represents and warrants to the district that Contractor shall not infringe upon any Intellectual Property Rights of any third party. **CONTRACTOR SHALL INDEMNIFY AND HOLD FBISD HARMLESS FROM ALL CLAIMS, LIABILITIES, COSTS, SUITS OF LAW OR IN EQUITY, EXPENSES, ATTORNEYS' FEES, FINES, PENALTIES OR DAMAGES ARISING FROM CLAIMED INFRINGEMENT OF ANY INTELELCTUAL PROPERTY IN CONNECTION WITH THE CONTRACT.** Contractor's obligations under this clause shall survive acceptance and payment by FBISD.

1.11.6.4. Contractor shall require its employees to execute any agreements, assignments, licenses, or other instruments, and to provide information related to Intellectual Property, as may be necessary to effectuate the provisions of this Contract.

1.11.6.5. Contractor shall require its Subcontractors and Suppliers to execute any agreements, assignments, licenses, or other instruments, and to provide information related to Intellectual Property, as may be necessary to effectuate the provisions of this Contract.

1.12. ***Gratuities and Bribes***

1.12.1. The District may, by written notice to the Contractor, cancel a Contract without liability to the District if it is determined by the District that gratuities or bribes were offered or given by the Contractor or any

principle, agent or representative of the Contractor 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.

1.12.2. 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 Contractor in providing such gratuities.

1.13. ***Delays by the District*** the District will have the right to delay a scheduled delivery or other service performance dates by written notice to the Contractor if the district deems such is in FBISD's best interest.

1.14. ***Delays by the Contractor***

1.14.1. If a Contractor foresees the delay of a scheduled delivery of a product or other service performance date, Contractor shall give timely written notice to the district.

1.14.2. The district may, at its sole discretion, extend the delivery or service date for valid reasons.

1.14.3. The Contractor must keep the district advised at all times of the status of the goods or services.

1.14.4. If the delay will create a burden on the District, the District reserves the right, without liability, in addition to its other rights and remedies, to terminate the Contract by notice effective when received, and to use any other means available to secure the goods or services outside the Contract and receive reimbursement from Contractor for any loss incurred by the district as a result.

1.15. ***Warranties and Remedies***

1.15.1. Status. The Contractor warrants that any services performed under the terms of the Contract by the Contractor or persons under its employment on FBISD property shall be done as an independent contractor and the persons doing such work shall not be considered employees, agents, joint venturers, or partners of the district. As an independent contractor, Contractor will be solely responsible for determining the means and methods for performing the services and shall furnish all tools, materials, transportation, and personal incidentals necessary in the performance of the services. Contractor shall be responsible for any and all applicable social security and personal income taxes which may become due as a result of any payments made by FBISD and Contractor shall indemnify and hold FBISD harmless in this regard. FBISD and Contractor have no power or authority to assume or create any obligation or responsibility on behalf of the other. Contractor agrees that FBISD has no responsibility for any conduct of any of Contractor's employees, agents, representatives, contractors, or Subcontractors. Contractor shall perform services in accordance with the highest standards of care, skill, diligence, and professional competence applicable to contractors engaged in providing similar services.

1.15.2. Price

1.15.2.1. The Contractor warrants the prices offered to the district are no higher than the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.

1.15.2.2. The Contractor 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.

1.15.2.3. In addition to any other remedy available, the district may deduct from any amounts due. to the Contractor, and/or otherwise recover from Contractor, any amounts paid by the district for items or services in excess of the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.

1.15.3. Title

1.15.3.1. The Contractor warrants that it has valid title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests. and encumbrances.

1.15.3.2. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE DISTRICT HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES**.

1.15.4. Deliverables

1.15.4.1. The Contractor warrants and represents that all Deliverables 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 Contractor, 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. In addition, Contractor warrants that the Deliverables are suitable for and will perform in accordance with the purposes for which they are intended.

1.15.4.2. 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.

1.15.4.3. Contractor shall assume all liabilities incurred within the scope or consequential damages and incidental expenses, as set forth in the Contractor or manufacturer's warranties, which result from either delivery or use by the District of the Deliverables with does not meet the specifications of the Contract or the Solicitation.

1.15.5. Warranty Period

1.15.5.1. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the district's acceptance of the Deliverable.

1.15.5.2. If the manufacturer's warranty is less than the required warranty period, the Contractor shall warrant the Deliverable to the full extent as provided by the manufacturer.

1.15.5.3. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly, upon receipt of demand, resupply the goods or re-perform the services in accordance with the above standard at no additional cost to the district.

1.15.5.4. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor.

