

# SPRING BRANCH INDEPENDENT SCHOOL DISTRICT

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

## PURCHASING DEPARTMENT

1031 Witte Road, Building T-1A, Houston, Texas 77055-6016

Phone 713.251.1100 Fax 713.251.1115

Date: 6/14/2017

## NOTICE TO PROPOSERS

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

JULY 26, 2017 @ 11:00 AM

ANNUAL CONTRACT FOR  
GENERAL MERCHANDISE AND GROCERY  
SUPPLIES

Proposals will be publicly opened and read immediately following the deadline for receiving the proposals at 1031 Witte Road, Building T-1A. Any questions pertaining to the proposal procedure should be addressed to the Bid Specialist at 713/251-1107. Any questions pertaining to the proposal specifications should be directed to Buyer, at 713/251-1142

## PROPOSAL ENVELOPES SHALL BE PLAINLY MARKED

SEALED PROPOSAL FOR:

PROPOSAL NO. 11742

ANNUAL CONTRACT FOR GENERAL MERCHANDISE AND GROCERY SUPPLIES

DO NOT OPEN UNTIL: JULY 26, 2017 @ 11:00 AM

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

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

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

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## 1.0 NOTICE OF INTENT

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

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

**1.2.0** In this CSP and in the Contract, the following terms shall mean as follows:

**1.2.1 "SBISD"** means the Spring Branch Independent School District, a Harris county school district established under the laws of the State of Texas; 955 Campbell Road., Houston, Texas 77024.

**1.2.2 "Vendor(s)"** means the proposer(s) responding to this CSP and vendor(s) to whom a contract has been awarded as a result of this CSP by SBISD. A responsible vendor is a vendor who has adequate financial resources (or the ability to obtain such resources), can comply with the delivery requirements, and is a qualified and established firm regularly engaged in the type of business that provides the product(s) /service(s) listed herein.

**1.2.3 "Contract"** means the contract terms and conditions in Section 5.0 Contract Terms and Conditions, as further defined in the Entire Agreement provision of Section 5.0.

**1.2.4 "Best Value"** means the method by which a proposal/contract, if any, is awarded, in accordance with applicable laws, rules, and regulations. Best Value includes multiple parameters, including experience, references, quality of the Vendor's product(s)/service(s), and price, as detailed in **Section 6.0 Evaluation and Award**.

**1.2.5 "Purchase Order or PO"** means the SBISD purchase order issued to vendor(s). Special terms and conditions agreed to by the Vendor and SBISD may be added as addendums to the PO, including such items as requirements concerning certificates of insurance, bonding, warranty, etc.

**1.2.6 "Regular Hours"** means the hours between 7 a.m. and 5 p.m. Monday thru Friday, excluding the following holidays: Presidents' Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and New Year's Day.

## 2.0 SCOPE OF PROPOSAL

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It is the intention of the Spring Branch Independent School District to establish an:  
**ANNUAL CONTRACT FOR “GENERAL MERCHANDISE AND GROCERY SUPPLIES”**

SBISD is interested in receiving competitive pricing on all items in proposals. SBISD places significant value on quality vendors and also desires to keep Proposer's supplies of materials, equipment and/or services to solicit for quality goods and services.

**ADDENDA TO CSP.** SBISD reserves the right to revise and amend the specifications prior to the date set for the opening. Respondents are requested to clarify any ambiguity, conflict, discrepancy, omission or other error(s) in the CSP in writing and request modification or clarification desired. Revisions or amendments, if any, will be made by issuing an addendum. Every effort will be made to send addenda issued to the parties known to have been furnished a complete copy of the CSP. Please acknowledge receipt of Addenda on Signature Page (44).

**All questions must be received in writing by the Director of Purchasing via fax (713/251-1115) or e-mail questions to [cristina.varisco@springbranchisd.com](mailto:cristina.varisco@springbranchisd.com) no later than noon on 07/06/2017. No addenda will be issued later than 07/11/2017**, except an addendum withdrawing the proposal or postponing the opening of the proposal. It is the responsibility of each Proposer, prior to submitting the proposal, to contact the Purchasing Department to determine if addenda were issued and, if so, to obtain such addenda for attachment to the Proposal.

**ANNUAL RENEWABLE CLAUSE,** The contract shall be for a period of one (1) year. Contract shall be from **September 1, 2017 through August 31, 2018.**

### INSTRUCTIONS TO PROPOSERS

1. **One (1) Original of the Proposal**, typewritten or printed/written in ink, must be submitted. Vendor's response to this Request for Proposal must be sealed and properly labeled on the OUTSIDE of the envelope as follows:

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

**Sealed Proposal for:**  
**ANNUAL CONTRACT FOR “GENERAL MERCHANDISE AND GROCERY SUPPLIES”**

**Do Not Open until JULY 26, 2017 at 11:00 AM**

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

**SCOPE OF PROPOSAL, continued****4. DESCRIPTION OF SBISD**

SBISD consists of twenty-six (26) elementary schools, seven (7) middle schools, five (5) high schools, one (1) science center, one (1) career center and various support facilities. SBISD has approximately 32,000 students and 4,500 employees. SBISD operates 4,836,120 gross square feet of educational facilities located within a 43 square mile area.

**In order to receive any addenda or clarifications that may be issued for this proposal, all prospective proposers must send an E-mail to [cristina.varisco@springbranchisd.com](mailto:cristina.varisco@springbranchisd.com).**

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

Bidders/Proposers may download **current Bids & Proposals** documents from SBISD website:  
<http://cms.springbranchisd.com/skin2/Home/Departments/IS/Purchasing/BidsandProposals/tabid/24436/Default.aspx>

