

Taylor Independent School District

# **RFP # 2324-02.2 Taylor ISD Armed Security Services**

Armed Security Services Request for Proposal # 1

Victor Flores  
6-13-2024

Taylor Independent School District



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Phone (512)352-6361

RFP # 2324-02.2 Taylor ISD Armed Security Services

Armed Security Services Request for Proposal # 2

June 13, 2024

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Items below represent components which comprise this RFP package. Respondents are asked to review the package to be sure that all applicable parts are included. If any portion of the package is missing, please notify Victor Flores immediately.

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**PART 1.0 – NOTICE OF INTENTION**

The Purchasing Department of the Taylor Independent School District (“TISD” or the “School District” or the “District”) is conducting this procurement to establish a contract. The Initial Term of the prospective contract is a period of eighteen months for 4 campuses. The maximum duration of any contract resulting from this procurement is a total of eighteen months, running from the date of execution of the contract by the authorized representative of the School District. No contract shall be executed until it has been reviewed and approved by the Board of Trustees of the School District (“Board”) in a duly called and posted meeting of the Board. This contract can be accessed on an “as needed” basis from a list of contracts that have been competitively bid and awarded with qualified, high performance vendors based on the selection criteria set forth herein. Vendors are requested to submit an online response offering their total line of available products and services that are commonly purchased by school districts and other public, not for-profit agencies and organizations.

Product(s) considered for award shall equal or exceed the technical, environmental and performance standards and specifications as defined within this RFP and further described in the scope and specification section.

The good(s) or service(s) to be purchased under the awarded contract, if any, may be of indefinite delivery and indefinite quantity (IDIQ).

## PART 2.0 – Response Requirements

*Please read carefully this entire RFP document and specifications. Complete all forms and submit your bid with all appropriate attachments.*

### 2.1 Request for Proposals (RFP) Documents

TISD Purchasing Department documents are made available via the TISD website to anyone who wishes to submit a response. However, it is the responsibility of the vendor submitting a response to make certain that they monitor the TISD Website for notices, changes, addenda or other critical information.

### 2.2 Tentative Time Table

TISD anticipates following the time table listed below for this solicitation:

Item	Activity	Date & Time
1	Solicitation starts to advertise (1st run)	June 19, 2024
2	Solicitation advertised (2nd run)	June 23, 2024
3	Deadline for submission of responses (See Part 3.0 – Instructions to Vendors – for detailed submission requirements)	July 8, 2024 10:00 AM
4	Anticipated Board Meeting Approval	July 15, 2024 @ 7:00pm
5	Initial Contract Period	TBD

The table above is only an estimate and may vary.

### 2.3 Procurement Method

TISD maintains and uses documented procurement procedures, consistent with State, local and tribal laws and regulations and standards of 2 CFR Part 200, for the acquisition of property or services required under a Federal award or subaward as detailed in 2 CFR § 200.318. TISD’s documented procurement procedures conform to the procurement standards identified in §§ 200.317 through 200.327 of subpart D—Post Federal Award Requirements. TISD is utilizing the Request for Proposals (RFP) method of procurement in accordance with Texas Education Code Section 44.031 Purchasing Contracts, Request for Proposals for services other than construction services. For information regarding the RFP process, contact Victor Flores of the Purchasing Department at (512) 365- 1391.

### 2.4 Requirements for Return of RFP Responses

Respondents must submit RFPs by the established deadline (day and time). Please refer to the “Instructions to Vendors” section to ensure that you submit all required information Delivered to TISD. TISD does not accept responses after the due date and time.

### 2.5 Rights Reserved by TISD and Restrictions on RFP Process

- a) TISD reserves the right to cancel this solicitation in whole or in part by issuance of a revised or amended Request for Proposals.
- b) TISD further reserves the right to award one or more contracts, in part or in whole, to a single or to multiple prospective vendors. The decision to award multiple contracts, award only one contract, or to make no awards rests solely with TISD. TISD may make multiple awards, and this fact should be taken into consideration by each vendor.
- c) TISD assumes no financial responsibility for any costs incurred by prospective vendors in developing and submitting a response or any amendments or addenda, participating in bid conferences, participating

in any negotiation sessions or discussions, or any other costs incurred by vendors prior to award of a contract pursuant to this RFP.

d) TISD reserves the right to reject any and/or all responses, to award contracts for individual products or services as may appear advantageous, and to negotiate separately in any manner necessary to serve the best interests of the School District. TISD further reserves the right to accept, reject, or negotiate modifications in any terms of a proposed vendor's response or any parts thereof. TISD further reserves the right to waive any formalities or technicalities if deemed in the best interest of the School District. TISD also reserves the right as sole judge of quality and equality.

## 2.6 Questions and Clarification

a) Questions regarding the requirements specified in this solicitation must be submitted in writing to TISD.

Questions about this RFP must be directed, in writing, to:

Jamie Moller

Director of Student Support Services

[jmoller@taylorisd.org](mailto:jmoller@taylorisd.org)

b) TISD will not answer verbal questions; any responses to a prospective vendor's questions will be conveyed by Email from TISD.

### **PART 3.0 – INSTRUCTIONS TO VENDORS**

This portion of the RFP includes instructions on the format vendors must follow in preparing and submitting their online responses. It further identifies how questions can be raised and will be addressed.

#### **3.1 Compliance with Specifications**

Vendors are required to respond to all requests identified in this RFP and indicate their acceptance or objection to the terms of the RFP and the terms of the Agreement. Any exceptions to the terms and conditions in the RFP or the Agreement must be clearly indicated in the appropriate section of the vendor's submitted response. Each vendor, by making its response, represents that the vendor has read and understands the RFP and the Agreement.