1.15.5.5. The district will endeavor to give the Contractor 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.

1.15.6. Failure to Repair or Replace If the Contractor 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 Contractor and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the district, upon demand, the increased cost, if any, incurred by the district to procure such Deliverables from another source.

Damage Assessment

1.15.6.1. If a Contractor is in default on an order, the district reserves the right to purchase the goods or services in default and charge the increase in price, if any, and cost of handling to the Contractor (the "Damage Assessment").

1.15.6.2. Failure by Contractor to pay a Damage Assessment is cause for Contract termination, at District's sole discretion, and/or debarment of the Contractor from the District's Solicitation list for a minimum of one year.

1.15.7. Transfer of Manufacturer's Warranty

1.15.7.1. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate ***manufacturer's*** warranty, the Contractor shall transfer and assign such manufacturer's warranty to the district.

1.15.7.2. If for any reason the manufacturer's warranty cannot be fully transferred to the district, the Contractor shall assist and cooperate with the district to the fullest extent to enforce such manufacturer's warranty for the benefit of the district.

1.15.8. Services The Contractor 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.

1.15.9. Limitation of Warranty the Contractor shall not limit, exclude, or disclaim the foregoing warranty(ies) or any warranty(ies) implied by law, and any attempt to do so shall be without force or effect.

1.15.10. Delivery of Goods or Performance of Services ***If*** the Contractor is unable or unwilling to deliver goods or perform services in accordance with the terms of the Contract, then in addition to any other available remedy, the district may reduce the amount of the Contract Award due to the Contractor and purchase conforming goods or services from other sources. In such event, the Contractor shall pay to the district upon demand the increased cost, if any, incurred by the district to procure such goods or services from another source.

1.16. ***Indemnification***

1.16.1. The district shall not be required to indemnify and/or hold harmless the Contractor and/or its agents and employees.

1.16.2. **TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE DISTRICT AND ITS AGENTS, EMPLOYEES, AND TRUSTEES FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, SUITS IN LAW OR IN EQUITY, FINES, PENALTIES, AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE WORK, AND/OR THE ACTS OR OMISSIONS OF CONTRACTOR OR ITS EMPLOYEES , AGENTS, SUBCONTRACTORS, AND/OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT IT IS CAUSED IN PART BY A PARTY INDEMNIFIED HEREUNDER, INCLUDING WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENT, TRADEMARKS, COPYRIGHT, OR OTHER CORRESPONDING RIGHT(S) RELATED TO ANY ITEM OR SERVICE CONTRACTOR IS REQUIRED TO PERFORM HEREUNDER.** Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

1.16.3. In any and all claims against the District or any of its agents or employees by any employee of the Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor under workers' compensation acts, disability benefits acts or other employee benefit acts.

1.17. ***No Waiver of Immunity*** Contractor acknowledges FBISD is a governmental entity subject to constitutional and statutory protections and immunities. No provision in any contract document shall be construed as a waiver or relinquishment of any governmental immunities or defenses on behalf of FBISD, its trustees, officers, employees, and agents as a result of an award or resulting agreement. Further, any obligation of the district to indemnify or hold harmless is expressly conditioned only to the extent permitted by law.

1.18. ***Invoices and Payment*** the Contractor shall submit separate invoices in duplicate on each Contract Award after each delivery of goods or completion of service. If the District authorizes 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.

1.18.1. Payment to Contractor shall be made only after services are performed and not before. Advance payment to Contractor is strictly prohibited.

1.18.2. Contractor shall submit detailed invoices to FBISD describing the Services rendered, the times when such Services were performed, compensable expenses and the amount due. Invoices shall indicate the FBISD 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 mailed to FBISD, P.O. Box 1004, Sugar Land, TX 77487-1004, Attention: Accounts Payables Department.

1.18.3. Federal excise taxes, State taxes, or District sales taxes shall not be included in the invoiced amount. The district is not liable for these taxes. The district will furnish a tax exemption certificate upon request.

1.18.4. In accordance with Texas Government Code § 2251.021, payments are due to Contractor within thirty (30) days after the later of the following: (1) the date the district receives the goods; (2) the date the performance of the service is completed; or (3) the date the district receives an invoice for the goods or services.

1.18.5. Payment terms, including the rate of interest that shall accrue on any overdue payments, are subject to Chapter 2251 of the Texas Government Code.

1.19. ***Right to Assurance***

1.19.1. 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.

1.19.2. 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.

1.20. ***Advertising*** The Contractor shall not advertise or publish, without the district's prior written consent, the fact that the district has entered into a Contract with Contractor. Contractor shall not use FBISD's name, logo or other likeness in any press release, marketing material or other announcement without FBISD's prior written approval.

