



FLORIDA VIRTUAL
SCHOOL

PROCUREMENT SERVICES

Invitation to Bid Hotel Accommodations and Meeting Space ITB01-1901437B01-HOTELS-XXXXXX

Issue Date:	October 18, 2018
Question & Answer Deadline:	October 25, 2018 @ 2:00 PM EST
Bid Due Date/Time:	November 13, 2018 @ 2:00 PM EST
Direct All Inquiries in Writing To:	FLVS Procurement Services Karen Stolarenko
Email Address	kstolarenko@flvs.net

NOTICE TO ALL INTERESTED PARTIES: Sealed responses shall be received by the Procurement Department located on the 2nd Floor of 2145 Metrocenter Boulevard Orlando, Florida 32835. Florida Virtual School (FLVS) is a secured controlled building, and all hand delivered Bid and/or ITB submittals must be checked in by the FLVS receptionist. Note that receipt of response means DELIVERED AND DATE/TIME STAMPED RECEIVED IN THE PROCUREMENT DEPARTMENT. Responses delivered to the building, but not delivered to the Procurement Department and date/time stamped as received, will not be considered as received for this solicitation process. Responses must be delivered in a SEALED package with the ITB name, ITB number, and opening date/time clearly marked on the outside of the package.

Responses will not be accepted or considered after the specified time and date listed above.

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DEFINITIONS

Addendum – Written or graphic instruments issued prior to the date for opening of bids, which modify or interpret the solicitation documents by additions, deletions, corrections or clarifications.

ARO - After receipt of order.

Extension - A one-time (not to exceed 12 months) increase in the time allowed for the contract period in lieu of or after all renewals are exhausted.

FLVS Designated Ship to Location – Locations may include FLVS office(s), address of faculty, staff, student or other as identified by FLVS in support of standard business practices.

FOB Destination - Free on board at destination; title changes hands from vendor to purchaser at the destination of the shipment; vendor owns goods in transit and files any claims. Payment of freight charges is determined by contract terms.

Fulfillment – The time between receiving a purchase order and shipping the product.

Invitation to Bid (ITB) – A written solicitation for competitive bids, advertised to the general- public with a defined opening date. Specifications are clearly defined to the point that any interested company will be able to submit a bid for the exact item/service needed. This solicitation is generally required for acquisitions exceeding the established bid limit. Award shall be made on the basis of the lowest, responsive and responsible Respondent which meets specifications with consideration being given to the specific quality of the product, conformity to the specifications, suitability to FLVS needs, delivery terms, and qualifications meeting the specifications and requirements.

Minor Irregularities – Irregularities that have no adverse effect on FLVS's interest will not affect the amount of the ITB and will not give a Respondent an advantage or benefit not enjoyed by another Respondent.

Must, Shall, Will – The words “shall,” “must,” or “will” are equivalent and indicate mandatory requirements or conditions.

Card (P-card), or any other means authorized by Procurement Services and which incorporates the requirements and conditions listed in the Bid.

Renewal - Contracting with the same contractor for an additional period of time after the initial contract term, provided the original terms of the agreement specify an option to renew

Respondent – For the purpose of this solicitation, any person, respondent, corporation or agency submitting a response to the Invitation to Bid or their duly authorized representative. The word Respondent, Payee, Vendor, Contractor, and Offeror may be used interchangeably within the Invitation to Bid.

Response – The entirety of the Respondent's submitted bid response to the ITB, including any and all supplemental information submitted.

Responsible Respondent – Respondent who has the capability in all respects to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

Responsive Respondent – Respondent who has submitted a bid that conforms in all material respects to the solicitation.

Sole Point of Contact - The Procurement Services Representative or designee to whom Respondents shall address any questions regarding the solicitation or award process. The sole point of contact shall be the arbitrator of any dispute concerning performance of the Contract.

Successful Respondent - The firms or individual who is the recommended recipient of the award of a contract under this Respondent, however, dealers and resellers are not parties to the Contract, and the Respondent that certifies them shall be responsible for their actions and omissions.

**FLORIDA VIRTUAL SCHOOL
INVITATION TO BID**

Hotel Accommodations and Meeting Space

1. OVERVIEW

1.1 Purpose: Florida Virtual School (FLVS), hereafter referred to as the "district" or "FLVS", is seeking responses from qualified Respondents interested in providing **Hotel Accommodations and Meeting Space**. The purpose of this bid is to establish complete maximum pricing and select multiple qualified bidders to provide Hotel Guest Room Accommodations and Meeting Spaces with Audio and Visual Support to be used on an as needed basis by FLVS through a Request to Quote (secondary bid) process. The recommended award will be to the most qualified Respondent(s) meeting the specifications and requirements as determined by FLVS. The final award will be based on Board approval (if total value is \$100,000 or more) or Procurement Director approval (if total value is less than \$100,000).

1.2 District Profile: Florida Virtual School is a statewide public-school district providing elementary, middle and high school courses to Florida residents. All FLVS courses are fully online. FLVS (the district) is accredited as a system by Advanced Education, Inc. (AdvancedEd) and various FLVS schools are accredited by SACS CASI (Southern Association of College and Schools Council on Accreditation and School Improvement). Our courses meet the Florida Standards. As a school of choice, all public institutions within Florida must provide Florida families the option to choose FLVS for their courses. FLVS Global was created in 2000 by the Florida Legislature as the national and international arm of FLVS, as a not-for-profit institution, FLVS reinvests revenue from FLVS Global into the research and development of new educational technologies and the creation of the highest-quality courses, benefiting students in Florida and beyond.

1.3 Student Enrollment

1.3.1 FLVS Enrollments: FLVS annually serves more than 200,000 students who successfully complete more than 470,000 semester enrollments. We are projecting to serve more than 500,000 successful completions in the coming years.

a. FLVS Full Time is a diploma granting school with standardized state testing that follows a traditional public-school schedule and pace.

b. FLVS Flex does not operate on a fixed calendar. FLVS courses are designed for semester-based terms. Since time is not a constant in our online courses, students have flexibility of pace.