## 3.0 GENERAL TERMS AND CONDITIONS

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- 3.1.0 APPLICABILITY.** These conditions are applicable and form a part of the contract documents in each equipment and/or service contract and a part of the terms of each purchase order for items of equipment and/or service included in the specifications and proposal forms issued herewith.
- 3.2.0 WITHDRAWAL OF PROPOSALS** will not be allowed for a period of 90 days following the proposal opening.
- 3.3.0 SPECIFICATIONS** may be those developed by the Using Department or by the Manufacturer to represent items of regularly manufactured products.
- 3.3.1 DISTRICT SPECIFICATIONS** have been developed by the Using Department to show minimal standards as to the usage, materials, and contents based on their needs.
- 3.3.2 MANUFACTURER'S SPECIFICATIONS (DESIGN GUIDE).** Whenever an article in this proposal is defined by description as either a proprietary product or by using the name of a manufacturer, the Proposer is encouraged to offer an item which is equal in quality, durability and in full compliance with our Specifications. If the term "equivalent, alternate or equal" is not inserted it shall be implied. The specified article or material shall be understood as descriptive, not restrictive.
- 3.4.0 QUESTIONS** concerning this proposal shall be addressed to the Director of Purchasing/designee.
- 3.5.0 PROPOSALS SHALL BE SUBMITTED ON THESE FORMS.** Deviations to any Conditions and/or Specifications shall be conspicuously noted in writing by the Proposer and shall be included with the proposal.
- 3.6.0 SEALED PROPOSALS ONLY ARE ACCEPTABLE. FAXED PROPOSALS** will not be accepted by SBISD since the fax process does not provide for the delivery of a sealed proposal.
- 3.7.0 REQUIRED ADDENDA** will be posted online and issued by SBISD's Purchasing Department to all those known to have received a complete set of proposal documents.
- 3.8.0 QUANTITIES REQUIRED** are substantially correct. The District reserves the right to purchase additional quantities above that stated at the same unit price unless otherwise specified by the Proposer.
- 3.9.0 DELIVERIES** required in this proposal shall be freight prepaid F.O.B. destination and proposal prices shall include all freight and delivery charges. For shipments designated on the purchase order to the SBISD Central Warehouse, delivery hours are 7:00 a.m. to 3:00 p.m. NO DELIVERIES WILL BE ACCEPTED AFTER 3:00 P.M.
- 3.10.0 WARRANTY CONDITIONS** for all supplies and/or equipment shall be considered manufacturer's minimum standard warranty unless otherwise agreed to in writing. Proposer shall be an authorized dealer, distributor or manufacturer for the product. All equipment proposed shall be new unless clearly stated in writing.
- 3.11.0 SAMPLES**, when called for, shall be submitted with the proposal per instructions set forth in the Special Terms and Conditions.
- 3.11.1 ADDITIONAL SAMPLES** needed for a proposal to be evaluated properly shall be delivered within (5) working days from the time the vendor is notified by the Purchasing Department.
- 3.11.2 SAMPLE ITEMS** from the successful Proposer may be retained for the purpose of determining that the quality and workmanship of the delivered items are comparable to the sample.

## **GENERAL TERMS AND CONDITIONS, continued**

**3.12.0 THOSE WHO DO NOT PROPOSE** are requested to notify the SBISD Purchasing Department in writing if they wish to receive future proposals. Failure to do so **may** result in their being deleted from our prospective Proposer list.

**3.13.0 EVALUATION OF PROPOSALS** takes into account the following considerations: price, quality, suitability for the intended use, probability of continuous availability, vendor's service, safety record, and date of proposed delivery and placement. It is not the policy of SBISD to purchase on the basis of low proposals alone. **(See 6.0 Evaluation and Award of Proposal(s))**

**3.14.0 DISCLOSURES.** By signing this proposal, a Proposer affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the proposal submitted.

**3.14.1 PROPOSER SHALL NOTE** any and all relationships that might be a conflict of interest and include such information with the proposal. **(See Section 13)**

**3.14.2** By signing this proposal, a Proposer affirms that, to the best of his/her knowledge, the proposal has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give them an unfair advantage over other Proposers in the award of this proposal.

**3.15.0 NON-APPROPRIATION OF FUNDS.** The term of this Contract is a commitment of SBISD's current revenue only. If funding for the continuance of the services required under the Contract is withdrawn, SBISD reserves the right to terminate this Contract in accordance with its funding out clause.

**FUNDING OUT CLAUSE.** Any contract for the acquisition, including lease, of real or personal property is a commitment of the District's current revenue only:

1. The District retains the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. The contract is conditioned on a best efforts attempt by the District to obtain and appropriate funds for payment of the contract.

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

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

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

## **3.17.0 DISQUALIFICATION**

A Vendor may be disqualified before or after the proposals are opened upon evidence of collusion with the intent to defraud or evidence of intent to perform other illegal activities for the purpose of obtaining an unfair competitive advantage.

**GENERAL TERMS AND CONDITIONS, continued****3.18.0 NON-COLLUSION STATEMENT**

Vendors are required to certify a Non-Collusion Statement. Vendors are required to state the party submitting a proposal or bid, that such proposal or bid is genuine and not collusive or sham; that Vendor has not colluded, conspired, connived or agreed, directly or indirectly, with an entity or person, to put in a sham proposal or bid or to refrain from proposing , and has not in any manner, directly or indirectly, sought by Contract or collusion, or communication or conference, with any person, to fix the proposed price or of any other vendor, or to fix any overhead, profit or cost element of said proposed price, or of that of any other vendor, or to secure any advantage against SBISD or any person interested in the proposed contract, and that all statements in said proposal are true.

**3.19.0 OPEN RECORDS POLICY**

SBISD is a governmental entity subject to the Texas Public Information Act. Proposals submitted to SBISD as a result of this CSP may be subject to release as public information after contracts are executed or the procurement is terminated. If a Vendor believes that its response, or parts of its response, may be exempted from disclosure under Texas law, the Vendor must specify page-by-page and line-by-line the parts of the 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. SBISD assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Vendors.

**3.20.0 RESPONSIBLE VENDOR**

A responsible vendor is a vendor who has adequate financial resources (or the ability to obtain such resources), can comply with the delivery requirements, and is a qualified and established firm regularly engaged in the type of business that provides the items listed herein.

**3.21.0 SUPPLIER DIVERSITY PROGRAM**

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

**3.22.0 RESPONSIVE PROPOSAL**

Proposals shall be deemed responsive if they comply with all material and administrative aspects of this CSP.

**3.23.0 CONFIDENTIAL INFORMATION OR TRADE SECRETS (Government Code, Article 252.049).**

If any of the information is considered to be confidential or a trade secret belonging to the Proposer and, if released would give advantage to a competitor or Proposer, that information should be filed with the proposal in a separate envelope marked "CONFIDENTIAL – DO NOT DUPLICATE WITHOUT PERMISSION".

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

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



## **GENERAL TERMS AND CONDITIONS, continued**

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

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

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

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

**3.28.0 IRS W-9:** To receive payment under this Contract, Vendor (approved) shall have a current I.R.S Tax Identification Number and W-9 Form on file with SBISD Purchasing Department.