1.21. ***Compliance***: Contractor agrees to observe and abide by all applicable local ordinances and state and federal laws, including but not limited to, the Americans with Disabilities Act; Section 504 of the 1973 Rehabilitation Act; the Family Educational Rights & Privacy Act; and Title IX of the Education Amendments of 1972. Contractor further agrees to observe and abide by all FBISD policies and procedures, which can be accessed online at http://pol.tasb.org/Home/Index/483.

2. **CONTRACT AGREEMENTS**

2.1. ***Inclusions***

2.1.1. The Contract shall include these General Provisions, terms and conditions included in the contract, Contract Documents, Purchase Orders and Service Contracts, and supersede any other representations, agreements, arrangements, negotiations, or understanding, oral, or written between FBISD and the Contractor regarding the Contract.

2.1.2. The Solicitation Response, when appropriately accepted by FBISD, shall constitute an integral part of any Contract, equally binding between the Contractor and FBISD. Provided, however, that no different, inconsistent, contradictory, or additional terms included in Contractor's Solicitation Response will become part of this Contract with the exception of Change Orders.

2.2. ***Interpretation***

2.2.1. The Contract Documents are intended by the Contractor and the District as a final, complete and exclusive statement of the terms of their agreement.

2.2.2. No prior arrangements, past performance, oral agreements or other factors between the Contractor and the District shall be relevant to supplement or explain any term used in the Contract Documents.

2.2.3. Although the Contract Documents may have been substantially drafted by one party, it is the intent of the Contractor and the District 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.

2.3. ***Jurisdiction and Venue***

2.3.1. 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., Business and Commerce Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction.

2.3.2. All issues arising from the Contract shall be resolved in the courts of Fort Bend County, Texas and the parties agree to submit to the exclusive jurisdiction of such courts.

2.3.3. 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.

2.4. *Modifications*

2.4.1. The Contract Documents and their terms, covenants and conditions can be modified or amended only in writing, when executed by both parties.

2.4.2. No pre-printed or similar terms on any Contractor invoice, forms, order, or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

2.5. *Termination for Default*

2.5.1. In the event of a default by the Contractor, the District shall have the right to terminate the Contract in whole or in part for cause, by written Notice of Termination effective in ten (10) days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the FBISD Buyer's reasonable satisfaction that such default does not, in fact, exist.

2.5.2. In addition to any other remedy available under law or in equity, the district will be entitled to recover all actual damages, costs, losses, and expenses, incurred by the district as a result of the Contractor's default, including, without limitation, cost of recovery, reasonable attorneys' fees, court costs, and prejudgment and post judgment interest at the maximum lawful rate.

2.5.3. Additionally, in the event of a default by the Contractor, the District may debar the Contractor from the District's Vendor list.

2.5.4. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

2.6. *No Cause Termination*

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

2.6.2. The district will pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed, and obligations reasonably incurred by Contractor prior to the date of termination.

2.7. *Assignment – Delegation*

2.7.1. The Contract shall be binding upon and to the mutual benefit of the District and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned, transferred, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Contractor, and no obligation shall be delegated by the Contractor without the prior written consent of the District.

2.7.2. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph.

2.7.3. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third-party beneficiaries to the Contract.

2.7.4. If the Contractor has sold its business and the Contract is conveyed to another business entity (buyer) in the purchase, the Contractor shall, within three (3) business days of such change, provide the district with documentation that can be legally recognized in a State of Texas court of law, or a public announcement stating the terms of the purchase.

2.8. *Waiver*

2.8.1. No claim or right can be discharged or waived 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.

2.8.2. No waiver by either the Contractor or the District to require performance by the other party of the terms hereof shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied waiver of any other term or breach thereof.

2.9. Captions

2.9.1. The captions herein are for convenience and identification purposes only, and are not an integral part hereof, and are not to be considered in the interpretation of any part hereof.

2.10. Force Majeure

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

2.10.2. The parties to this Contract are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other party in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Contract has not been terminated. Delay or failure of performance, by either party to this Contract, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. Neither party shall have any claim for damages against the other resulting from delays caused solely by force majeure.

Notwithstanding any other provision of this Contract, in the event the Contractor's performance of its obligations under this Contract is delayed or stopped by a force majeure event, FBISD shall have the option to terminate the Contract. This section shall not be interpreted as to limit or otherwise modify any of FBISD's contractual, legal, or equitable rights.