1.3.2 Students can enroll in one or multiple courses at a time throughout the year as part of an open and rolling enrollment process. An enrollment in FLVS terms is a half credit in traditional terms. We do not differentiate between students taking a full-year course that is one full credit (or two half-credit enrollments) from a student that is taking two half credit courses (or two half-credit enrollments). One student could be active in six concurrent half-credit enrollments at one time.

1.4 Teachers

1.4.1. FLVS Teachers: Currently our instructional staff totals ~ 1,500 and we have a total of ~ 8,800 active classrooms in the system.

1.5 Prior to describing the statement of work, the following section shall provide an overall description of the contract scope, operational structure and pricing.

1.5.1 Contract Services, Structure, Term, Sequence and Pricing: FLVS shall enter into a “single contract” with a “single prime Respondent” or multiple Respondents as deemed to be in FLVS’s best interest for all services as described under this ITB. It is the responsibility of the Respondent to partner as necessary and assemble the team, skills, assets and other qualifications to meet all requirements as laid out in the ITB. The selected Respondent shall assume all contractual responsibilities, obligations and comply with all contract terms and conditions.

1.5.2 Scope of Work: The scope of work under this contract is specified in Section 8 of this ITB.

1. Contract Structure: The Master Service Agreement (MSA) is the first Agreement that shall be exercised for *three (3) years with three (3) one-year renewals* as directed by FLVS.

1.5.3 Contract Pricing: Vendors shall provide pricing as required on the proposal price sheet. Alternate price structures may be submitted in addition to the pricing requested. FLVS reserves the right to reject proposals that do not comply with the information requested on the proposal price sheet.

2.0 Review of Responses

FLVS will not be under any requirement to award by any specific date and reserves the right to suspend or postpone the award should the need arise due to budget constraints, time constraints or other factors as directed by the Board. However, it is anticipated that the review process will be completed in a timely manner. Procurement Services will endeavor to notify in writing all respondents of any unexpected delays as noted above or otherwise determined. Respondents are responsible for meeting all specifications as outlined herein and on the Bid Price Sheet. Failure to comply with these requirements may be cause for Bid rejection or award cancellation.

2.1 Public Notice of Intent will be posted on FLVS Procurement Services website <https://flvs.net/about/procurement-opportunities/solicitations-open>

2.2 FLVS shall generally follow the above shown process; in doing so, FLVS at its will, reserves, at a minimum, the following rights:

a. The award shall be made to the Respondent that best meets FLVS needs. Every response shall be reviewed and evaluated in terms of its conformance to the ITB specifications;

b. All responses properly completed and submitted shall be accepted by FLVS. However, FLVS reserves the right to reject any or all responses, reject any response that does not meet all mandatory requirements, or cancel this ITB according to its best interest;

c. FLVS also reserves the right to waive minor irregularities in responses if that action is in the best interest of FLVS. If the Respondent is awarded the contract, such a waiver shall in no way modify the requirements stated in this ITB or excuse the Respondent from full compliance with the specifications stated in this ITB or resulting contract;

- d. FLVS reserves the right, before awarding the contract, to require Respondent to submit additional evidence of qualifications or any other information the District may deem necessary;
- e. FLVS shall not be under any requirement to complete the evaluation by any specific date and reserves the right to suspend or postpone the evaluation process would the need arise due to budget constraints, time constraints or other factors as directed by FLVS;
- f. FLVS, at its sole discretion may waive the requirement to have demonstrations or interviews and may determine an award based on steps as defined.
- g. FLVS, at its sole judgment, will award or reject any or all responses as is in the best interest of FLVS and the decision shall be final.
- h. Procurement Services will post an Intent to Award Notice within approximately two weeks from selection of lowest responsive, responsible bidder.

2.3 Bid Opening: Bid submittals shall be received by the due date and time, all will be publicly opened by the Procurement Official.

2.4 Responsiveness to Submittal Requirements: A preliminary evaluation by Procurement Services shall determine whether each received response is complete and compliant with the minimum qualifications and all other instructions and/or submittal requirements in the ITB. Any responses that are incomplete or that do not comply with the instructions and /or submittal terms and conditions may be rejected and excluded from further consideration or taken into consideration during the scoring. Vendor responses, which are compliant, are determined solely by FLVS.

2.5 Basis of Award: Recommend award shall be made on the basis of the lowest cost, responsive and responsible Respondent which meets specifications with consideration being given to the specific quality of the product, conformity to the specifications, suitability to FLVS needs, delivery terms, and qualifications. FLVS reserves the right to award to multiple contractors. In such cases where an award is made to more than one responsive respondent, FLVS shall compete requirements through the request for quotations process among all qualified respondents.

Following the posting of our intent to award a recommendation for contract award will be submitted to FLVS Board of Trustees for approval (if total value is \$100,000 or more) or Procurement Director for approval (if total value is under \$100,000).

2.6 Project Schedule and Timeline

See Cover Sheet	Release/Issue date
See Cover Sheet	Last Day to Request Additional Information or Clarification
See Cover Sheet	Response Due Date
November 15, 2018	Notice of Intent to Award (Tentative)
January 8, 2019	Award Date Tentative Date

3. Bid Submission and Information That Must Be Included In Bid Submittal

3.1 Copies: In order to maintain comparability and consistency in review and evaluation of responses, all responses shall be organized as specified below. Avoid any elaborate promotional materials and provide only information that is required. All supporting materials should clearly reference the portion of the ITB to which they pertain. Submit **one (1)** unbound original (clearly marked as such) and one physical (1) copy. **Two electronic copies on USB flash drive are also required** for document management purposes. **The first electronic copy MUST be scanned as a single document** (scan the entire response and save it as one (1) .pdf document). The second electronic copy shall be the **redacted version also scanned as a single document** (see public records Attachment 8). Responses not meeting the requirements below may be determined to be non-responsive, non-responsive responses will receive no further consideration.

a. Compliance Information: Unless specific exceptions are noted in the response to this package, all terms and conditions contained in the response to include the inclusive sample contract are considered to be accepted by the Respondent. The prospective Respondent hereby certifies, by submission and signature of this letter, represents complete and unconditional acceptance of the requirements, terms and conditions of this solicitation and all appendices and any Addendum released hereto.