#### **3.2 Required Response Format**

Vendors shall submit responses by mail to TISD Central Office at the following address 3101 N. Main, Suite 104, Taylor TX, 76574. Responses should be direct, concise, complete, and unambiguous. The Vendor is responsible for ensuring that TISD has the appropriate company name, authorized representatives, and contact information on file for the purpose of receiving notices, changes, addenda or other critical information. Please ensure that you respond to all documents and attachments in this Request for Proposals.

Submittals must be sealed and clearly marked on the outside of the package with:

Request for Proposal (RFP) #2324-02: Armed Security Services

Due: Monday July 8, 2028, 10:00 AM (CST)

Firm Name

#### **3.3 General Corporate and Contact Information**

Vendor agrees to provide TISD with the following financial information if requested by TISD at any point during the procurement process, including before or after contract award: If public, the vendor's income statement, balance sheet, and cash flow for the past three (3) years; if private, the vendor's audited financial statements for the past two years (if available). A vendor's failure to provide this financial information may impact the TISD Administration's recommendation to the TISD Board of Trustees for the award of the contract.

#### **3.4 Response Submission Location**

Proposals shall be received no later than the submittal day and time deadline in the TISD Central Office. No provisions or exceptions are made for late submission due to actions or consequences of the Vendor or third party. Any responses received after the submittal deadline date and time will be disqualified.

#### **3.5 Submission of Responses**

TISD will only accept bids and proposals submitted to TISD Central Office. Faxed proposals will not be accepted. Deviations from any terms, conditions and/or specifications shall be conspicuously

noted in writing by the Vendor and shall be included with the proposal. Withdrawal of proposals will not be allowed for a period of 180 days following the opening. Withdrawal of proposals prior to the submission deadline is permitted. Copyrighted proposals are unacceptable and may be disqualified.

### **3.6 Addendum**

Any interpretations, corrections, additions, or changes to this RFP will be communicated to vendors by the issuance of an addendum. It is the responsibility of the vendor, prior to submitting their response, to determine whether an addendum was issued. All vendors shall comply with the requirements specified in any addendum issued by TISD.

### **3.7 Disqualification**

A vendor may be disqualified before or after the responses are unsealed, 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.

### **3.8 Environmental Initiatives**

TISD is committed to reducing waste and promoting energy conservation. Toward that end, vendors responding to this solicitation are encouraged to provide their company's environmental policy and green initiative.

### **3.9 Interpretation**

This solicitation represents the basis for any award and supersedes all prior offers, negotiations, exceptions and understandings (whether orally or in writing). Submitted responses should be self-explanatory and should not require any clarification or additional information.

### **3.10 No Return of Responses; Withdrawal of Responses**

Once submitted, TISD will not return responses to vendors. A response that has been submitted to TISD may be withdrawn by written correspondence prior to the deadline for submission of responses.

### **3.11 Non-Collusion Statement**

Vendors are required to certify a Non-Collusive Statement. Vendors are required to state the party submitting a response, that such response 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 response or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the response price or of any other vendor, or to fix any overhead, profit or cost element of said response price, or of that of any other vendor, or to secure any advantage against TISD or any person interested in the proposed contract, and that all statements in said response are true.

### **3.12 Open Records Policy**

TISD is a governmental body subject to the Texas Public Information Act. Responses submitted to TISD as a result of this solicitation may be subject to release as public information after contracts are executed or the procurement is terminated. If a vendor believes that its 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. TISD assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by vendors.

### **3.13 Preferences**

TISD may apply applicable preferences for Texas resident vendors in the event of a tie bid. Preferences must be explicitly claimed by vendor and may not be applicable in procurements and/or contracts involving federal funds unless the procurement and/or contract involves unprocessed locally grown or locally raised agricultural products for use by TISD in a Child Nutrition Program. See Texas Government Code §§ 2252.001 - .004; 2 C.F.R. § 200.319.

### **3.14 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.

### **3.15 Responsive Submittals**

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

### **3.16 Similar Products**

Whenever an article or material is defined by TISD in this solicitation by describing a proprietary product or by using the name of a manufacturer or brand name, the term "or equal" if not inserted shall be implied (as applicable). The specified article or material shall be understood as indicating type, function, minimum standard of design, efficiency and quality desired and shall not be construed as to exclude other manufactured products or comparable quality, design and efficiency (as applicable).

### **3.17 TISD is tax-exempt**

TISD is tax-exempt. Response prices should not include taxes.

### **3.18 Sole Source**

In order to become a Sole Source Vendor, a vendor must meet the requirements of Texas Education Code § 44.031 (j) Sole Source, as described below. Selected purchases may be exempt from competitive procurement if they meet the established criteria for a sole source purchase:

- Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of a patent, copyright, secret process or monopoly
- Identification and confirmation that the product is a film, manuscript, book, utility service (including electricity, gas, or water), or a captive replacement part or component for equipment •

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

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

Please mail this information to:

Taylor Independent School District  
Attn: Business Office  
3101 N. Main St.  
Taylor TX 76574

TISD reserves the right to decide if your company is a qualified Sole Source Vendor.

### **3.19 Conflict of Interest (CIQ Form – must be filled out and attached to response)**

TISD is required to comply with Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers. House Bill 23 significantly changed Chapter 176 as well as the required disclosures and the corresponding forms. As of September 1, 2015, any vendor who does business with TISD or who seeks to do business with TISD must fill out the new Conflict of Interest Questionnaire (CIQ) whether or not a conflict of interest exists. A conflict of interest exists in the following situations:

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

(i) a contract between the local government entity and vendor had been executed; or

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

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

(i) A contract between the local government entity and vendor had been executed; or

(ii) (ii) The local government entity is considering entering into a contract with the vendor. (c) If the vendor has a family relationship with a local government officer of TISD.