2.11. FBISD Property

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

2.12. Notice

2.12.1. Any notice provided under the terms of this Contract by either party to the other shall be in writing and shall be given by hand-delivery or by certified or registered mail, return receipt requested. Notice shall be deemed effective upon receipt. Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified or registered mail, return receipt requested.

2.13. Penalties

2.13.1. If Contractor is unable to provide the goods or services at the prices quoted in Contractor's Solicitation Response or if Contractor fails to fulfill or abide by the terms and conditions of the Contract, FBISD may take the following action(s), in FBISD's sole discretion, and Contractor agrees to comply with FBISD's action(s):

2.13.1.1. insist that Contractor honor the quoted price(s) specified in Contractor's Solicitation Response.

2.13.1.2. have Contractor pay FBISD difference between Contractor's price and the price of the next acceptable Solicitation Response (as determined by FBISD).

2.13.1.3. have Contractor pay the difference between Contractor's price and the actual purchase price of the good or service on the open market; and/or

2.13.1.4. recommend to FBISD's Board of Trustees that Contractor no longer be given the opportunity to submit a proposal to FBISD and/or that the Contract be terminated.

2.14. Performance

2.14.1. Contractor agrees to use commercially reasonable best efforts to provide the Deliverable(s).

2.15. Performance and Payment Bonds

2.15.1. Contractor agrees to provide performance bonds and/or payment bonds as required by Texas law on specified Contracts and/or projects, as applicable. FBISD may include the performance and payment bonds requirement in the specifications section of any Solicitation if performance bonds and/or payment bonds are required.

2.16. Prevailing Wage Rates

2.16.1. Contractor and all subcontractors of Contractor shall comply with all laws regarding wage rates including, but not limited to, Texas Government Code Chapter 2258 and any related federal requirements applicable to the Contract.

2.17. Title and Risk of Loss

2.17.1. Whenever FBISD is purchasing an item under the Contract, title and risk of loss shall pass upon the later of FBISD's acceptance of the item or payment of the applicable invoice.

2.18. Severability In the event that any one or more of the provisions contained in the Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

2.19. Dispute Resolution Any claim, dispute, or matter in controversy arising out of or related to the award or agreement ("Dispute") shall be discussed by the parties in good faith, in an attempt to resolve the Dispute. In the event such Dispute cannot be resolved by good faith discussion between the parties, any such Dispute shall be subject to FBISD's complaint policy (GF Local or other policy designated by FBISD) and the timelines established in the policy. If a party is dissatisfied with the outcome of FBISD's complaint process, then the Dispute shall be subject to mediation as a condition precedent to litigation.

2.20. Contractor Representations If Contractor is a business entity, it represents that: (i) it is duly organized, validly existing and in good standing under the laws of the state of its organization; (ii) it is authorized and in good standing to conduct business in the State of Texas; (iii) it has all necessary power and has received all necessary approvals to execute and perform its obligations in this Agreement; and (iv) the individual executing this Agreement on behalf of Contractor is authorized to do so.

2.21. Conflict of Interest Disclosure Prior to and as a condition of doing business with the District, Contractor shall disclose any business relationship, past or present, with a sitting Board member or District employee. Any such relationship shall be disclosed on Form CIQ provided by the Texas Ethics Commission and currently available at https://www.ethics.state.tx.us/forms/conflict/. Failure to disclose the existence of any such relationship is grounds for immediate termination of this Agreement.

2.22. Disclosure of Interested Parties (Form 1295) For any agreement that requires action by the District's Board of Trustees, unless excepted by Texas Government Code 2252.908(c), Contractor shall electronically submit a disclosure of interested parties on a form prescribed by the Texas Ethics Commission ("Form 1295") and submit a signed copy of the form with this Agreement. The form is currently available via the Texas Ethics Commission website at https://www.ethics.state.tx.us/filinginfo/1295/.

2.23. Felony Conviction Notice Texas Education Code 44.034(a) requires "a person or business entity that enters a contract with a school district [to] give advance notice to the district if the person or an owner operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." This notice is not required of a publicly held corporation. If notice is required of Contractor, then Contractor shall submit a statement providing a person or an owner operator of the business entity has been convicted of a felony and a general description of the conviction and conduct resulting in the conviction of a felony.

2.24. Debarment or Suspension Federal Law (2 CFR Part 180 and Part 200) prohibits non-federal entities from contracting with or making subawards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of $25,000 and all nonprocurement transactions (e.g., subawards to subrecipients). Contractor certifies neither Contractor nor its principals are suspended or debarred by a federal agency.

2.25. Entities that Boycott Energy Companies: In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section2274.002 of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Contractor represents and warrants that: it does not, and will not for the duration of the Contract, boycott energy companies. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify the district.