- i. Authorized parties and contact information required: For each of the following provide a full list of names, titles, addresses, telephone numbers, and email addresses:
 1. Primary Contact: Point of contact for solicitation process and contracting purposes.
 2. Principals / Authorized Signatures: Person(s) or entities serving or intending to serve as principals legally authorized to commit the Respondent's organization to perform the services.

b. **Compliance and Qualifications Checklist:** All respondents must complete the compliance checklist (Appendix J).

3.1.1 Include under the following signed forms (*An original form and signature is required. These forms must not be modified in any manner.*).

- | | |
|---|--|
| i. Vendor's Statement of Qualifications (Appendix A) | ii. Acknowledgement of Business Type (Appendix B) |
| iii. Statement of Affirmation and Intent (Appendix C) | iv. Mutual Non-Disclosure Agreement (Appendix D) |
| v. Addenda Form / Dispute Resolution Clause (Appendix E) | vi. Drug Free Workplace Certification (Appendix G) |
| vii. Fair Labor Act / Public Crimes / Federal Debarment Certifications (Appendix F) | viii. Public Records Act/Chapter 119 Requirements (Appendix H) |
| viii. Insurance Certificate (See Section 6.18) | x. Compliance Worksheet (Appendix I) |
| ix. Bid Price Sheet (Section 9.0) | xi. Compliance Checklist (Appendix J) |

3.1.2 Type of Business (Refer to Appendix B): The Respondent shall identify the type of business entity involved (e.g.; sole proprietorship, partnership, corporation, joint venture, etc.) The Respondent shall identify whether the business entity is incorporated in Florida, another state, or a foreign country. Indicate years in business; changes in ownership; bank reference; and other information to verify financial responsibility;

- a. If the Respondent is a corporation, provide a copy of the certification from the Florida Secretary of State verifying Respondent's corporate status and good standing, and in the case of out-of-state corporation, evidence of authority to do business in Florida.
 - b. Provide the Federal Employer Identification Number of the Respondent. In the case of a sole proprietorship or partnership, provide the Social Security numbers for all owners/partners.
 - c. License Sanctions: List any regulatory or license agency sanctions. The Board may perform a background check on Respondent with all state and regulatory agencies.
- 3.1.3 Drug-Free Workplace: If applicable, provide a statement concerning the Respondent's status as a Drug-Free Work Place. (Reference Appendix G) Responses received which are equal with respect to price, quality, and service and that have provided proper certification that a business has implemented a drug-free workplace program, shall be given preference in the award process.
- 3.1.4 Conflict of Interest Statement: See "Statement of Affirmation and Intent" (Refer to Appendix C) included in this package.
- 3.1.5 Proven Track Record: Describe how long your company has been in business under the present name, number of employees and list of facilities.
- 3.1.6 Respondent shall provide three letters of Reference to be included in their bid package.**

4. Submission Requirements

You are cautioned to write all descriptions and prices in a legible manner so that there will be no doubt as to the intent and scope of your response. No oral, telegraphic (facsimile/scanned), telephone responses or modifications to responses, will be accepted. See cover for instructions.

Responses will not be accepted or considered after the specified time and date listed on page 1.

Each Response envelope/box shall be sealed and identified as specified below:

PLEASE FILL OUT THE LABEL BELOW AND ATTACH IT TO YOUR ITB REPLY PACKAGE(S).

Cut out label and tape to outer sealed envelope(s) or package(s).

DO NOT OPEN - SEALED RESPONSE - DO NOT OPEN	
ITB NO.: ITB01-191437B01-HOTELS-XXXXXXX	ITB Title: Hotel Accommodations and Meeting Space
TO BE OPENED: 2:00 PM EST November 13, 2018	
<u>LATE RESPONSE WILL NOT BE ACCEPTED</u>	
<u>FROM</u>	
Name of Firm:	
Contact Name:	Email Address:
Telephone No.:	Fax No.:
Deliver To:	Florida Virtual School Procurement Services Attn: Karen Stolarenko, Senior Buyer 2145 Metrocenter Boulevard Orlando, FL 32835

4.1 **Non- Submittal Response Form** - If your company is not submitting a response to this solicitation, please complete and email this form prior to the due date established in the ITB document. If you are submitting this form, then only this form needs to be returned, please do not return the entire ITB package. This information will assist Procurement Services in the preparation of future solicitations.

ITB NO.: ITB01-1901437B0-HOTELS-XXXXXX

ITB NAME: Hotel Accommodations and Meeting Space

Attention: Karen Stolarenko

Email: kstolarenko@flvs.net

Company Name: _____

Contact Person Name & Title: _____

Address: _____

Telephone: _____ **Fax:** _____

Email Address: _____

Please check reason for a “no bid.”

Specifications “too tight”, geared toward one brand or manufacturer (explain below)

_____ Insufficient time to respond.

_____ Specifications unclear (explain below)

_____ We do not offer this product/service or an equivalent.

_____ Our schedule does not permit us to perform

_____ Unable to meet specifications

_____ Unable to meet bond requirements

_____ Unable to hold prices firm throughout the term of the contract period

_____ Unable to meet insurance requirements

_____ Other, please explain

Print Name: _____

Signature: _____ **Date:** _

5 Instructions To Bid

- 5.1 **Upon the issuance of this ITB, all contact with FLVS must be made through the Procurement Representative named on the first page.** The Respondent must limit communication with the designated contact to the means specified in this document. Other employees and representatives of FLVS and the participating agencies are instructed not to answer questions regarding the ITB or otherwise discuss the contents of the ITB with the Respondent or its Representatives. Any contacts made with other employees and representatives of FLVS will be reported and forwarded to Procurement. Respondent shall not, under the penalty of law, offer any gratuities, favors or anything of monetary value to any Officer or Employee of FLVS regarding this competitive procurement.
- 5.2 Respondents or Persons acting on their behalf are specifically instructed **not** to contact Board of Trustees, Members, Staff, or Committee Members during this [the course Response and Selection process. All procedural matters shall be directed to Procurement/Contract Specialist. FLVS employees, Executive Team Members or Board Members shall not be contacted or approached by representatives of any potential Respondent to this ITB. Contact or communication initiated by any responding firm may result in rejection of the Response.
- 5.3 Upon award recommendation or thirty (30) days after opening, whichever is earlier, any material submitted in response to this ITB will become a public record and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes (Public Records Law). Respondents must claim the applicable exemptions to disclosure provided by law, in their response to the ITB, by identifying materials to be protected and must state the reasons why such exclusion from public disclosure is necessary and legal. FLVS reserves the right to make any final determination of the applicability of the Public Records Law.