### **3.20 EDGAR Conflict of Interest Requirements**

In accordance with federal EDGAR requirements, 2 CFR § 200.318(c)(1), no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his

or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of TISD may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, through TISD's written procedures, TISD has set a de minimis amount of less than \$50 per year for items that are unsolicited and of minimal value and promotional items. Violations of this standard by an employee will be reported to the Superintendent's Office and addressed through TISD's personnel policies. Violations of this standard by an officer or the Superintendent shall be addressed to the Board President and addressed through TISD Board policies.

### **3.21 Interlocal Cooperation Act**

It is the intent of TISD to allow other governmental entities, including other school districts, to "piggyback" onto any existing contract between TISD and Vendor entered into pursuant to this RFP. Vendor expressly agrees that TISD may disclose Vendor's response, including, but not limited to, pricing information, to other governmental entities. Accordingly, as permitted under the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, and Chapter 271, Subchapter F of the Texas Local Government Code, other governmental entities that have entered into an Interlocal Agreement with TISD are authorized to enter into separate and independent contracts with Vendor that employ the same negotiated terms and conditions contained in an existing contract(s) between TISD and Vendor. Any such separate, independent contract developed as a result of this procurement solicitation and/or the Agreement is exclusively between such other governmental entity and Vendor and shall have no effect or impact on TISD or TISD's contract with Vendor. It is expressly understood that TISD shall in no way be liable for the obligations of any other governmental entity contracting with Vendor pursuant to this section.

## **PART 4.0 – SCOPE & SPECIFICATIONS**

### **4.1 Request for Proposals Defined**

The intention of this Request for Proposals (RFP) is to solicit responses for Armed Security Services. TISD is utilizing the Request for Proposals (RFP) method for the procurement of this service in accordance with Texas Education Code Section 44.031 Purchasing of Contracts, Item (3) Request for Proposals. For information regarding the RFP process, contact Victor Flores of the Purchasing Department at (512) 365-1391. Interested vendors should respond to this RFP and submit responses to TISD.

### **4.2 Scope of Services**

TISD is looking to obtain responses from vendors that can provide Armed Security Services for 4 campuses in accordance with HB3.

### **4.3 Specifications**

It is the intention of TISD to establish one or more contract(s) with highly qualified Vendor(s) for Armed Security Services. Vendor(s) shall, at the request of TISD, provide these products and/or covered services under the terms of this RFP and the Contract set forth in Part 6.0 General Terms and Conditions. A minimum of the following shall apply:

- Received the following professional development:
  - Active shooter response training
  - De-escalation response training
  - Inclusion/diversity training
- 3-5 years of experience in armed security services (experience in schools preferred, but not required)
- Speak, read, write, and understand the English language clearly.
- Comprehend oral and written orders, procedures, and materials.
- Compose written reports; convey complete information utilizing correct sentence composition and grammar. Physically able to accomplish various tasks that must be performed, including quickly ascending and descending multiple flights of stairs and lifting weight in excess of approximately 40 pounds
- Well-developed level of maturity necessary for professional interaction with students.
- Capacity to hear ordinary conversations at fifteen (15) feet with either ear, with or without the benefit of a hearing aid.
- Neat, clean, and well-groomed appearance while providing services.
- Valid driver's license or valid state identification card.
- Licensed non – commissioned security officer by TX DPS preferred

### **4.4 Screening**

Contractor will be required to conduct a background checks and fingerprinting at its own expense for all employees considered for placement at owner's premises. No employee of contractor who has been convicted of a felony will be assigned to owner's premises without prior consent of the District.

- Contractor shall conduct a history check on the officer.

- Contractor shall conduct an employment check.
- Contractor shall perform a reference check with three (3) non-related references.
- Contractor shall provide Taylor ISD with information that is required to obtain national criminal history records on such individuals. This may include fingerprints and a photograph.
- Contractor shall perform or contract drug testing.
- All screening results shall be provided to the District prior to employment

#### **4.5 Call in Policy/Turn over**

- Vendor must assure that all posts are manned and shall have coverage during the entire school day.
- Vendor shall have call in policy for staff that are assigned a campus that call in or leave during the school day.
- Assigned staff must be dependable and on time. Staff turnover must be kept to 2 or less positions within the district throughout the course of the contract.

#### **4.6 Date of work**

- Day of work will be a minimum number days set by TISD which will include the regular School Calendar and Summer School.

#### **4.7 Scope of Work / Philosophy of Services**

- Please include in your proposal, a narrative that answers the following questions:
  - Please discuss any experience your organization has in providing armed security in schools or other places with significant numbers of children.
  - What training do / will your armed security staff receive about the unique culture and needs of providing security in a school setting?
  - Briefly explain how you plan to attract and keep qualified armed security staff for your organization.
  - Discuss why you feel your company is well positioned to successfully meet the security needs of Taylor ISD.
- In your proposal, please include a job description for an armed security guard for a school setting.

## **PART 5.0 – EVALUATION AND AWARD OF RESPONSES**

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

### **5.1 Evaluation Criteria**

A committee selected by TISD will review and evaluate all responses and make a recommendation to the TISD Board of Trustees. By including each of the criteria in Texas Education Code § 44.031(b), below, TISD has fulfilled Section 44.031(b)'s requirement that it "shall consider" the criteria listed in 44.031(b); in accordance with Module 5 of the TEA FASRG, TISD has determined which criteria should be considered most important and has assigned weights/points to each criterion based on how important it is. TISD will base a recommendation for contract award on the following factors, in accordance with Texas Education Code § 44.031:

#### Evaluation Factors

1. Reputation of Vendor and of Vendor's goods and/or services
2. Quality of Vendor's goods and/or services
3. Extent to which the goods and/or services meet TISD's needs
4. Vendor's past relationship with TISD
5. Impact on the ability of TISD to comply with laws and rules relating to HUBs
6. Total long-term cost to TISD to acquire Vendor's goods and/or services
7. Ability to recruit and retain qualified staff to provide services to Taylor ISD.