### **3.29.0 PERFORMANCE AND PAYMENT BONDS (IF APPLICABLE)**

Vendor agrees to provide performance bonds and/or payment bonds as required by law, based on the amount or estimated amount of any Purchase Order for a public work contract, which is defined as a contract for constructing, altering, or repairing a public building or carrying out or completing any public work. TEX. GOV'T. CODE § 2253.001(4). Pursuant to TEX. GOV'T. CODE § 2253.021, a performance bond is required if a Purchase Order is in excess of \$100,000.00 for SBISD; a payment bond is required if a Purchase Order is in excess of \$25,000.00 for SBISD. A payment bond is required if a Purchase Order is in excess of \$50,000.00 for SBISD. Such bonding shall be executed by a corporate surety duly authorized to do business in this state and be payable to the Spring Branch Independent School District.

**GENERAL TERMS AND CONDITIONS, continued****3.30.0 COMPENSATION – SBISD METHOD OF PAYMENT PROCESS**

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

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

**Electronic invoices can be sent to [accountspayable@springbranchisd.com](mailto:accountspayable@springbranchisd.com).**

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

The term of this Contract is a commitment of SBISD's current revenue only. If funding for the continuance of the services required under this Contract is withdrawn, SBISD reserves the right to terminate this Contract in accordance with the District termination policies and procedures.

**\* \* Required for awarded vendor(s) only.**

## 4.0 SPECIAL TERMS AND CONDITIONS

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### 4.1.0 PROPOSAL RESPONSE FORMAT

To qualify for evaluation, a proposal must have been submitted on time and must materially satisfy all requirements identified in this CSP. **(See 6.3.0 (4))**

### 4.2.0 DESCRIPTION OF PRODUCT(S) AND/OR SERVICE(S)

Describe product(s) and/or service(s) the Vendor is proposing to provide SBISD. Provide a matrix that will allow SBISD to readily appraise the Vendor's products and/or services offering versus other Vendors, if available.

### 4.3.0 DESCRIPTION OF VALUE-ADDED PRODUCT(S) AND/OR SERVICE(S)

Include any additional information Vendor believes SBISD should have when making its decision concerning contract award(s), if any. Detail any value-added options offered by Vendor; if value-added options are best described in a line item format, add value-added items to the designated area at the end of the line item list.

### 4.4.0 WARRANTY/GUARANTEE

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

#### 4.4.1 PRODUCT INFORMATION

#### 4.4.2 WARRANTY INFORMATION

Provide information and answers to the following:

- a) Does Vendor offer extended parts and labor warranties? If yes, state length of warranty.
- b) Does Vendor provide extended warranties and/or maintenance Contracts at an additional cost to SBISD? If so, the extended warrantee maintenance contract must be submitted as a separate line item.
- c) Give examples of governmental entities where Vendor has extended labor warranties. Include length of these warranties.
- d) Is warranty coverage dependent on any specific requirements?
- e) Who performs Vendor's start-up procedure?
- f) Detail and provide documentation verifying the warranty protection covering installation, details, materials, workmanship, inspection and preventive maintenance programs, if any.
- g) Detail how Vendor tracks warranties and updates warranty periods as units or components are replaced.
- h) What is Vendor's standard warranty on materials?
- i) What is Vendor's standard warranty on installation?
- j) Does Vendor differentiate its standard warranty if financing is part of the contract? If so, describe.

## **SPECIAL TERMS AND CONDITIONS continued**

### **4.5.0 SBISD RESERVATIONS**

SBISD reserves the right to:

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

### **4.6.0 FINANCIAL RESPONSIBILITY**

SBISD assumes no financial responsibility for any costs incurred by Vendors in developing and submitting a proposal or any amendments or addenda, participating in pre-proposal meetings, participating in any negotiation sessions or discussions, or any other costs incurred by Vendors pursuant to this CSP.

### **4.7.0 COMPLIANCE WITH SPECIFICATIONS AND CONTRACT**

Vendors are requested to submit a proposal offering their total line of available products and services that are commonly purchased by school districts. Proposals shall be deemed responsive if they comply with all aspects of this CSP. Vendors are required to respond to all requests identified in this CSP and indicate their acceptance or objection to the terms of the CSP and the Contract terms in Section 3.0 General Terms and Conditions. Any exceptions to the terms and conditions in the CSP or the Contract must be clearly indicated in the Vendor's submitted proposal. Deviations or exceptions stipulated in a Vendor's response may result in disqualification. Any language to the effect that the Vendor does not consider this CSP to be part of a contractual obligation may result in the Vendor's proposal being disqualified. Each Vendor, by making its proposal, represents that the Vendor has read and understands the CSP and the Contract.

### **4.8.0 FIRMNESS OF PROPOSAL.** Proposals shall be firm and effective ninety (90) days after date of submission. Rejection or withdrawal after offer is accepted shall constitute a breach of contract.

### **4.9.0 OFFEROR CONDUCT.** Beginning with your receipt of this Notice and during the proposal process, Offerors are not permitted to contact any SBISD Board of Trustees member, officer or employee, other than the SBISD Director of Purchasing. No gratuities of any kind will be accepted, including meals, gifts or trips. Violation of these conditions will subject any offeror to immediate disqualification.

## **SPECIAL TERMS AND CONDITIONS continued**

**4.10.0 NEW PRODUCTS/SERVICES:** New products that meet the scope of project may be added to the contract. Pricing shall be equivalent to either the percentage discount or proposed prices for other similar products. Contractor may replace or add products to the existing contract if it is replacing or supplementing products named in the contract, and are equal or superior to the original products offered. The new products shall be discounted in a similar or to a greater degree, and if the products meet the requirements of the proposal and law, rules, policies and regulations. SBISD may require additions to be submitted with documentation from User Departments demonstrating an interest in, or a potential requirement for, the new product. SBISD may reject any additions without cause.

**4.11.0 NOVATION:** If contractor sells or transfers all assets or the entire portion of the assets used to perform this contract, a successor in interest must guarantee to perform all obligations under this contract. SBISD reserves the right to accept or reject any new party. A simple change of name agreement will not change the contractual obligations of contractor.