5.3.1 Redacted Submissions

If Respondent considers any portion of the documents, data or records submitted in response to this solicitation to be confidential, proprietary, trade secret or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, Respondent shall mark the document as "Confidential" and simultaneously provide a separate redacted copy of its response and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the solicitation name, number, and the Respondent's name on the cover, and shall be clearly titled "Redacted Copy." The Redacted Copy should only redact those portions of material that the Respondent claims is confidential, proprietary, trade secret or otherwise not subject to disclosure.

In the event of a request for public records pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, to which documents that are marked as confidential are responsive, FLVS shall provide the Redacted Copy to the requestor. If a requestor asserts a right to the Confidential Information, the Department shall notify the Respondent such an assertion has been made. It is the Respondent's responsibility to assert that the information in question is exempt from disclosure under Chapter 119, Florida Statutes, or other applicable law. If FLVS becomes subject to a demand for discovery or disclosure of the Confidential Information of the Respondent in a legal proceeding, FLVS shall give the Respondent prompt notice of the demand prior to releasing the information (unless otherwise prohibited by applicable law). The Respondent shall be responsible for defending its determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure.

By submitting a bid, the Respondent agrees to protect, defend, and indemnify FLVS for any and all claims arising from or relating to the Respondent's determination that the redacted portions of its reply are confidential, proprietary, trade secret, or otherwise not subject to disclosure. If Respondent fails to submit a redacted copy of information it claims is confidential, FLVS is authorized to produce the entire documents, data, or records submitted in answer to a public records request for these records.

5.4 Posting of Tabulations/Recommendation. ITB tabulations with recommended awards will be posted for review by interested parties. Visit <http://www.demandstar.com> or <https://flvs.net/about/procurement-opportunities/solicitations-open> for bid/response links and in the Procurement Services Department, at 2145 Metrocenter Boulevard Orlando, FL 32835. Results will remain posted for a period of 72 hours. Failure to file a Notice of Intent to Protest within the time prescribed in Section 120.57(3) b, Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. If the tabulation with the recommendation of award is not posted by said date and time, Procurement Services will endeavor to post a "Notice of Delay of Posting" to inform all Respondents of the delay and anticipated posting date and time.

NOTE: If you download a copy of this response from Demandstar you will be notified by Demandstar (as you listed, email or fax) of postings during the life of this solicitation. **You will not be notified if you download a copy of this response from FLVS.net.**

5.5 Bid Protests: Any person who believes they are adversely affected by any specification in this Bid or ITB or any decision or intended decision concerning this Bid or ITB and who wishes to protest such specification, decision, or intended decision shall file a Notice of Intent to Protest in accordance with section 120.57(3), Florida Statutes. A formal written protest must be accompanied by a bond payable to FLVS in an amount equal to one percent (1%) of the total value of the proposed contract. Security shall be in the form of a bond, a cashier's check, or money order. Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security within the time frame set forth in section 287.042(2)(c), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

5.6 Any Proposer in doubt as to the true meaning of any part of this ITB or related documents may submit a written request for clarification to the Buyer (see cover sheet) no later than the date and time specified on the cover. Any interpretation to a Proposer shall be made only by amendment duly issued. All Amendments will be posted and disseminated on the following web-sites:

- Demandstar (<http://www.demandstar.com>)
- Florida Virtual School Procurement Opportunities
<https://flvs.net/about/procurement-opportunities/solicitations-open>

5.6.1 Prior to submitting the response, it shall be the sole responsibility of each Respondent to determine if addenda were issued and, if so, to download such addenda from Demandstar or FLVS.net for attachment to the response (**Appendix E**).

NOTE: If you download a copy of this response from Demandstar you will be notified by Demandstar (as you listed, email or fax) of postings during the life of this solicitation. **You will not be notified if your downloaded a copy of this response from FLVS.net.**

5.6.2 All questions must be in writing and emailed to the Buyer (see cover sheet).

5.7 Any corrections or amendments will be posted as addenda issued no later than five (5) days prior to the response due date. Respondents should not rely on any statements other than those made in this ITB or written response to questions and/or addendum to this ITB. Where there appears to be a conflict between the ITB and any addenda issued, the last addendum issued will prevail.

5.8 All responses must be prepared and submitted in accordance with the instructions provided in this ITB. Each response received will be reviewed to determine if the response is responsive to the submission requirements outlined in the ITB. A responsive response is one that follows the requirements of the ITB, includes all documentation, supporting exhibits, is of timely submission,

and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your response non-responsive.

5.9 FLVS will receive sealed responses until the date and time indicated on this response cover page. Responses must be delivered to the Procurement Services Office at the stated address and will be recorded at the stated date/time. Responses must be delivered in sealed envelopes, clearly marked on the outside as to response name, response number, and opening date. **Responses received in unidentifiable envelopes are sent at the Respondent's risk. Responses received after the date/time indicated on the response cover will be date/time stamped received and returned to the Respondent unopened.** It will be the Respondent's responsibility to get the response to the correct location and on time. Please note that the official clock, for the purpose of receiving responses, is located in the Procurement Services Division.

5.10 Purchase Order: The award of the response shall not constitute an order. Before any shipments are made or services rendered, Respondent must receive a purchase order. Shipments shall be made as specified on the purchase order, conforming to the response form, specifications, and general instructions.