### **5.2 Awards**

Awards will be made to the successful vendor(s) for the total line of products and services submitted. Awards will be based on the criteria set forth within this document. TISD reserves the right to award contracts to multiple vendors if these vendors offer items that are unique and have value to TISD. TISD shall comply with the Texas Public Information Act in the event TISD receives an open records request for information relating to responses submitted in response to this RFP.

### **5.3 Competitive Range**

It may be necessary for TISD to establish a competitive range of acceptable responses as part of the evaluation process. Responses not in the competitive range are unacceptable and do not receive further award consideration. 1 As a general rule, TISD may not apply geographic preferences for procurements involving federal funds. See 2 C.F.R. § 200.319. However, TISD may apply an optional geographic preference in the procurement of unprocessed locally grown or locally raised agricultural products for use in a Child Nutrition Program. See 2 C.F.R. §§ 210 (National School Lunch Program),

215 (Special Milk Program for Children), 220 (School Breakfast Program), 225 (Summer Food Service Program), 226 (Child and Adult Care Food Program).

#### **5.4 Estimated Quantities**

TISD makes no guarantee or commitment of any kind concerning quantities that will actually be purchased. TISD makes no guarantee or commitment of any kind regarding usage of any contracts resulting from this solicitation.

#### **5.5 Inspection & Acceptance**

Awarded vendor(s) shall deliver the goods or services procured on this contract to the TISD Department issuing a Purchase Order. If delivery is not or cannot be made within proper time period, the awarded vendor must receive authorization from the issuing TISD Department for the delayed delivery. If defective or incorrect goods are delivered, TISD may make the determination, in its sole discretion, to return the goods to the vendor at no cost to TISD. The vendor agrees to pay all shipping and handling costs for any such return shipment. The vendor also shall be responsible for arranging the return of the defective or incorrect goods.

#### **5.6 Minority & Women's Business Enterprise (MWBE), Historically Underutilized Business (HUB), and Small Business Enterprise (SBE) participation**

TISD encourages the use of HUB, MWBE, and SBE both as prime and subcontractors. However, these entities must meet the same minimum standards and requirements as the prime contractor. It will be the responsibility of the prime contractor to pre-qualify any subcontractors offered as HUB, MWBE and SBE participants. Vendors shall indicate on their submitted responses whether or not they are a HUB, MWBE, or SBE vendor and with whom they are certified, e.g., State, City, Federal.

#### **5.7 Formation of Contract**

A response to this solicitation is an offer to contract with TISD based upon the terms, conditions, scope of work, and specifications contained in this procurement solicitation. A solicitation/response does not become a contract unless and until it is accepted by TISD after approval by the TISD Board of Trustees.

#### **5.8 Non-Exclusive Contract**

Any contract resulting from this solicitation is non-exclusive and shall be awarded with the understanding and agreement that it is for the sole convenience of TISD. TISD is free to have multiple contracts for the awarded goods and services and may initiate other procurement solicitations or purchasing activity with other vendors at any time, in TISD's sole discretion.

#### **5.9 Pricing**

Vendors must identify all costs, fees, or charges for which TISD may be billed within their response to this solicitation. Costs, fees, or charges not indicated in Vendors' responses will not be paid. Vendors are to provide written documentation for any exceptions. TISD requires that the pricing submitted in responses be offered as a quantity one price. TISD may request the awarded vendor(s) to provide discounts or other adjustments to the quantity one price for larger orders, on a per-

purchase order basis. If discounts or quantity prices are offered by an awarded vendor, the vendor must also offer the same reductions in pricing to be available for orders of similar size.

#### **5.10 Pricing Changes**

All prices and discount percentages in Vendor's response shall be firm for the term of this Contract. All price changes for products and/or services provided under this Contract must be approved, in writing, by Taylor ISD prior to taking effect and in the same format as was accepted in Vendor's original response. 1. If the Solicitation 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 Taylor ISD area at the time of renewal. Prices may be negotiated to prices below the current pricing. 2. Pricing may be negotiated during the Contract renewal period and must be completed sixty (60) days before the date of renewal. 3. Vendor agrees to promptly lower the proportionate price of any product purchased through this Contract following a reduction in the price the Vendor is paying suppliers. The following documentation shall be provided to support a request for a price change: • justification for change/increase • terms and conditions • market conditions • manufacturers'/distributors' impact if any All price decreases shall be allowed for all products and/or services.



## **PART 6.0 – GENERAL TERMS AND CONDITIONS**

The words “bids,” “Request for Proposals,” “quotes,” “RFPs,” “solicitation,” “procurement,” and their derivatives may be used interchangeably in these terms and conditions. These terms and conditions apply to all bids, Request for Proposals, quotes, competitive sealed proposals, and other procurement solicitations to which they are attached. The term “Vendor” means each awarded vendor chosen by TISD.

These General Terms and Conditions are part of the final contract in each commodity and/or service contract and are part of the terms and conditions of each purchase order or other bid/response forms issued in connection with this solicitation. Vendors are responsible for identifying any exceptions to these terms and conditions. ANY EXCEPTIONS MUST BE CLEARLY NOTED IN THE SUPPLIER RESPONSE. Responses that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by TISD and eliminated from further consideration by TISD.

This Agreement is entered into between Taylor Independent School District (“TISD”) and Vendor, having submitted a response to a procurement solicitation issued by TISD and whose response has been accepted and awarded by TISD. In consideration of the mutual covenants and conditions contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, TISD and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Agreement, agree as follows:

### **6.1 Agreement Terms; Amendment**

The terms of this Agreement shall govern all procurements conducted hereunder. No pre-published terms on the Vendor’s order acknowledgments, invoices, or other forms shall have any force or effect. Further, no amendment of this Agreement shall be permitted unless first approved in writing by TISD, and no such amendments shall have any effect unless and until a written amendment to this Agreement is executed by TISD’s Superintendent or its Assistant Superintendent for Business Services (or their designees) after any necessary approvals have been obtained from the TISD Board of Trustees.