**4.12.0 FORMATION OF CONTRACT:** A response to this solicitation is an offer to contract with SBISD based upon the terms, conditions, scope of work, and specifications contained in this request. Clarifications, negotiations, if applicable, will become a part of the completed contract if included in the final contract document, duly executed by the Contractor and accepted by SBISD. An offer does not become a contract unless and until SBISD accepts it. A contract is formed when an SBISD Board of Trustees/Director of Purchasing approves the complete offer and the Purchasing Director or Designee signs the final notification of award documents.

**4.13.0** Notwithstanding anything to the contrary contained in these terms and conditions, upon the District's acceptance of a proposal, the vendor and the District will have entered into a binding contract. The contract is enforceable from the time of acceptance without regard to the time of notification to the vendor of acceptance. Vendor will be notified by a "Letter of Award" issued by the Director of Purchasing/designee. This letter, together with the vendors signed Proposal Forms, Purchase Order and Contract Documents will be defined as the "original" contract.

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

**4.15.0 ECONOMIC CONDITIONS.** Given the current economic conditions, the Spring Branch ISD Purchasing Department is providing due diligence to the district in requesting the following documentation for any increase or change i.e.

- Pricing to SBISD
- Justification for change/increase
- Terms and conditions
- Market conditions
- Competitors
- Manufacturers/Distributors

If this document includes the option to extend for additional year(s), price increases for each additional year will be negotiated not to exceed the Consumer Price Index (CPI) in the SBISD area at the time of renewal. Price negotiations may be negotiated to prices below the current pricing. Negotiations for price changes, when required, will be completed sixty (60) days before date of renewal.

**SPECIAL TERMS AND CONDITIONS continued****4.16.0 CLARIFICATION AND DISCUSSIONS**

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

**4.17.0 NO GUARANTEE OF QUANTITIES**

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

**4.18.0 FORMATION OF CONTRACT (EXECUTION OF OFFER)**

A response to this CSP is an offer to contract with SBISD based upon the terms, conditions, scope of work, and specifications contained in this CSP. Vendor(s) can submit their contract for negotiation/consideration. SBISD's CSP is the "ruling" contract document.

**4.19.0 MULTIPLE AWARDS**

SBISD reserves the right to award contracts to multiple vendors. The decision to award multiple contracts, award only one contract, or to make no awards rests solely with SBISD. SBISD may make multiple awards; this fact should be taken into consideration by each Vendor.

**4.20.0 NON-EXCLUSIVE CONTRACT**

Any contract resulting from this CSP is non-exclusive and shall be awarded with the understanding and Contract that it is for the sole convenience of SBISD. SBISD is free to have multiple contracts for the awarded products and/or services and may initiate other procurement solicitations or procurement activity with other suppliers at any time, at SBISD's sole discretion.

**Note: SBISD may elect to rebid project if in the best interest of the district.**

## 5.0 CONTRACT TERMS AND CONDITIONS

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These Contract Terms and Conditions are part of the final contract for each product and/or service contract awarded as a result of this CSP and the terms and conditions of each Purchase Order or proposal forms issued in connection with this CSP. Vendors are responsible for identifying any exceptions to these terms and conditions. **ANY EXCEPTIONS MUST BE NOTED IN WRITING DIRECTLY BELOW EACH OF THE RESPECTIVE TERMS AND CONDITIONS.** Proposals that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by SBISD and eliminated from further consideration.

### CONTRACT BETWEEN SPRING BRANCH INDEPENDENT SCHOOL DISTRICT AND ("VENDOR") FOR GENERAL MERCHANDISE AND GROCERY SUPPLIES

This Contract is entered into between SBISD and Vendor, having submitted a proposal in response to CSP **No. 11742** issued by SBISD and whose proposal has been accepted and awarded by SBISD. In consideration of the mutual covenants and conditions contained in this Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SBISD and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Contract, agree as follows:

#### 5.1.0 DEFINITIONS

The terms used in this Contract shall have the meanings assigned to them in **Section 1.0 Notice of Intent** of the CSP.

#### 5.2.0 CONTRACT TERMS; AMENDMENT

The terms and conditions of this Contract shall govern all procurements conducted hereunder. No amendment of this Contract shall be permitted unless and until first approved in writing by SBISD, and no such amendment shall have any effect unless and until a written amendment to this Contract is executed by the SBISD Superintendent or designee.

#### 5.3.0 ALL CONTRACTS AND AGREEMENTS

between Merchants and SBISD shall strictly adhere to the statutes as set forth in the Uniform Commercial Code as last amended by the American Law Institute in the National Conference of Commissioners on Uniform State Laws. Reference: Uniform Commercial Code or latest, Official Text.

#### 5.4.0 TERM OF CONTRACT; RENEWAL OF CONTRACT

The contract shall be for a period of one (1) year. Contract shall be **from September 1, 2017 through August 31, 2018.**

## **CONTRACT TERMS AND CONDITIONS, continued**

### **5.5.0 TERMINATION OF CONTRACT**

This Contract shall remain in effect until:

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

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

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

- (1) meet schedules, deadlines, and/or delivery dates within the time specified in the CSP, this Contract, and/or a Purchase Order;
- (2) make any payments owed; or
- (3) otherwise perform in accordance with this Contract and/or the CSP.

SBISD also reserves the right to terminate the Contract immediately, with written notice to Vendor, if SBISD believes, in its sole discretion that it is in the best interest of SBISD.

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.

Vendor agrees that SBISD shall not be liable for damages in the event that SBISD declares Vendor to be in default or breach of this Contract and/or the CSP. Vendor further agrees that upon termination of the Contract for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or Vendor.

The District reserves the right to terminate this agreement upon failure of Company to perform per terms of this proposal, failure to perform per negotiated terms and conditions, or failure to comply with usual and customary practices of the industry and upon breach of any laws, rules or regulations. The District reserves the right to terminate the contract at any time for cause. Sixty (60) days advance termination notice will be given in writing to the Vendor(s). Vendor(s) shall, likewise, provide the District with ninety (90) days written notice of contract termination and either loss or reduction of any coverage.

### **5.6.0 CHANGE ORDERS (IF APPLICABLE)**

Pursuant to TEX. EDUC. CODE § 44.0411(a), if a change in plans or specifications is necessary after the performance of a Purchase Order has begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, SBISD may approve change orders making the changes. The total Purchase Order price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants. A Purchase Order with an original contract price of \$1 million or more may not be increased under TEX. EDUC. CODE § 44.0411(a) by more than 25 percent. If a change order for a Purchase Order with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.