5.11 Conflict of Interest

5.11.1 No contract for goods or services shall be made with any business organization other than governmental agencies in which any of the following apply:

- a) The CEO/President or member of the Board of Trustees has any financial interest whatsoever
- b) A spouse or child of the CEO/President or member of the Board of Trustees has an employment relationship or a material interest as defined by Section 112.312(15), Florida Statutes
- c) An employee of the district has a material interest as defined by Section 112.312(15), Florida Statutes, unless the contract is based upon a competitive bid and the employee has not, directly, or indirectly, participated in the development of bid specifications or in the recommendation for purchase or award

5.11.2 No employee or official of the Board of Trustees shall use bid prices or school prices or receive any other preferential treatment in the making of personal purchases. Neither shall any employee or official make purchase for personal use through the school or the school district. Nothing contained herein shall be deemed to prohibit an employee from participating in any activity or purchasing program that is publicly offered to all employees of the district.

5.11.3 Any violation of any provision of this subsection by an employee of the district shall be grounds for disciplinary action that could include dismissal.

5.11.4 No employee shall be the approver or initiator of purchases from any business organization in which a family member is the point of contact, the person performing the work or works for the business organization. In this situation, the employee is required to recuse themselves from participating directly or indirectly in the procurement process.

6 General Terms And Conditions

- 6.1 FLVS may, at its sole and absolute discretion, reject any, and all, or parts of any, and all responses; re-advertise this ITB; postpone or cancel, at any time, this ITB process; or waive any irregularities in this ITB, or in the responses received as a result of this ITB. FLVS also reserves the right to request clarification of information from any Respondent.
- 6.2 All expenses involved with the preparation and submission of responses to FLVS, or any work performed in connection therewith, shall be borne by the Respondent. No payment will be made for any responses received, any other effort required of or made, or expenses incurred by the Respondent.
- 6.3 INTENTIONALLY OMITTED
- 6.4 FLVS has implemented a Purchasing Card Program to streamline our procurement process.
- 6.4.1 By making purchases with the Visa Purchasing Card, we can more effectively control our procurement activities and achieve a significant cost savings over our current paper purchasing/payment system. Our Awardees also achieve cost saving results by accepting our Purchasing Card.
- 6.4.2 FLVS may, at their sole option, elect to make payment by use of a Purchasing/Bank/Charge card. No additional charges, fees or price increases may be assessed by the vendor for the use of Procurement/Charge/Bank cards during the life of any award resulting from this contract, and any applicable extensions.
- 6.5 This ITB and the related responses of the selected Respondent(s) will constitute the basis of the formal contract between the Contractor(s) and FLVS. No modification of this ITB, except by addendum issued by FLVS, shall be binding on FLVS.
- 6.6 It is understood and agreed between the parties hereto that FLVS shall be bound and obligated hereunder only to the extent that the funds shall have been appropriated and budgeted for this ITB. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this ITB, FLVS shall immediately notify Awardee(s) of such occurrence and this ITB shall terminate on the last day of the fiscal year for which an appropriation(s) was (were) received without penalty or expense to FLVS of any kind whatsoever.
- 6.7 The awards made pursuant to this ITB are subject to the provisions of Chapter 112, Florida Statutes. All Respondents must disclose, with their response, the name of any Officer, Director, or Agent who is also an Employee of FLVS. Further, all Respondents must disclose the name of any FLVS employee who owns directly, or indirectly, an interest of five percent (5%) or more in the Respondent or any of its branches/subsidiaries.
- 6.8 Purchasing Agreements with Other Government Agencies. All Respondents submitting a response to this Invitation to Bid agree that such response also constitutes a bid to all political subdivisions under the same conditions, for the same prices and the same effective period as this bid, should the Respondent feel it is in their best interest to do so.
- This agreement in no way restricts or interferes with the right of any political subdivision to rebid any or all items.
- 6.9 Respondent, their agents, and/or associates are subject to the provisions of the Florida Sunshine Law, Florida Statute 286.011.
- 6.9 There shall be no discrimination permitted by any party under this engagement as to race, sex, color, creed, national origin, or handicap.

- 6.10 The Procurement Director may terminate this solicitation in whole or in part when it is in the best interest of FLVS. Notification of termination must be in writing and issued by the Procurement Director or designee. This action will be publicly posted.
- 6.11 Should any Respondent fail to enter into a contract with FLVS, on the basis of the submitted response by said Respondent, the Respondent acknowledges that Respondent shall be liable to FLVS for any lost revenue.
- 6.12 Venue for any and/or all legal action regarding or arising out of the transactions covered herein shall be solely in Florida Court in and for Orange County, State of Florida. The laws of the State of Florida shall govern this transaction.
- 6.13 Attached as Appendix L, is the most current version of FLVS' standard contract. By submitting a response to this ITB, submitters acknowledge and agree that they have reviewed this standard form and have no objection to it. Further, if selected by FLVS, Submitters acknowledge and agree that they will execute this standard form contract, subject to FLVS' right to make revisions and modifications thereto prior to execution, where FLVS has determined, in its sole discretion that such revisions or modifications are in FLVS' best interest.
- 6.14 This Contract or Agreement is personal to the parties herein and may not be assigned, in whole or in part, by the Respondent without prior written consent of the School. The Respondent herein shall not assign payments under this contract or agreement without the prior written consent of the School.
- 6.15 With the consent and agreement of the Awardee(s), purchases may be made under this response by other school boards and governmental agencies Services are to be furnished in accordance with the Contract of said product(s) and/or service(s) resulting from this Response. Such purchases shall be governed by the same terms and conditions as stated herein. It is hereby made a part of this ITB that the submission of any response, in response to this advertised request, shall constitute a response made under the same conditions, for the same contract price, and for the same effective period as this response to all public entities if they so request.
- 6.16 All accounting and invoicing correspondence must reference FLVS purchase order number. Invoicing for rental equipment or "tools of trade" will not be allowed. Rental equipment for special circumstances must be pre-approved by FLVS. Invoices and requests for payment must be accompanied by detailed cost sheets for each project denoting equipment, labor, disposal fees, etc. These items must be received by FLVS consultant/representative at least ten (10) working days before the deadline for submission of Awardee's request for payment dates.
- 6.17 Insurance Requirements: Awardee(s) shall obtain and maintain in full force prior to performance and effect throughout the initial Term and any Renewal Term no less than 5 years past the completion of the project with a reputable insurance carrier qualified to do business in the state or states in which the Premises are located and having a rating of not less than "A" from A.M. Best & Company.
- 6.17.1 All policies of insurance shall be written on a per occurrence basis. All such insurance policies shall, to the extent permitted under applicable law, provide that (a) the policies shall not be cancelled nor shall any material change be made therein without at least ten (10) days prior written notice to Florida Virtual School (FLVS) and (b) FLVS is to be named as an additional insured party with respect to Respondent activities.