### **6.2 Assignment of Agreement**

Vendor may not assign this Agreement or any of its rights, duties, or obligations hereunder without the prior written approval of TISD. Any attempted assignment of this Agreement by Vendor shall be null and void. Any purchase or work order made as a result of this Agreement 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 TISD. Vendor is required to notify TISD when any material change in operations occurs, including but not limited to, 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.

### **6.3 Buy America Act**

TISD has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States when spending federal funds. Purchases that are made with non-federal funds or grants are excluded from the Buy America Act.

#### **6.4 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.

#### **6.5 Catalog Discounts**

In the event of a catalog discount type solicitation, Vendor may be allowed to make additions and/or deletions from Vendor's offerings on an annual basis during the Agreement renewal period, in TISD's sole discretion, provided the item(s) substituted are of a like quality and category. These changes will be compliant with the format of Vendor's original response (i.e. manufacturer name, product category, or entire catalog discount). TISD will send notification to Vendor(s) seeking any additions and/or deletions, and Vendor will return these proposed changes on company letterhead within the given timeframe. If TISD, in its sole discretion, accepts Vendor's proposed changes, such changes will remain in effect for the entire year until the next renewal period.

#### **6.6 Compliance with Laws**

Vendor shall comply with all applicable federal, state, and local 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, the Davis-Bacon Act (40 U.S.C. § 276a / 29 CFR Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 / 29 CFR Part 5), the Equal Opportunity Employment requirements (Executive Orders 11246 and 11375 / 41 CFR Chapter 60), the McNamara-O'Hara 15 Service Contract Act (41 U.S.C. 351), Section 306 of the Clean Air Act (42 U.S.C. § 1857h, Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15), the Contract Work Hours and Safety Act (40 U.S.C. § 3701-3708; 29 C.F.R. Part 5), the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), the Education Department General Administrative Regulations, 2 C.F.R. Parts 200 and 3474, and 34 C.F.R. Parts 75-77 and 81 ("EDGAR"), mandatory standards and policies contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871), and all applicable requirements and regulations, including those related to reporting, patent rights, copyrights, data rights and those mandated by federal agencies making awards of federal funds to TISD. Vendor understands that Vendor is ineligible to receive a contract award with TISD if Vendor or its principal(s) is listed on the government wide exclusions in the System for Award Management (Debarment and Suspension Orders Executive Orders 12549 and 12689). 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 comply with all state and local building code requirements unless otherwise specifically provided in the TISD's Purchase Order, and Vendor must pay all fees and charges for connections to outside services and for use of property outside the project site. When required or requested by TISD, Vendor shall furnish TISD with satisfactory proof of Vendor's compliance with this provision.

#### **6.7 Confidentiality**

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

### **6.8 Contract Term**

The initial term of the Agreement is for a period of three (3) years. The phrase “Term” in this Agreement shall mean the then-current Term of the Agreement, whether the initial term or a renewal term. At the District’s option, there may be an additional 90-day transitional period added to the end of the initial term or any renewal term. The Agreement prices, terms, and conditions are to remain in force during the transitional period unless mutually agreed upon by both parties. Should the Agreement with the Vendor terminate during the initial or any renewal term for any reason, the District reserves the right to have the same transitional period, prices, terms and conditions as if the Agreement terminated at the expiration of that term.

### **6.9 Criminal History Review (Ch. 22 Contractor Certification: Contractor Employees Form – must be filled out and returned, if applicable)**

Prior to commencing any work under the Agreement, if Vendor contracts with TISD to provide services, Vendor must comply with all requirements relating to criminal history information required by TEX. EDUC. CODE Chapter 22. Vendor must also ensure subcontractors’ compliance with TEX. EDUC. CODE Chapter 22 requirements. Covered employees with disqualifying criminal history are prohibited from serving at TISD; Vendor and any subcontracting entity may not permit a “covered employee” to provide services at a school if the employee has a “disqualifying criminal history” (as those terms are defined below). If Vendor receives information that a covered employee has a reported disqualifying criminal history, then Vendor will immediately remove the covered employee from the project/contract and notify TISD in writing within three (3) business days. If TISD, in its sole discretion, objects to the assignment of a covered employee for any reason, including, but not limited to, on the basis of the covered employee’s criminal history record information and/or insufficient qualifications, lack of experience, and the like, based on information gathered by TISD through the procurement and/or contracting processes, Vendor (and each subcontractor) agrees to discontinue using that covered employee to provide services on TISD’s project/contract. “Covered employees” means employees, agents or subcontractors of Vendor or a subcontractor who has or will have continuing duties related to the services to be performed on TISD’s project/contract and has or will have direct contact with TISD’s students. “Disqualifying criminal history” means: (1) For employees of a contracting or subcontracting entity that is providing engineering, architectural, or construction services on a project to design, construct, alter, or repair a public work: (1) a conviction or other criminal history information designated by TISD; (2) a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.08341(d), that is: conviction during the preceding 30 years (if at the time of the offense, the victim was under 18 or was enrolled in a public school) of: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an offense under federal law or

the laws of another state that is equivalent to (a) or (b); (2) For employees of all other contracting or subcontracting entities: (1) a conviction or other criminal history information designated by TISD; (2) a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.085(a), that is: (a) conviction of a felony offense under Title 5, Texas Penal Code if at the time of the offense, the victim was under 18; (b) conviction of or placement on deferred adjudication community supervision for an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) conviction of an offense under federal law or the laws of another state that is equivalent to (a) or (b). TISD shall be solely responsible for making the final determination of what constitutes direct contact with TISD's students and what constitutes a disqualifying criminal history. The criminal history record information review obligation applies if Vendor contracts with TISD to provide services; it does not apply to a contract for the purchase of goods or real estate.