**CONTRACT TERMS AND CONDITIONS, continued****5.7.0 COMPLIANCE WITH LAWS**

Vendor shall comply with all applicable federal, local, and State of Texas laws, statutes, ordinances, standards, orders, rules, and regulations, including, as applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations, and building code requirements. For the entire duration of this Contract, Vendor and all subcontractors shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. Vendor must pay all fees and charges for connections to outside services and for use of property outside the project site.

**5.8.0 CONFIDENTIALITY**

Vendor and SBISD agree to secure the confidentiality of all information and records in accordance with applicable federal and state laws, rules, and regulations. Vendor and SBISD 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. Vendor also acknowledges that SBISD is subject to the Texas Public Information Act, and Vendor waives any claim against and releases from liability SBISD, its respective officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by Vendor, SBISD, and determined by SBISD, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

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

**5.9.0 TITLE AND RISK OF LOSS**

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

**5.10.0 WARRANTY CONDITIONS**

All product(s) and/or service(s) provided by the Vendor under this Contract must be warranted to be free from defects in material, workmanship, and free from such defects in design for a period of one (1) year upon the later of SBISD's acceptance of the product and/or service or payment of the applicable invoice. Vendor warrants that all products and/or services furnished under this Contract shall conform in all respects to the terms of this Contract, including any drawings, specifications, and/or standards incorporated herein, including, without limitation, those detailed in the CSP and Purchase Order. In addition, Vendor warrants that products and/or services are suitable for and will perform in accordance with the purposes for which they are intended. Vendor shall assume all liabilities incurred within the scope of consequential damages and incidental expenses, as set forth in the Vendor or manufacturer's warranty, which result from either delivery or use of product, which does not meet the specifications within this Contract, the CSP, or Purchase Order.

**CONTRACT TERMS AND CONDITIONS, continued****5.11.0 CRIMINAL BACKGROUND HISTORY/CHECKING \*\***

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

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

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

All contractors, subcontractors and their employees must submit to SBISD proof of a satisfactory criminal record history of all individuals working on District property through background checks conducted as required by Senate Bill 9. The criminal history must be obtained by the successful Bidder/Proposer before any work is performed.

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

**CONTRACTOR RESPONSIBILITIES**

(see SB9 requirements:

[http://tea.texas.gov/Texas Educators/Certification/Fingerprinting/Information for School District Contractors/](http://tea.texas.gov/Texas_Educators/Certification/Fingerprinting/Information_for_School_District_Contractors/))

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

**\*\* Required for awarded vendor(s) only.**

**5.12.0 CUSTOMER SUPPORT**

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

**5.13.0 SBISD'S PROPERTY**

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

**CONTRACT TERMS AND CONDITIONS, continued****5.14.0 TAX EXEMPT STATUS**

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

**5.15.0 STATE OF TEXAS FRANCHISE TAX**

By submitting a proposal in response to the CSP, Vendor certifies that Vendor is not currently delinquent in Vendor's payment of any franchise taxes or other taxes owed to the State of Texas.

**5.16.0 TAX RESPONSIBILITIES OF VENDOR AND INDEMNIFICATION FOR TAXES**

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

**5.17.0 ASSIGNMENT OF CONTRACT**

Vendor may not assign this Contract or any of its rights, duties or obligations hereunder without the prior written approval of SBISD. Any attempted assignment of this Contract by Vendor shall be null and void. Any Purchase Order made as a result of this Contract may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Vendor without the prior written approval of SBISD.

**5.18.0 NOTIFICATION OF MATERIAL CHANGE**

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

**5.19.0 VENDOR PERFORMANCE**

Vendor agrees to use commercially reasonable best efforts to provide the product(s) and/or service(s) subject to this Contract. Vendor shall furnish all supervision, labor, tools, equipment, permits, licenses, transportation, insurance, material, and supplies necessary to complete any scope of work or Purchase Order under this Contract. Vendor shall use skilled, trained personnel, who shall be supervised by Vendor.

**5.20.0 VENDOR NON-PERFORMANCE**

If at any time, the vendor fails to fulfill or abide by the terms and conditions or specifications of the contract, SBISD reserves the right to:

- purchase on the open market and charge the vendor the difference between contract price and actual purchase price, or
- deduct such charges from existing invoice totals currently due, or
- cancel within thirty (30) days written notification of intent and remove the vendor from the active proposal file for a period of time not less than one (1) year.
- re-bid the service/product.
- award to next lower responsible Proposer, if accepted by same.

## **CONTRACT TERMS AND CONDITIONS, continued**

### **5.21.0 SUBCONTRACTORS**

If Vendor uses subcontractors in the performance of any part of this Contract, Vendor shall be fully responsible to SBISD for all acts and omissions of the subcontractors. Nothing in this Contract shall create for the benefit of any such subcontractor any contractual relationship between SBISD and any such subcontractor, nor shall it create any obligation on the part of SBISD to pay or to see to the payment of any monies due any such subcontractor except as may otherwise be required by law. Vendor represents and warrants that it is willing, able, and capable of obtaining, supervising, and being responsible for any subcontractors who perform and/or provide products and services related to this Contract.

### **5.22.0 NON-APPROPRIATION**

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

### **5.23.0 PURCHASES USING FEDERAL GRANT FUNDS (2 C.F.R. 200)**

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

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

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

### **5.24.0 ORDERING PROCEDURES**

Purchase Orders are issued by SBISD to the Vendor.

### **5.25.0 INVOICES; PAYMENTS**

**5.25.1.** Vendor shall submit invoices, in duplicate, directly to SBISD at the appropriate location(s) specified by SBISD. Each invoice shall include SBISD's Purchase Order number. All invoices shall be itemized to include the type of product(s) and/or service(s) rendered. Vendor shall submit invoices within a timely manner during SBISD's fiscal year in which the product(s) and/or service(s) are purchased. The shipment tracking number or pertinent information for verification of SBISD's receipt shall be made available upon request by SBISD.

**5.25.2.** SBISD will make payments directly to Vendor. SBISD shall alone be liable and/or responsible for payment for product(s) and/or service(s) ordered and must be invoiced directly by Vendor.

## **CONTRACT TERMS AND CONDITIONS, continued**

**5.25.3.** TEX. GOV'T. CODE § 2251.021 shall govern when payments are due to the Vendor. Payments are due to Vendor by SBISD within forty-five (45) days after the later of the following: (1) the date SBISD receives the products and services under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date SBISD receives an invoice for the products or service.