- 6.17.2 General Liability Insurance of not less than One Million (\$1,000,000.00) per occurrence and Two Million (\$2,000,000.00) General Aggregate for bodily injury, property damage liability, personal injury, advertising liability, and shall include errors and omissions coverage. The General Liability policy should be on CGL 0001 (12/04) or equivalent form. Insurance shall be primary and non-contributory to any other insurance of the certificate holder and shall name the certificate holder, owners and any other required by written contract or an agreement as additional insured.
- a. Policy should be endorsed with a “per project aggregate”. All coverages should include contingent liability and contingent property damage liability. If coverage is written on a Claims made basis the retroactive and continuity dates should be at least the first day services begin with FLVS. Policy should include an endorsement waiving all rights to subrogate against FLVS.
 - b. The above policies for General Liability insurance must be so written as to include Contingent Liability and Contingent Property Damage Insurance to protect the contract against claims arising from the operation of subcontractors.
- 6.17.3 Worker's Compensation Insurance: The Awardee(s) shall maintain during the life of this Contract, Worker's Compensation Insurance in accordance with Florida Statute 440. Contractors shall require all subcontractors to maintain such insurance during the life of this Contract Employer's Liability Insurance: The Contractor shall maintain, Employer's Liability Insurance shall be in the amounts not less than Five Hundred Thousand Dollars (\$500,000.00) each accident for bodily injury by accident, Five Hundred Thousand Dollars (\$500,000.00) each employee for bodily injury by disease, and Five Hundred Thousand Dollars (\$500,000.00) policy limit for bodily injury by disease.
- 6.17.4 Automobile Liability Insurance: Automobile Liability Insurance shall be maintained, by Vendor as to ownership, maintenance, and use, including loading and unloading, of all owned, non-owned, leased or hired vehicles with limits of not less than One Million Dollars (\$1,000,000.00) combined single limit each accident for bodily injury & property damage liability.
- 6.17.5 Professional Liability and Cyber Liability including: Technology Errors and Omissions, Telecommunications Errors and Omission, or Multimedia Professional Liability whichever is applicable not less than One Million Dollars (\$1,000,000.00), and Network Security Liability, Privacy Liability, Crisis Management, Cyber Extortion, and Media Liability not less than One Million Dollars (\$1,000,000.00).
- 6.18 Legal Requirements: It shall be the responsibility of the Awardee(s) to be knowledgeable of all federal, state, county and local laws, ordinances, rules and regulations that in any manner affect the items covered herein which may apply. Lack of knowledge by the Awardee(s) will in no way be a cause for relief from responsibility. Awardee(s) doing business with the School are prohibited from discriminating against any employee, applicant, or client because of race, creed, color, national origin, sex or age with regard to but not limited to the following: employment practices, rates of pay or other compensation methods, and training selection.
- 6.19 After notification of award, the Awardee(s) shall indemnify and hold harmless FLVS as specified in Florida Statutes Section 725.06. Nothing in the award, resulting agreement, contract, or purchase order shall be deemed to affect the rights, privileges and immunities of FLVS as set forth in Florida Statutes.

- 6.19.1 Successful Respondent shall, in addition to any other obligation to indemnify Florida Virtual School and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged;
- a. Bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the contractor, subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work; or
 - b. Violation of law, statute, ordinance, governmental administration order, rule or regulation by contractor in the performance of the work; or Liens, claims or actions made by the contractor or any subcontractor or other party performing the work.
 - c. The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the contractor of any subcontractor under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar.
 - d. Any costs or expenses, including attorney's fees, incurred by Florida Virtual School to enforce this agreement shall be borne by the Contractor and venue shall be in Orange County.

6.20 Patents and Royalties. The Respondent, without exception shall indemnify and hold harmless the School and its employees from liability of any nature or kind including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by Florida Virtual School. If the Respondent uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the proposed prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work. In addition, FLVS shall maintain all rights to the written documentation, electronic media and other materials provided by the Contractor in response to this Response.

6.21 All information submitted in response to this request shall be submitted in compliance with Florida Statutes Chapter 119.07 Public Records and 812-081 Trade Secrets. All information submitted as "Trade Secret" shall be submitted in a separate envelope and so labeled. If challenged, the Respondent who submits the "Trade Secret" information shall bear all costs associated with defending their position.

6.22 Financial Terms and Conditions.

6.22.1 Payment: Vendor shall provide all Goods and Services, as defined in the ITB. All travel and related expenses are included. Payment shall be made in arrears as follows: Net 45 days upon receipt of detailed invoice.

6.22.2 Conditions to Payment: Payment to Vendor of the amounts due shall be conditioned strictly upon satisfaction of the conditions for such payment set forth in the Pricing Schedule under the Contract and specifically upon the successful and timely completion of the services. FLVS reserves the right to determine the acceptance process, which may include the approval and release of funds.

6.22.3 Payment Terms Our Payment Clause

- a. the FLVS will remit full payment on all undisputed invoices within forty- five (45) days from receipt by the appropriate person(s) (to be designated at time of contract) of the invoice(s) or receipt of all products or services ordered.
- b. By submitting a Proposal to the FLVS, the Vendor expressly agrees that if awarded a contract, FLVS may withhold from any payment, monies owed by the Vendor to FLVS for any legal obligation between the Vendor and FLVS.