#### **6.10 Customer Reference List**

Vendor agrees to submit a customer reference list upon request by TISD.

#### **6.11 Customer support**

Vendor shall provide timely and accurate technical advice and sales support to TISD and TISD staff. Vendor shall respond to requests for customer support within one (1) business day after receipt of the request. Vendor shall provide training to TISD staff regarding products and/or services supplied by Vendor, at no additional charge, if requested by TISD.

#### **6.12 Entire Agreement**

This Agreement, the procurement solicitation issued by TISD, and Vendor's response submitted in response to TISD's procurement solicitation, and the attached and incorporated addendum or exhibits, if any, contain the entire agreement of the parties relative to the purpose(s) of the Agreement and supersede any other representations, agreements, arrangements, negotiations, or understanding, oral or written, between the parties to this Agreement. In the event of a conflict between this Agreement and the procurement solicitation issued by TISD or Vendor's response to TISD's procurement solicitation, this Agreement shall control. In the event of a conflict between the procurement solicitation issued by TISD and Vendor's response to TISD's procurement solicitation, TISD's procurement solicitation shall control. This Agreement supersedes any conflicting terms and conditions on any purchase or work orders, 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 Agreement.

#### **6.13 Equal Opportunity**

It is the policy of TISD 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 Agreement, 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 Agreement 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 Agreement.

#### **6.14 Force Majeure**

Neither TISD or Vendor shall be deemed to have breached any provision of this Agreement 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 such party's control. The parties to this Agreement are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other party in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Agreement has not been terminated. Delay or failure of performance, by either party to this Agreement, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. Neither party shall have any claim for damages against the other resulting from delays caused solely by force majeure. Notwithstanding any other provision of this Agreement, in the event the Vendor's performance of its obligations under this Agreement is delayed or stopped by a force majeure event, TISD shall have the option to terminate this Agreement. This section shall not be interpreted as to limit or otherwise modify any of TISD's contractual, legal, or equitable rights.

#### **6.15 Governing Law and Venue**

The laws of the State of Texas, without regard to its provisions on conflicts of laws, govern this Agreement. The mandatory, exclusive jurisdiction for any dispute under this Agreement is in the state and federal courts located in Taylor, Williamson County, Texas.

#### **6.16 TISD Property**

In the event of loss, damage, or destruction of any property owned by or loaned by TISD that is caused by Vendor or Vendor's representative, agent, employee, or contractor, Vendor shall indemnify TISD and pay to TISD 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 TISD's determination of the amount due. If Vendor fails to make timely payment, TISD 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 TISD.

#### **6.17 Indemnification**

VENDOR SHALL INDEMNIFY AND HOLD TISD HARMLESS FROM ALL CLAIMS, LIABILITIES, COSTS, SUITS OF LAW OR IN EQUITY, EXPENSES, ATTORNEYS' FEES, FINES, PENALTIES OR DAMAGES ARISING FROM THE ACTS OR OMISSIONS OF VENDOR, VENDOR'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS, IN CONNECTION WITH THIS AGREEMENT, 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 TISD.

#### **6.18 Insurance (if applicable)**

Successful Vendor, as a part of his/her proposal, shall provide TISD with proof of insurance showing not less than the coverage listed below. The Contractor shall not commence any portion of the work under this Contract until he/she has obtained the insurance required herein and copies of certificates have been approved by the District and filed in the Purchasing Department. The insurance company insuring Vendor shall be licensed in the State of Texas and shall be acceptable to TISD. Vendor shall require all subcontractors performing any work under or relating to this Contract to maintain coverage as specified below. Neither approval of the insurance, nor the requirements shown below, shall relieve or decrease the liability of the successful vendor. The insurance certificate(s) shall become a part of the contract documents. Vendor shall, at all times during the Term of this Contract, maintain insurance coverage with not less than the type and requirements shown below. Such insurance is to be provided at the sole cost of Vendor.

- Comprehensive General Liability: \$500,000 each person
- Bodily Injury Liability: \$1,000,000 each occurrence
- Property Damage Liability: \$100,000 each occurrence
- Workmen's Compensation: \*AS STATUTORY PROVISIONS REQUIRE, including all states, U.S. Longshoremen, Harbor Workers, and other endorsements

\* If vendors does not provide Workman's Compensation, a letter explaining alternate benefits should be included with the proposal.

#### Automobile Liability Insurance:

- Comprehensive Automobile Liability: \$500,000 each person
- Bodily Injury Liability: \$1,000,000 each occurrence
- Property Damage Liability: \$100,000 each occurrence

#### Umbrella Liability:

- Minimum Limits: \$1,000,000 each occurrence
- Bodily Injury Liability: \$1,000,000 aggregate
- Excess: \$1,000,000

#### Coverage shall include:

- a. Waiver of subrogation endorsement in favor of the District, its officers, employees, and agents.
- b. Thirty (30) day written notice of cancellation or material change endorsement in favor of the District, its officers, employees, and agents.
- c. The District shall be named as additional insured on all of the successful vendor's policy(ies).
- d. Upon request, certified copies of original insurance

policies shall be furnished to TISD. e. TISD reserves the right to require additional insurance should TISD deem additional insurance necessary, in TISD's sole discretion.