2.26. Entities that Discriminate Against Firearm and Ammunition Industries: In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Contractor verifies that: it does not, and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify the district.

2.27. Accessibility Compliance and Indemnity: Vendor represents and warrants that all products, services, software, digital content, electronic and information resources, and user interfaces provided under this Agreement (collectively, the "Deliverables") comply with all applicable accessibility laws and standards,

including Texas Government Code Chapter 2054, Texas Administrative Code Title 1, Chapters 206 and 213, and the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA, as applicable. Upon request, Vendor shall provide a current Accessibility Conformance Report (ACR) using the VPAT format and disclose any known accessibility limitations or exceptions; however, submission of such documentation does not relieve Vendor of its obligation to deliver and maintain accessible Deliverables.
Vendor agrees to maintain accessibility compliance throughout the term of this Agreement, including for all updates, upgrades, enhancements, and new releases, and to promptly remediate identified accessibility issues within a reasonable timeframe and at no additional cost to the District. Accessibility requirements apply to all vendor-provided components, including any third-party tools or content, integrations, plugins, APIs, subcontractors, or embedded content used in the provision of the Deliverables (collectively, "Vendor's Components"), for which Vendor remains fully responsible. Failure to remediate accessibility non-compliance may constitute a breach of this Agreement.

To the fullest extent permitted by law, Vendor shall defend, indemnify, and hold harmless the District, its trustees, officers, employees, agents, and contractors (collectively, the "District Indemnitees") from and against any and all claims, demands, causes of action, complaints, administrative proceedings, investigations, damages, losses, liabilities, penalties, fines, judgments, costs, and expenses (including reasonable attorneys' fees and court costs) brought by any third party (including, but not limited to, any private party or any federal or state enforcement body) arising out of or related to any actual or alleged violation of applicable accessibility laws or standards (including but not limited to those cited previously in this Section) that results from, relates to, or is based upon the District's use, operation, or implementation of Vendor's Components (the "Accessibility Claims").

This indemnification obligation applies regardless of the legal theory under which the claim is asserted, except to the extent caused by the District's material modification of the Vendor's product against Vendor's written instructions or specifications.

Vendor's duty to defend the Accessibility Claims includes the duty to promptly assume the cost of defense of any Accessibility Claim upon written notice from the District. The District shall have its choice of counsel to represent District Indemnitees in the defense. Vendor shall promptly pay the District Indemnitees attorneys' fees and expenses as incurred, including appellate attorneys' fees and expenses. Vendor's duty to indemnify includes payment of all damages, fines, settlements, penalties, remediation costs, and defense costs associated with the Accessibility Claims. The District shall have the sole and absolute discretion to control the direction, administration, and handling of the Accessibility Claim, including whether to offer or accept any settlement. Vendor shall also, at Vendor's sole expense, promptly remediate, modify, or replace the non-compliant Vendor Component so that it complies with applicable accessibility requirements.

The indemnification obligations set forth in this section shall survive expiration or termination of the Agreement and shall not be limited by any limitation of liability or exclusion of damages set forth elsewhere in the Agreement.

2.28. SB 12 COMPLIANCE (TEXAS EDUCATION CODE §§ 11.005, 28.0022, 28.0043, AND 39.008): Contractor, and its officers, employees, agents, and subcontractors, shall comply with Senate Bill 12 (89th Texas Legislature, 2025) and with District Board Policy CJ(LOCAL), a copy of which has been provided to Contractor and is incorporated by reference. Contractor shall not, at, for, or on behalf of the District, 1) intentionally or knowingly engage in or assign to any other person "diversity, equity, and inclusion duties" as defined in § 11.005, and 2) shall not provide or allow any third party to provide instruction, guidance, activities, or programming regarding sexual orientation or gender identity to students in prekindergarten through grade 12. The District's policy may be accessed here: CJ(LOCAL) and GF(LOCAL). Contractor acknowledges receipt of an electronic copy of the District's policy and procedure adopted under §§ 11.005(c) and 28.0022(h),

including the discipline and appeal provisions, and agrees these requirements are mandatory and not subject to exception, waiver, or negotiation. Violation is grounds for termination of this contract, subject to appeal under GF(LOCAL).

3. **GOODS-RELATED CONTRACTS**

3.1. ***General***

3.1.1. Goods are to be delivered to the required destination(s) within the number of District Business Days as identified within the Solicitation after receipt of order (ARO).

3.1.2. All products shall be delivered F.O.B. destination, full freight allowed unless otherwise indicated within the Contract.

3.1.3. Ordering and direct delivery will involve various locations with FBISD unless otherwise specified within the Purchase Order.