6.22.4 Form of Invoicing

Invoices shall itemize services, dates, and deliverables consistent with the terms of the Contract.

6.22.5 Performance Bond – INTENTIONALLY OMITTED

6.22.6 Please state on the Response Price Sheet the Terms and Conditions you will accept for a payment discount. (i.e.: 2% net 45 days, upon receipt of invoice). FLVS shall pay to Provider the fees for services as per State Statute Net 45 days of receipt of approved invoice. The School shall not pay Federal Excise and State taxes on direct purchases of tangible personal property. This exemption does not apply to purchases of tangible personal property made by contractors who use the tangible personal property in the performance of contracts for the improvement of School Board-owned real property as defined in Chapter 192 of the Florida Statutes. The tax exemption number is 85-8013320819C-8.

6.23 FLVS will monitor and enforce compliance by all Awardees and sub-contractors that provide services and/or products to FLVS.

6.23.1 It is the intent of FLVS that all Awardees and sub-contractors supplying services and/or products shall at no time cause unsafe conditions or acts that could have any impact on the safety and health of students, employees, or visitors to FLVS operations. The Awardee(s) may be required to supply a written copy of their Safety Program/Manual for review after contract award. Periodic review of the Awardee's safety manual and operations may be conducted. All Awardees and their employees, including sub-contractors, performing work under the terms of this contract will follow the best safe working practices at all times, as well as comply with all Federal, State, Local, and FLVS safety policies and procedures. This includes the operation of vehicles and equipment on FLVS owned property. Any accidents, injuries, or incidents occurring on FLVS property shall be immediately reported to FLVS Facilities Office.

6.23.2 All awardees shall comply with Chapter 442, Florida Statutes to any item or product delivered or used when providing goods or services under this contract by providing Material Safety Data Sheets when applicable.

6.24 Federal Provisions [THESE PROVISIONS MAY NOT BE APPLICABLE TO THIS CONTRACT BUT FLVS IS REQUIRED BY THE UNIFORMED GRANT GUIDANCE TO HAVE THIS IN ALL CONTRACTS UTILIZING FEDERAL FUNDS]

6.24.1 Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

6.24.2 All Contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

- 6.24.3 Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- 6.24.4 Environmental Protection. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the regional office of the Environmental Protection Agency (EPA).
- 6.24.5 Debarment and Suspension Certification. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 6.24.6 Lobbying Certification Contract (Appendix I) must adhere to: Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

7 Special Provisions

- 7.1 Renewals: It is understood and agreed that this contract may be renewed under the same terms, conditions, and specifications governing the original contract, and any request for a change in the contract conditions shall be interpreted as a request not to renew the contract at the end of the current contract period.
- 7.2 FLVS, at its sole discretion, may exercise options to extend the contract for the number of renewals referenced in Section 1.2.a, based upon funding availability and by mutual written consent of both parties. Respondent understands that any rate increases must be requested in writing with supporting documentation, approved by FLVS, and shall not exceed the average CPI for All Urban Consumers U.S. City Average for the renewal periods.

7.2.1 Price Increase

After the initial three years, FLVS may consider a price increase if the following conditions occur:

- a. There is a verifiable price increase to the awarded vendor
 - b. The awarded vendor submits to FLVS, in writing, notification of price increases with all supporting documentation.
 - c. The price increase shall be based on a reasonable percentage increase in product cost (not to exceed 5%) acceptable to FLVS.
 - d. The awarded vendor shall submit the above mentioned information to FLVS not less than 120 days prior to the effective date of the price increase. When the awarded vendor complies with all of the above mentioned conditions, FLVS shall reserve the sole right to determine if it is in the best interest of FLVS to adjust the pricing of the product proposal, in conjunction with the awarded vendor's effective date of price increase.
 - e. Price increases shall be limited to one increase per contract year.
- 7.3 Contract Termination: FLVS shall have the right at any and all times to terminate this agreement, with or without cause, upon written notice of such termination provided not less than ninety (90) days prior to the date that such termination is to be effective, or with such lesser notice as FLVS may deem appropriate under the circumstances. Such right to terminate this contract without cause is hereby reserved by and to FLVS. In the event FLVS shall elect to terminate this contract without cause, FLVS shall compensate the Respondent for all work and services provided or supplied prior to the date of termination. In the event that an advance notice of termination is given, the Awardee(s) agree to abide and perform all covenants and provisions of this contract until the date of the termination specified in the written notice of termination. The Awardee(s) shall have no further rights, and FLVS shall have no further obligation to the Awardee(s), subsequent to the date of termination of this contract as specified in the written notice.
- 7.4 Minimum Qualifications/Experience: The Awardee(s) shall maintain a current business license. The Awardee(s) shall keep current all licenses and permits, whether Municipal, County, State, or Federal, required for the performance of its obligations and functions, hereunder, and shall pay promptly when due all such fees. Awardee(s) shall provide documentation of applicable license, certification, and/or commercial experience involving the services described herein. FLVS reserves the right to request documentation at any time during the contract period.
- 7.4.1 Respondent(s) shall include a copy of all-applicable licensing with their response.
- 7.4.2 Inspection of Respondent's Facilities: FLVS reserves the right to inspect the Respondent's facilities and vehicles prior to awarding this contract.
- 7.4.3 It shall be the sole responsibility of the Awardee(s) performing services for this contract to safeguard their own materials, tools, and equipment. FLVS shall not assume any responsibility for vandalism and/or theft of materials, tools, and/or equipment.