Vendor agrees to pay any subcontractors the appropriate share of the payment received from SBISD not later than the tenth (10th) day after the date the Vendor receives the payment from SBISD. The exceptions to payments made by SBISD and/or Vendor listed in TEX. GOV'T. CODE § 2251.002 shall apply to this Contract.

### **5.26.0 PRICING CHANGES**

All prices and discount percentages in Vendor's proposal shall be firm for the Term of this Contract. Pricing may be negotiated during the Contract renewal period. 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. All price changes shall be presented to SBISD for acceptance or rejection by SBISD, in its sole discretion, using the same format as was accepted in Vendor's original proposal; all price changes for products and/or services provided under this Contract must be approved, in writing, by SBISD prior to taking effect.

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

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

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

### **5.27.0 RECORDS RETENTION**

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

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

### **5.28.0 RIGHT TO REVIEW, AUDIT AND INSPECT**

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

**CONTRACT TERMS AND CONDITIONS, continued**

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

**5.28.2.** Compliance with provisions for computing billings to SBISD.

**5.28.3.** Any other matter related to this Contract.

**5.29.0 INDEMNIFICATION**

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

**5.30.0 GOVERNING LAW AND EXCLUSIVE VENUE**

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

**5.31.0 MULTIPLE CONTRACT AWARDS; NON-EXCLUSIVITY**

SBISD reserves the right to award multiple contracts under the CSP, including multiple contracts for each product/service category. Product/Service categories are established at the sole discretion of SBISD. Nothing in this Contract may be construed to imply that Vendor has the exclusive right to provide products and/or services to SBISD. During the Term of this Contract, SBISD reserves the right to use all available resources to procure other products and/or services as needed and doing so will not violate any rights of Vendor.

**5.32.0 NEW PRODUCTS**

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

**5.33.0 MATERIAL SAFETY DATA SHEETS (MSDS)**

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

**5.34.0 NO SUBSTITUTION**

Any Purchase Order issued pursuant to this Contract shall conform to the specifications and descriptions identified in this Contract/CSP. Vendor shall not deliver substitutes without prior written authorization from SBISD.

**CONTRACT TERMS AND CONDITIONS, continued****5.35.0 PENALTIES**

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

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

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

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

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

**5.36.0 ELECTRICAL ITEMS**

All electrical items must meet all applicable OSHA standards and regulations, and must bear the appropriate listing from US, FMRC, NEMA, or UL Laboratories.

**5.37.0 SAFETY**

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

**5.38.0 WORKFORCE**

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

**5.39.0 INSURANCE**

Vendor is required to provide SBISD with copies of certificates of insurance, naming SBISD as additional insured's for Texas Workers Compensation and General Liability Insurance, within 14 business days of contract award and prior to the commencement of any work under this Contract. Certificates of Insurance, name and address of Vendor, the limits of liability, the effective dates of each policy, and policy number shall be delivered to SBISD prior to commencement of any work under this Contract. The insurance company insuring Vendor shall be licensed in the State of Texas, and shall be acceptable to SBISD. Vendor shall give SBISD a minimum of ten (10) days' notice prior to any modifications or cancellation of said policies of insurance. Vendor shall require all subcontractors performing any work under or relating to this Contract to maintain coverage as specified below. Vendor shall, at all times during the Term of this Contract, maintain insurance coverage with not less than the type and requirements shown below.

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

## Spring Branch Independent School District Insurance Requirements for Contractors

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

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



**CONTRACT TERMS AND CONDITIONS, continued****5.40.0 PARTICIPATION**

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

**5.41.0 EQUAL OPPORTUNITY**

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

**5.42.0 FORCE MAJEURE**

Neither SBISD or Vendor shall be deemed to have breached any provision of this Contract as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are reasonably beyond SBISD or Vendor's control.

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

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

**5.43.0 SEVERABILITY**

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

**5.44.0 WAIVER**

No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.

**CONTRACT TERMS AND CONDITIONS, continued****5.45.0 ENTIRE AGREEMENT**

The Contract, the CSP, Vendor's proposal submitted in response to the CSP, the attached and incorporated attachments, addendum, and/or exhibits, if any, contain the entire agreement of the parties relative to the purpose(s) of the Contract and supersede any other representations, agreements, arrangements, negotiations, or understandings, oral or written, between the parties to this Contract. In the event of a conflict between this Contract and the CSP or Vendor's proposal submitted in response to the CSP, this Contract shall control. In the event of a conflict between the CSP and Vendor's proposal submitted in response to the CSP, the CSP shall control. This Contract supersedes any conflicting terms and conditions on any Purchase Order, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by Vendor after the Effective Date of this Contract.

**5.46.0 INTERPRETATION**

Vendor agrees that the normal rules of construction that requires that any ambiguities in this Contract are to be construed against the drafter shall not be employed in the interpretation of this Contract.

**5.47.0 NOTICE**

Any notice provided under the terms of this Contract by the parties to any other shall be in writing and shall be given by hand-delivery, certified registered mail, return receipt requested, email or fax. Notice shall be sufficient if made or addressed to the party at the address listed in the signature line of this Contract. Notice shall be deemed effective upon receipt.

Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified mail, return receipt requested, fax or email.

**5.48.0 CAPTIONS**

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

**5.49.0 THROUGH INTERLOCAL AGREEMENTS**

It is anticipated that school districts will recognize the broad applicability of SBISD contracts and how they apply to school districts. All Suppliers should indicate their willingness to provide all or some of the goods and/or services requested in this proposal to other Districts. The responses to this proposal will be used as a baseline to determine which firms may be eligible for further participation in the district's marketing program. The marketing program is designed to help school districts improve their educational learning and business environments by the formation of mutually beneficial partnerships with firms that provide supportive expertise and services. While each Interlocal Agreement will encompass part, or all of the services requested, each will be individually adapted, using the response from this RFP/CSP, to the individual needs of the participating district. Separate, but related contracts, will be drawn to reflect Agreements on each additional district partnership. Even though the RFP/CSP has been developed to be as comprehensive as possible, it is impossible to assure that all services needed in every interlocal contract will be included in the RFP/CSP response. Therefore, all Suppliers responding positively to this section shall also agree that such additional goods and/or services may be needed to satisfy the requirements of future Interlocal Agreements to provide goods and/or services to other districts will be included as part of this RFP/CSP.