3.2. ***Hours for Delivery***

3.2.1. District Distribution Center (warehouse) delivery hours are 8:00 a.m. to 3:30 p.m.

3.2.2 School campus delivery hours are 9:00 a.m. to 3:00 p.m.

3.3. ***Facilities.*** With the exception of the District Distribution Center, no other facilities have areas available dock level deliveries.

3.4. ***Inside Delivery*** the Contractor shall make inside deliveries within a facility to a location determined by the district if required within the Solicitation.

3.5. ***Expedited Deliveries***

3.5.1. In case of an urgent need for an expedited delivery by the District, the Contractor is requested to supply the needed material immediately, if possible.

3.5.2. If the Contractor cannot respond, then the emergency requirement may be purchased on the open market. Such purchases shall not be considered a breach of Contract by FBISD or the Contractor.

3.6. ***Packaging of Goods***

3.6.1. The Contractor shall package all goods in accordance with good commercial practice unless otherwise instructed.

3.6.2. Each shipping container shall be clearly and permanently marked as follows:

3.6.2.1. The Contractor's name and address.

3.6.2.2. The district's name, address and purchase order or purchase release number if applicable.

3.6.2.3. Box number and total number of boxes, e.g., box 1 of 4 boxes; and

3.6.2.4. The number of the container bearing the packing slip. The Contractor shall bear all cost of packaging.

3.6.3. All packing slips must include the FBISD Purchase Order number.

3.6.4. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirements of common carriers and any applicable specifications. The district's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

3.7. ***Material Safety Data Sheets*** A Contractor must provide, at no cost to the district, at least one copy of any applicable Manufacturer's Material Safety Data Sheet(s) (MSDS) with each shipment, and upon request, during the term of the Contract. If OSHA or Federal or State laws provide for additional requirements, those requirements shall be met by Contractor, in addition to the MSDS requirement.

3.8. Inspection and Testing

3.8.1. The district expressly reserves all rights under law, including but not limited to the Texas Business and Commerce Code, to inspect the Deliverables at delivery, and up to thirty (30) days after District's first use of the Deliverables, and to reject defective or non-conforming Deliverables.

3.8.2. All goods are subject to inspection and testing by FBISD for compliance with the Contract and/or Solicitation specifications by FBISD.

3.8.3. When products tested fail to meet or exceed all applicable specifications, the cost of the sample used, and the cost of any testing shall be borne by the Contractor.

3.8.4. Goods, which have been delivered and rejected in whole or in part, may be, at FBISD's option, returned to the Contractor at Contractor's risk and expense or disposed of in accordance with FBISD's policies.

3.8.5. The Contractor may request that rejected goods be held by FBISD at Contractor's risk for a reasonable period of time for later disposition at the Contractor's expense.

3.8.6. Latent defects may result in revocation of acceptance of any product.

3.9. *Substitutions of Goods*

3.9.1. All substitutions of goods require prior written approval of the district.

3.9.2. The district reserves the right to require the Contractor to offer possible substitutes if any material or equipment becomes unobtainable during the term of the Contract.

3.9.3. Outstanding orders are not automatically amended by an approved substitution.

3.9.4. During the Contract term, Contractor may request a substitution of an item if the item is no longer manufactured or has been discontinued or superseded by a replacement model and is no longer available to the Contractor.

3.9.5. Substitution Approval Process. Under the forgoing or similar conditions, the Contractor may, in FBISD's sole discretion, be granted an allowance of an item substitution under the following conditions:

3.9.5.1. The Contractor provides the District Purchasing Office with written verification from the manufacturer that the product is no longer manufactured or has been discontinued or superseded by a replacement model and is no longer available to the Contractor.

3.9.5.2. All substitution requests must be submitted within ten (10) District Business Days after the material facts are known to Contractor.

3.9.5.3. If manufacturer has a substitution model, Contractor must provide product specifications along with a written letter requesting the item be substituted.

3.9.5.4. The substitution must meet or exceed all specification requirements associated with the original Solicitation.

3.9.5.5. If substitutions are made to an item that has accessories, the Contractor must also provide substitutions for accessories as applicable.

3.9.5.6. The Contractor will be expected to supply the substitute item at the same or better price than originally bid, unless the Solicitation provided a price increase provision, and the substitute can meet the provision requirements.

3.9.5.7. Substitution will be in effect for the term of the Contract or until another substitution is required.

3.9.5.8. All substitutions must be approved in writing by the Purchasing Office prior to their effect.

3.9.5.9. The district reserves the right to approve and disapprove substitutions or to cancel the Contract or Purchase Order as it relates to the items in its entirety and procure the items by a separate procurement process.