#### **6.19 Interpretation**

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

#### **6.20 Invoices; Payments**

Invoices shall be directed to TISD's Accounts Payable Department. All invoices shall be itemized to include the type of good(s) and/or service(s) rendered. Vendor shall submit invoices within a timely manner during TISD's fiscal year in which the good(s) and/or services are purchased. In accordance with Texas Government Code § 2251.021, payments are due to Vendor within forty-five (45) days after the later of the following: (1) the date TISD receives the goods under the Agreement; (2) the date the performance of the service under the Agreement is completed; or (3) the date TISD receives an invoice for the goods or service. Vendor agrees to pay any subcontractors, if any, the appropriate share of the payment received from TISD not later than the tenth (10th) day after the date Vendor receives the payment from TISD. The exceptions to payments made by TISD and/or Vendor listed in Texas Government Code § 2251.002 shall apply to this Agreement. In addition to all other rights and remedies that TISD may have, TISD shall have the right to setoff, against any and all amounts due to Vendor by TISD, whether due under this Agreement or any other agreement between TISD (including any department of TISD) and Vendor, any sums to which TISD is entitled under this Agreement, as determined by TISD in its sole discretion, including, without limitation, sums due by Vendor to TISD as a result of indemnification obligations and/or warranty claims, as applicable.

#### **6.21 IRS W-9**

In order to receive payment under this Agreement, Vendor shall have a current I.R.S. W-9 Form on file with TISD.

#### **6.22 Multiple Contract Awards; Non-Exclusivity**

TISD reserves the right to award multiple contracts for each commodity category. Commodity categories are established at the sole discretion of TISD. Nothing in this Agreement may be construed to imply that Vendor has the exclusive right to provide products and/or services to TISD. During the Term of this Agreement, TISD 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.

#### **6.23 New Products**

New products that meet the specifications detailed in the solicitation may be added to this Agreement, with prior written approval from TISD. 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 an existing contract if: the replacing products are equal to or superior to the original products offered; are discounted in a similar or to a greater degree; and the products meet the requirements of the original solicitation. No products may be added to avoid competitive

procurement procedures. TISD may reject any proposed additions, without cause, in its sole discretion.

#### **6.24 No Substitution**

Any order issued pursuant to this Agreement shall conform to the specifications and descriptions identified in this Agreement and in the solicitation. Unless otherwise agreed to in advance by TISD, Vendor will not deliver substitutes without prior authorization from TISD.

#### **6.25 No Agency or Endorsements**

TISD and Vendor are independent contractors and have no power or authority to assume or create any obligation or responsibility on behalf of the other party. This Agreement shall not be construed or deemed an endorsement of a specific company or product. It is the intention of the parties that Vendor is independent of TISD and is not an employee, agent, joint venture, or partner of TISD, and nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venture or partner, between TISD and Vendor or TISD and any of Vendor's agents. Vendor agrees that TISD has no responsibility for any conduct of any of Vendor's employees, agents, representatives, contractors, or subcontractors.

#### **6.26 Non-Appropriation Clause**

Renewal of this Agreement, if any, will be in accordance with Texas Local Government Code § 271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Agreement or obligation imposed on TISD by this Agreement, TISD shall have the right to terminate this Agreement without default or liability to Vendor resulting from such termination, effective as of the expiration of each budget period of TISD if it is determined by TISD, in TISD's sole discretion, that there are insufficient funds to extend this Agreement. The parties agree that this Agreement is a commitment of TISD's current revenue only.

#### **6.27 Notice**

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

#### **6.28 Penalties**

If Vendor is unable to provide the goods or services at the prices quoted in Vendor's response or if Vendor fails to fulfill or abide by the terms and conditions of the Agreement, TISD may take the following action(s), in TISD's sole discretion, and Vendor agrees to comply with TISD's action(s):

1. insist that Vendor honor the quoted price(s) specified in Vendor's response;
2. have Vendor pay the difference between Vendor's price and the price of the next acceptable response (as determined by TISD);
3. have Vendor pay the difference between Vendor's price and the actual purchase price of the good or service on the open market; and/or



4. recommend to TISD's Board of Trustees that Vendor no longer be given the opportunity to submit a response to TISD and/or that this Agreement be terminated.

#### **6.29 Performance**

Vendor agrees to use best efforts to provide the good(s) and/or service(s) subject to this Agreement. TISD reserves the right to conduct reviews of vendor performance at any time during the contract period.

#### **6.30 Performance and Payment Bonds**

Vendor agrees to provide performance bonds and/or payment bonds as required by Texas law on specified contracts and/or projects, as applicable. TISD will include the performance and payment bonds requirement in the specifications section of any solicitation if performance bonds and/or payment bonds are required.

#### **6.31 Prevailing Wage Rates**

Vendor and all subcontractors of Vendor shall comply with all laws regarding wage rates including, but not limited to, Texas Government Code Chapter 2258 and any related federal requirements applicable to this Agreement and to this solicitation by TISD.

#### **6.32 Prices**

All prices in Vendor's response shall be firm for the Term of the Agreement. All price changes shall be presented to TISD for acceptance or rejection by TISD, in its sole discretion, using the same format as was accepted in Vendor's original response; all price changes for goods and/or services provided under this Agreement must be approved, in writing, by TISD 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).

#### **6.33 Quantities**

Because all commodities will be provided on an "as needed" basis, TISD makes no representation either orally or in writing to the amount of commodities, services, or related items TISD will use during the Term of the Agreement.

#### **6.34 Records Retention**

Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all goods and/or services provided by Vendor to TISD under this Agreement. These records and accounts shall be retained by Vendor and made available for audit by TISD for a period of not less than three (3) years from the date of completion of the services, receipt of the goods, or the date of the receipt by TISD of Vendor's final invoice or claim for payment in connection with this Agreement, whichever is later. If an audit has been announced, Vendor shall retain its records and accounts until such audit has been completed. When federal funds are expended by TISD pursuant to this Contract, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor further certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final

expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

### **6.35 Right to Audit**

TISD, upon written notice, shall have the right to audit all of Vendor's records and accounts relating to this Agreement. Records subject to audit shall include, but are not limited to, records which may have a bearing on matters of interest to TISD in connection with Vendor's work for TISD and shall be open to inspection and subject to audit and/or reproduction by TISD or its authorized representative(s) to the extent necessary to adequately permit evaluation and verification of:

- (a) Vendor's compliance with this Agreement and the requirements of the solicitation,
- (b) compliance with TISD procurement policies and procedures,
- (c) compliance with provisions for computing billings to TISD, and/or
- (d) any other matters related to this Agreement.