## **6.0 EVALUATION AND AWARD OF PROPOSAL(S)**

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### **6.1.0 AWARD OF CONTRACT**

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

### **6.2.0 COMPETITIVE RANGE**

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

### **6.3.0 EVALUATION OF PROPOSALS**

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

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

#### **6.3.1 Vendor Business Capabilities:**

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

## **7.0 INSTRUCTIONS TO VENDORS (SUBMITTALS)**

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### **(IF APPLICABLE)**

#### **7.1.0 Company Information**

#### **7.2.0 Administrative**

#### **7.3.0 Accounting**

a) Describe how Vendor will invoice SBISD. Include a process map. **(See 3.28.0)**

#### **7.4.0 Vendor's Operations, including Vendor's Key Staff**

Vendor must detail the qualifications of key staff. Vendors must include the following information:

## 8.0 PROPOSAL FORM/SUBMISSIONS

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### 8.1.0 Pricing

**8.2.0 Discounts provided on price lists and catalogs** — Detail the average discount provided by the Vendor on stated prices.

### 8.3.0 Freight, Delivery, Inspection & Acceptance

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

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

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

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

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

### 8.4.0 Technical Resources (if applicable)

- a) Describe what technical resources Vendor will provide to support the PSD members' projects.
- b) Describe the measurement options Vendor intends on providing the PSD members.

### 8.5.0 Training (if applicable)

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

### 8.6.0 Products & Services Summary Matrix

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

### 8.7.0 Value Add Services Description

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

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

**PROPOSAL FORM, continued**

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

**8.10.0 Conflict of Interest form completed and signed.** For the District to award a contract, the District must have on file the completed Conflict of Interest form. The Conflict of Interest Form must be complete with Company Name, Signature and Date even if company has no conflict of interest. **Section 12.0 (See page 38).** \*\*

**8.11.0 SBISD** requires that award vendor(s) complete a "Request for Taxpayer Identification Number and Certification W-9, before payment(s) will be processed.\*\*

**\*\*Required only of awarded vendors**

**8.12.0 Spring Branch ISD Certificate of Interested Parties – Form 1295.** Spring Branch ISD is required to comply with House Bill 1295, which amended the Texas Government Code by adding Section 2252.908, Disclosure of Interested Parties. Section 2252.908 prohibits SBISD from entering into a contract resulting from this CSP with a business entity unless the business entity submits a Disclosure of Interested Parties (Form 1295) to the District at the time business entity submits the signed contract.

**"Interested Party"** means a person:

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

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

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

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

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

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

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

SBISD must acknowledge the receipt of the filed Form 1295 by notifying the Texas Ethics Commission of the receipt of the filed Form 1295 no later than the 30th day after the date the contract binds all parties to the contract. After SBISD acknowledges the Form 1295, the Texas Ethics Commission will post the completed Form 1295 to its website within seven business days after receiving notice from SBISD.

<b>CERTIFICATE OF INTERESTED PARTIES</b>			<b>FORM 1295</b>			
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.			<b>OFFICE USE ONLY</b>			
<b>1 Name of business entity filing form, and the city, state and country of the business entity's place of business.</b> <b><i>VENDOR'S NAME</i></b>						
<b>2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.</b> <b><i>SPRING BRANCH INDEPENDENT SCHOOL DISTRICT</i></b>						
<b>3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.</b> <b><i>SPRING BRANCH CONTRACT NUMBER AND TITLE</i></b>						
<b>4</b> <b>Name of Interested Party</b>	<b>City, State, Country</b> <b>(place of business)</b>	<b>Nature of Interest (check applicable)</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center; padding: 2px;">Controlling</td> <td style="width: 50%; text-align: center; padding: 2px;">Intermediary</td> </tr> </table>			Controlling	Intermediary
Controlling	Intermediary					
<b><u>SAMPLE ONLY</u></b> <b><i>Vendors must complete this form electronically on the</i></b> <b><i>Texas Ethics Commission's website located at:</i></b> <b><i><a href="https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm">https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm</a></i></b>						
<b>5 Check only if there is NO Interested Party.</b> <input type="checkbox"/>						
<b>6 AFFIDAVIT</b> <span style="float: right;">I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.</span>						
<b><i>VENDOR'S SIGNATURE</i></b> _____ Signature of authorized agent of contracting business entity						
<b>AFFIX NOTARY STAMP &amp; SEAL ABOVE</b>						
Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.						
_____ Signature of officer administering oath      Printed name of officer administering oath      Title of officer administering oath						
<b>ADD ADDITIONAL PAGES AS NECESSARY</b>						

**8.0 PROPOSAL FORM/SUBMISSIONS, continue**

The following information must be provided with the proposal for consideration of award.

- A. Location of closest warehouse to the SBISD.

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- B. Name, complete address, fax and phone number of sales representative servicing this account.

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- C. What is the approximate date you anticipate issuing a new catalog? If prior to the end of the term of this contract, will the same discount apply? (if applicable)

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- D. What other value added services are provided?

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- E. Do you carry **Amazon Kindle and ITUNES cards**? In what denominations are they sold (\$5, \$15, \$25, \$50, and \$100)? **If YES**, Can they be purchased with a **Purchase Order**?

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**8.0.0 PROPOSAL FORM, continue*****Discounts for General Merchandise***

**SHELF PRICE DISCOUNT: - \_\_\_\_\_ %**

Leaving the discount blank will be considered a No Bid.

*If bidding current shelf price with no discount, indicate in the blank with 0%*

If there are categories of items that are not eligible for discount, please indicate categories in space provided below:

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**QUESTIONNAIRE**

1. Spring Branch ISD conducts business via purchase order. Will your store accept Spring Branch ISD purchase orders? YES \_\_\_\_\_ NO \_\_\_\_\_
2. If purchase orders are not accepted, please list methods of payment acceptable:  
\_\_\_\_\_
3. Is Spring Branch ISD required to have a Corporate or Store Account in order to conduct business with a purchase order? YES \_\_\_\_\_ NO \_\_\_\_\_
4. Please list name and phone number of your store representative or contact person for corporate or store account: \_\_\_\_\_
5. Will corporate or store account be effective for all locations? YES \_\_\_\_\_ NO \_\_\_\_\_
6. When a District employee comes to your store to shop with a purchase order, what is the store procedure for checking out (i.e. go to commercial desk; go to any cashier, etc.)?  
\_\_\_\_\_
7. Is delivery available? YES \_\_\_\_\_ NO \_\_\_\_\_ If marked YES, what terms apply?  
\_\_\_\_\_
8. Please list any additional information required for Spring Branch ISD to conduct business with your store  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**8.0.0 PROPOSAL FORM, continue**

9. Percent of discount from list food items shelf price \_\_\_\_\_% (percent)

**Note:** If bidding shelf price only with no discount, so indicate in blank with 0%.

10. Percent of discount from list non-food items shelf price \_\_\_\_\_% (percent)

11. If there are categories of items that are not eligible for discount, please indicate categories in space provided below:

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12. Will your store accept an SBISD purchase order? \_\_\_\_\_

If forms must be completed for your store to accept a **purchase order**, please include the form(s) with your bid.