3.10. *Electrical Items* All electrical items furnished shall meet all applicable OSHA standards and regulations and bear the appropriate listing from UL, FMRC or NEMA.

4. **SERVICE-RELATED CONTRACTS**

4.1. *Contractor's Obligations*. The Contractor shall fully and timely provide all Deliverables described in the Contract, Solicitation, and in the Vendor's Solicitation Response in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

4.2. *Competence of Contractor*

4.2.1. The Contractor warrants it shall have available the necessary personnel, organization, equipment, and facilities to perform all the services and/or provide all the goods required under a Purchase Order or this Contract.

4.2.2. Only qualified personnel adequately trained in the required services shall be employed by the Contractor.

4.2.3. The Contractor shall obtain all licenses/permits required for the performance of the services.

4.2.4. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

4.2.5. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not use or possess any firearms, alcoholic or other intoxicating beverages, tobacco, illegal drugs or controlled substances while on the job or on the district's property, nor may such workers be intoxicated, or under the influence of alcohol or drugs on the job.

4.2.6. The district reserves the right to prevent, forbid, and/or temporarily or permanently bar any of Contractor's employees, Subcontractors, or Subcontractor's employees from any District facility for whatever reason it determines necessary to maintain the safety, decorum, scheduling and day-today operations of the district.

4.3. ***Licensing and Certification***

4.3.1. If the Contract requires licensing and/or certification to perform services as required, the Contractor shall provide only qualified licensed / certified individuals to perform such tasks.

4.3.2. The Contractor must maintain any required licenses / certification for the duration of the Contract.

4.3.3. The district reserves the right to require the Contractor to show proof of licensing / certification at any time during the Contract Term.

4.4. ***Place and Condition of Work***

4.4.1. Services shall be provided/scheduled as specified or directed by the district.

4.4.2. The district shall provide the Contractor access to the sites where the Contractor is to provide the goods or perform the services as required.

4.4.3. The Contractor acknowledges that it has satisfied itself as to the nature of the district's service requirements and specifications, the location, and essential characteristics of the work site(s) the quality and quantity of materials, equipment, labor and facilities necessary to provide the goods or perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract.

4.4.4. The Contractor releases and holds the district harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

4.5. ***Compliance with Laws and Safety Regulations***

4.5.1. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules and regulations in the performance of the services, including but not limited to those imposed by the District and by the Occupational Safety and Health Administration (OSHA), as well as applicable workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations.

4.5.2. In case of conflict, the most stringent safety requirements shall govern.

4.5.3. The Contractor shall indemnify and hold the district harmless from and against all claims, demands, suits, actions, judgments, fines, penalties, and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

4.6. ***Security and Background Investigations***

4.6.1. **Criminal History Certification** Prior to commencing any work under the Contract, Contractor shall certify that its employees who (i) have or will have continuing duties related to the contracted services, and (ii) have or will have direct contact with students (substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional District employee) have submitted all information necessary for FBISD's LEE Fast Pass process and will comply with any FBISD request for employee information in connection with completing such employee criminal history record search. Contractor shall obtain similar certifications for any subcontractors. If Contractor subsequently receives information an employee or subcontractor has a criminal history prohibited under this section, Contractor will immediately remove the employee or subcontractor from contract duties and notify the district in writing within 3 days. Contractor will comply with District objections to the assignment of an employee or subcontractor on the basis of the

employee's or subcontractor's criminal history. To the extent no individual, employee or subcontractor has or will have direct contact with students, Contractor will ensure the individuals, employees or subcontractor will not have direct contact with students throughout the term of this agreement. Noncompliance or misrepresentation regarding this certification is grounds for immediate termination of this Agreement.

4.6.2. The Contractor shall be responsible for ensuring the district is protected from potential threats that may be created by their employees.

4.6.3. If directed by the laws of the State of Texas, the Contractor shall adhere to any requirements that may be legislated during the term of any Contract, or any enacted District policy.

4.6.4. The district will have the right to require Contractor's principles, Contractor's employees assigned to the Contract Award, Subcontractor's principles, and Subcontractor's employees assigned to the Contract, and any other individuals deemed to be providing goods or services for the district to be investigated (including fingerprinting) for criminal records and/or history.

4.6.5. The district reserves the right to prevent, forbid, and/or temporarily or permanently bar Contractor, Contractor's employees, Subcontractors, or Subcontractor's employees from any District facility for whatever security reason it determines necessary to maintain the safety of District employees and operations.