### **6.36 Safety**

Vendor, its subcontractors, and their respective employees shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules, and regulations in the performance of services under this Agreement, including, without limitation, those promulgated by TISD 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 TISD. Vendor shall indemnify and hold TISD 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.

### **6.37 Severability**

In the event that any one or more of the provisions contained in this Agreement 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 Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

### **6.38 Shipments**

Vendor shall ship ordered products within seven (7) working days for available goods and within four (4) to six (6) weeks for special-order items after the receipt of the purchase order unless otherwise previously agreed to, in writing, by TISD. If a product cannot be shipped within that timeframe, Vendor shall notify TISD of the reasons why the product has not shipped and shall provide an estimated shipping date, if applicable. TISD may cancel the order if the estimated shipping time is not acceptable to TISD, in its sole discretion.

### **6.39 Software Maintenance**

Maintenance, support, hosting, and other services associated with software purchased pursuant to this procurement solicitation may be renewed on an annual basis indefinitely, in Taylor ISD's sole discretion, subject to appropriation of sufficient funding for such services in Taylor ISD's annual budget and any necessary approvals by Taylor ISD's Administration and Board of Trustees.

#### **6.40 Subcontractors**

If Vendor uses subcontractors in the performance of any part of this Agreement, Vendor shall be fully responsible to TISD for all acts and omissions of the subcontractors just as Vendor is responsible for Vendor's own acts and omissions. Nothing in this Agreement shall create for the benefit of any such subcontractor any contractual relationship between TISD and any such subcontractor, nor shall it create any obligation on the part of TISD to pay or to see to the payment of any moneys due any such subcontractor except as may otherwise be required by law.

#### **6.41 Taxes**

TISD is tax-exempt, and TISD shall not pay taxes for goods and/or services provided under this Agreement. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Agreement, including, without limitation, any federal, state, or local income, sales or excise taxes of Vendor or its employees. TISD shall not be liable for any taxes resulting from this Agreement. TISD is a political subdivision of the State (Tax Identification Number 1-74-6001850).

#### **6.42 Tax Responsibilities of Vendor and Indemnification for Taxes**

Vendor and all subcontractor(s) of Vendor shall pay all federal, state, and local taxes applicable to their operation and any persons employed by Vendor and all subcontractors of Vendor. Vendor shall require all subcontractors to hold TISD 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.

#### **6.43 Termination of Contract**

This Agreement shall remain in effect until (1) the Agreement expires by its terms or (2) the Agreement is terminated by mutual agreement of TISD and Vendor. In the event of a breach or default of the Agreement and/or the procurement solicitation by Vendor, TISD reserves the right to enforce the performance of the Agreement and/or the procurement solicitation in any manner prescribed by law or deemed to be in the best interest of TISD. TISD further reserves the right to terminate the Agreement immediately in the event Vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in this Agreement, the procurement solicitation, and/or a purchase or work order; (2) make any payments owed; or (3) otherwise perform in accordance with this Agreement and/or the procurement solicitation. TISD also reserves the right to terminate the Agreement immediately, with written notice to Vendor, if TISD believes, in its sole discretion, that it is in the best interest of TISD to do so. Vendor agrees that TISD shall not be liable for damages in the event that TISD declares Vendor to be in default or breach of this Agreement and/or the procurement solicitation. Vendor further agrees that upon termination of the Agreement for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or vendor.

#### **6.44 Title and Risk of Loss**

Whenever TISD is purchasing (and not leasing) an item under this Agreement, title and risk of loss shall pass upon the later of TISD's acceptance of the item or payment of the applicable invoice. All

deliveries under this Agreement shall be delivered: Freight Prepaid, F.O.B. Destination, Full Freight Allowed (Inside Delivery), Taylor Independent School District, Taylor, TX unless otherwise specified herein and shall be included in all pricing in Vendor's response unless otherwise clearly stated in writing in Vendor's response.

#### **6.45 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.

#### **6.46 Warranty**

All goods and/or services provided by Vendor under this Agreement 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 TISD's acceptance of the product and/or service or payment of the applicable invoice. Vendor warrants that all goods and/or services furnished under this Agreement shall conform in all respects to the terms of this Agreement, including any drawings, specifications, and/or standards incorporated herein, including, without limitation, those detailed in the procurement solicitation issued by TISD. In addition, Vendor warrants that goods 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 Agreement or the solicitation procurement.

#### **6.47 Workforce**

Vendor shall employ only orderly and competent workers, skilled in the performance of the services, if any, which shall be performed under this Agreement. 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 TISD's property, nor may such workers be intoxicated or under the influence of alcohol or drugs on TISD's property.

## PART 7.0 – PRICING / DELIVERY INFORMATION

### **7.1 Pricing**

Vendors must provide pricing to TISD including any additional pricing examples and pricing discount schedules that need to be submitted to provide TISD with a comprehensive catalog. Catalog/price lists must be included in the Vendor's proposal.

### **7.2 Discounts provided on price lists and catalogs**

Detail the average discount provided by the Vendor on stated prices.

### **7.3 Freight, Delivery, Inspection & Acceptance**

All deliveries shall be F.O.B. Destination and Inside Delivery. Deliveries shall be made during TISD Regular Hours. After a contract has been awarded, Vendor(s) shall deliver the products or services procured on this Contract to TISD upon issuance and as outlined in a TISD-issued Purchase Order. The conforming product(s) shall be delivered within ten (10) business days of Vendor's receipt of a Purchase Order. If delivery is not or cannot be made within this time period, Vendor must receive authorization from TISD for the delayed delivery.

### **7.4 Price Changes**

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

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

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