\_\_\_\_\_  
Company (Store #)

\_\_\_\_\_  
Signature

**NOTE:**

**SBISD will be closed for Fridays from June 90, 2017 to Friday August 4, 2017**

## 9.0 REFERENCES

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

1. School System \_\_\_\_\_  
Contact Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone number \_\_\_\_\_  
Fax number \_\_\_\_\_
  
2. School System \_\_\_\_\_  
Contact Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone number \_\_\_\_\_  
Fax number \_\_\_\_\_
  
3. School System \_\_\_\_\_  
Contact Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone number \_\_\_\_\_  
Fax number \_\_\_\_\_
  
4. School System \_\_\_\_\_  
Contact Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone number \_\_\_\_\_  
Fax number \_\_\_\_\_
  
5. School System \_\_\_\_\_  
Contact Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone number \_\_\_\_\_  
Fax number \_\_\_\_\_

## 10.0 FELONY CONVICTION NOTICE

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State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, *Subsection (a), states, "a person or business entity that enter into a contract with a school district must give advance notice to the District if the person or owner or operator of the business entity has been convicted of a felony." The notice must include a general description of the conduct resulting in the conviction of a felony.*

*Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract".*

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

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

Firm's Name: \_\_\_\_\_

Authorized Company Official's Name \_\_\_\_\_  
*(Please print clearly or type)*

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

**Signature of Company Official:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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

**Signature of Company Official:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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

Name of Felon(s): \_\_\_\_\_  
 \_\_\_\_\_

Detail of Conviction(s): \_\_\_\_\_  
 \_\_\_\_\_

**Signature of Company Official:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**NOTE:**

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

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

## 11.0 CERTIFICATE OF RESIDENCY

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The State of Texas has passed a law concerning non-resident contractors. This law can be found in Texas Government Code under Chapter 2252, Subchapter A. <http://www.capitol.state.tx.us/statutes/gv.toc.htm>. This law makes it necessary for the SBISD to determine the residency of its bidders. In part, this law reads as follows:

“Section: 2252.001

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

Section: 2252.002

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

I certify that \_\_\_\_\_  
(Name of Company Bidding)

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

\_\_\_\_\_ Resident Bidder      \_\_\_\_\_ Non-resident Bidder

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

\_\_\_\_\_ in the state of \_\_\_\_\_.

\_\_\_\_\_  
Signature of Authorized Company Representative

\_\_\_\_\_  
Print Name

\_\_\_\_\_ Title      \_\_\_\_\_ Date

Form provided by Texas Ethics Commission [www.ethics.state.tx.us](http://www.ethics.state.tx.us) Revised 11/30/2015

**NOTE: FORM MUST BE COMPLETE WITH COMPANY NAME, SIGNATURE AND DATE EVEN IF COMPANY HAS NO CONFLICT OF INTEREST.**

## 13.0 DEBARMENT OR SUSPENSION CERTIFICATION FORM

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### FEDERAL FUNDS

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

**Debarment:**

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

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

Firm's Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Authorized Company Official's Name: \_\_\_\_\_

***(Type or printed)***

Title of Authorized Representative: \_\_\_\_\_

***(Type or printed)***

Signature of Authorized Company Official: \_\_\_\_\_

Date Signed: \_\_\_\_\_

## 13.0 DEBARMENT OR SUSPENSION CERTIFICATION FORM

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### NON - FEDERAL FUNDS

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

Non-Federal entities are prohibited from contracting with or making sub-awards under covered transaction to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement of goods or services, Vendors receiving awards of contracts all sub-recipients must certify that the organizations and its principals are not suspended or debarred. Your signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Firm's Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone #: \_\_\_\_\_

Authorized Company Official's Name: \_\_\_\_\_

*(Type or printed)*

Title of Authorized Representative: \_\_\_\_\_

*(Type or printed)*

Signature of Authorized Company Official: \_\_\_\_\_

Date Signed: \_\_\_\_\_



## 14.0 NON-COLLUSION STATEMENT

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

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Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone # : \_\_\_\_\_ Fax # : \_\_\_\_\_

Bidder Signature: \_\_\_\_\_

Printer Name: \_\_\_\_\_

Position/Title: \_\_\_\_\_ Date Signed: \_\_\_\_\_

Signature of Company Official Authorizing Bid/Proposal: \_\_\_\_\_

Name of Company Official: **(Please type/print)** \_\_\_\_\_

\_\_\_\_\_

Official Position: \_\_\_\_\_ Date Signed: \_\_\_\_\_

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**15.0 DEVIATION/COMPLIANCE SIGNATURE FORM**

Firm's Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Email: \_\_\_\_\_

If Yes, please list below. Attach additional sheet(s) if warranted.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## 16.0 HISTORICALLY UNDERUTILIZED BUSINESS QUESTIONNAIRE

A Historically Underutilized Business (HUB)

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

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

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

## 17.0 SIGNATURE PAGE

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

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

Addendum No. 1 \_\_\_\_\_

Addendum No. 3 \_\_\_\_\_

Addendum No. 2 \_\_\_\_\_

Addendum No. 4 \_\_\_\_\_

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

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

SUBMITTED BY:

Firm: \_\_\_\_\_  
(OFFICIAL Firm Name)

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

By: \_\_\_\_\_  
(Original Signature)

Name: \_\_\_\_\_  
(Typed or Printed Name)

Title: \_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Date)

Address: \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Email: \_\_\_\_\_

**NOTE: Submit copy of Bidder's/  
Proposer's current W-9 Form**

Taxpayer Identification #: \_\_\_\_\_

Prompt Payment Discount: \_\_\_\_\_ % \_\_\_\_\_ Days