4.7. ***Subcontracts*** Where a Subcontract may be used, the Contractor shall be fully responsible to the district for all acts and omissions of the Subcontracts just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontract any Contractual relationship between the district and any such Subcontract, nor shall it create any obligation on the part of the district to pay or to see to the payment of any moneys due any such Subcontract except as may otherwise be required by law.

4.8. ***District Policy for Work Attire***. The Contractor, its employees, and Subcontractor employees shall not wear any T-shirts or clothing that has offensive language, pictures, or signs. The district prefers Contractors, its employees, and subcontractors to wear uniforms with identification badges when on District premises.

4.9. ***Insurance for Services Performed***

4.9.1. ACORD Certificate of Insurance. Prior to providing services as a result of a Contract Award, the Contractor shall provide the district with a completed ACORD Certificate of Insurance providing the below listed coverage or such coverage as may be required in the Solicitation.

Type	Limit
Automobile Liability (Auto) - Covering 'Any Auto'	$1,000,000 Combined Single Limit ($5,000,000 if "For-Hire" motor carrier service)
Comprehensive General Liability (CGL) Including Products, Completed Operations, Independent Contractors, Broad Form Property Damage, Pollution and Blanket Contractual Liability coverages. XCU exclusions to be removed when underground work is performed.	$1,000,000 Occurrence $2,000,000 Aggregate $1,000,000 Personal Injury $ 500,000 Fire Damage $ 5,000 Medical Payments
Professional Errors & Omissions Liability (E & O) May be required from all contractors and licensed or certified as professionals, e.g., engineers, architects, insurance agents, physicians, attorneys, banks, financial consultants, etc.	One-time project amount. $1,000,000 Occurrence and Aggregate minimum $5,000,000 Maximum Limit Retroactive Date preceding date of contract must be shown Extended Reporting Period three (3) years past completion

Workers' Compensation (WC) Limits to comply with the requirements of the Texas Workers' Compensation Act Employers Liability	Statutory Limits $1,000,000
Umbrella or Excess Liability Excess of primary General Liability, Automobile Liability and WC Coverage B May be required for prime construction contractors. May be required for non-construction contractors and licensed or certified as professionals, e.g., engineers, architects, insurance agents, physicians, attorneys, banks, financial consultants, etc.	100% of Contract Amount for all contracts exceeding $100,000 up to $25,000,000 max $5,000,000
Sex Molestation/Abuse Required when service performance permits direct, unsupervised access to students.	$100,000 per claim/$300,000 aggregate
Cyber/Data Liability Required if service involves use of *or* access to District owned data. Coverage for Notification, Crisis Management, Regulatory Response and Privacy Liability.	Limit determined on per project basis.

4.9.2. **Insurance Conditions** All certificates must include:

1) The location or description and the bid number, CSP number or Purchase Order number
2) A 30-day notice of cancellation of any non-renewal, cancellation or material change to any of the policies
3) Additional Insured on the Property, General Liability, Automobile Liability and Umbrella (Excess) Liability policies naming the district.
4) A "Waiver of Subrogation" clause in favor of the district will be attached to the Workers Compensation, General Liability, Automobile Liability, Umbrella Liability and the Property insurance policies.
5) In addition to certificates of insurance, copies of policy endorsements must be provided (a) listing the district as Additional Insured, and (b) showing waivers of subrogation in favor of the district: CG2010, CG2037, CG2404, CA0070, CA0032, WC0003 or their equivalents.
6) Contractor shall not commence work until all required insurance coverages have been obtained and such insurance has been reviewed and accepted by the district. Certificates of Insurance on the current ACORD form shall be issued to the district showing all required insurance coverages.
7) All insurance coverages shall be issued on an Occurrence basis (except Professional Liability) by companies acceptable to District and licensed to do business in the State of Texas by the Texas Department of Insurance. Such companies shall have a Best's Key rating of at least "A- X".
8) The district reserves the right to review the insurance requirements during the effective period of any contract to make reasonable adjustments to insurance coverages and limits when

deemed reasonably prudent by District based upon changes in statutory laws, court decisions or potential increase in exposure to loss.

9) Limits for primary policies may differ from those shown when Umbrella or Excess Liability insurance is provided.
10) Contractor shall be responsible for payment of all deductibles.

11) At any time during the Contract Term or any extensions thereof, prior to any lapse in the Certificate of Insurance, the Contractor shall provide to the district an updated certificate.

4.10. ***Right to Audit***

The District will have the right to audit the Contractor's books and records pertaining to all goods and services, and Contractor's compliance with the terms of the Contract, during the hours of the normal workday during the term of the Contract and for a period of five (5) years following expiration of the Contract.