- 7.5 Awardee(s) Personnel: Awardee's staff members are to present a professional appearance. Personnel shall be neat, clean, well groomed, properly uniformed, and conduct themselves in a respectable and courteous manner while performing duties and while at any FLVS facility.
- 7.5.1 Effective September 1, 2005, as per Section 1012.465 of the Florida State Statutes all Florida education agencies and Contractual personnel must be in compliance with the Jessica Lunsford Act. Awardees meeting any of the criteria including those permitted access on school grounds when students are present, or those who have direct contact with students, or those who have access to or control of school funds are required to be Level II fingerprinted and screened by our Human Resources Department. This consists of a FDLE/FBI criminal record and fingerprint search. Contractor shall assign no person to perform work hereunder who has any form of criminal record without the prior written authorization of FLVS.
- The term "contractor" means any vendor, individual, or entity under contract with a school or with the school board who receives remuneration for services performed for FLVS or a school, but who is not otherwise considered an employee of the FLVS. The term also includes any employee of a contractor who performs services for the school district or school under the contract and any subcontractor and its employees.
- 7.5.2 The Technical Assistance paper for the Jessica Lunsford Act can be accessed at <http://info.fldoe.org/docushare/dsweb/Get/Document-3151/k12%2005-107a>.
- 7.6 Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- 7.6.1 The Awardee(s) certifies by submission of this ITB, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 7.7 Communications: Awardee(s) must provide a means to receive direct communications from FLVS. A copy of all written communication concerning contract discrepancies, issues, or concerns from FLVS and the Awardee(s) shall be forwarded to the Procurement/Contract Specialist upon issuance.
- 7.8 Contract Administration: FLVS will periodically inspect work and/or product to assure that the requirements of this contract are being met. Should it be found that the requirements specified herein are not being satisfactorily maintained, the Awardee(s) shall be contacted and any discrepancies, inconsistencies, or items not meeting the specifications contained herein, are to be corrected immediately at no additional cost to FLVS. A second discrepancy notice shall serve as notification that any future discrepancies, inconsistencies, or items not meeting specifications contained herein, will result in termination of the Awardee's right to proceed further with this work. In such event, the Awardee(s) will be paid only for products and services accepted by FLVS. The Awardee(s) and their sureties may be liable to FLVS for any additional cost incurred by FLVS to complete the job. At this point, the Awardee(s) shall be considered in default and the contract subject to termination. Performance ratings may be considered during award of future contracts by FLVS.

- 7.8.1 Failure of the Awardee(s) to comply with any of the provisions of this contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract, at the discretion of FLVS.
- 7.8.2 FLVS reserves the right to terminate this contract, in whole or in part, should the need for the services cease to exist.
- 7.8.3 Awardee(s) shall be subject to periodic performance evaluations by FLVS personnel. Continued unsatisfactory ratings shall be cause to find the Awardee(s) in default of the contract.
- 7.8.4 Upon cancellation of any ensuing agreement, FLVS reserves the right to award the contract to the responsible and responsive Respondent(s) offering the next highest rated response to FLVS for the unexpired term of the canceled contract, or for a full year period, whichever is deemed to be in FLVS's best interest.
- 7.9 FLVS Facility Security: All personnel must coordinate with the facility's front office or security personnel. Awardee's employees must be properly identified and must sign in and sign out when working or making deliveries during operational hours. All personnel must remain in the assigned work area.
- 7.10 Marketing Agreement/Use of Product: Trademark License. Neither party shall without the other party's written consent and approval: (i) permit usage of corporate logos, names and trademarks in marketing materials, provided such usage shall be subject to a limited license and shall be in conformance with such party's logo usage and trademark guidelines; (ii) at its own expense and in its sole discretion, furnish to the other party reasonable quantities of marketing collateral and other sales promotion materials upon request; (iii) list the other party as an Partner on their website; and (iv) issue with the other party a joint press release announcing formation of the referral relationship between the parties, provided, however, that neither party shall issue any press release regarding the other party without the other party's prior written consent.
- 7.11 Identical Qualifying Bids: In the event of identical qualifying bids, FLVS will execute the tie breaking procedure contained in its policies and procedures manual, section F11 purchasing.2A General Provisions Related to Competitive Solicitations.
- 7.12 Software Related Purchases: Licensor acknowledges that Licensee has a duty to maintain the privacy of student records, including without limitation education records as defined by the Family Educational Rights and Privacy Act (20 USC § 1232g; 34 CFR Part 99) ("FERPA"), and further acknowledges that as a contractor to whom Licensee has outsourced certain institutional services or functions: A. Confidential information about Licensee's students is contained in records provided to and maintained by Licensor, and Licensor will protect the privacy of all student education records to the fullest extent required of Licensee under FERPA; B. Licensor is performing an institutional service or function that has been outsourced by Licensee and for which Licensee would otherwise use its employees; C. Licensor is under the direct control of Licensee with respect to the use and maintenance of education records, as defined by FERPA; D. Licensor is subject to all FERPA requirements governing the use and re-disclosure of personally identifiable information from education records, including without limitation the requirements of 34 CFR § 99.33(a); E. Even in circumstances that might justify an exception under FERPA, Licensor may not disclose or re-disclose personally identifiable information unless Licensee has first authorized in writing such disclosure or re-disclosure; and F. Licensor will not use any personally identifiable information acquired from Licensee for any purpose other than performing the services or function that are the subject of this agreement.

8. SPECIFICATIONS

Florida Virtual School (FLVS), hereafter referred to as the "district" or "FLVS", is seeking bids from qualified bidders interested in providing Hotel Accommodations and Meeting Space for various events.

In recent years, FLVS has held an average of 10 offsite meetings that required hotel accommodations for attendees and assortment of meeting space and Audio and Visual support. Over the past twelve months, the combined event spend was approximately \$160,000.00. Events may include but are not limited to Instructional Leadership Meetings, Data Sharing Meetings, Leadership Meetings, Multi-Functional Meetings, and various training or departmental events. Requirements may consist of hotel rooms only, meeting space only, or a combination thereof. Hotel blocks may range between 25 to 300 rooms. Meeting space requirements may vary from one or two small rooms to several larger spaces for a single event. Meetings typically require AV support.

This bid consists of several events per FLVS fiscal year (July 1 through June 30) that shall consist of hotel guest rooms, meeting spaces and audio/visual support. Respondents must satisfy or exceed all requirements stated herein.

The following identifies events typical to an FLVS fiscal year. All quantities are estimated and have been provided as volume guidelines for Respondents.

Number of Guest Rooms	Meeting Space Descriptions
35 (1 night)	1 Meeting Room, 75 attendees, Round Tables 1 Meeting Room, 20 attendees, Conference Style Audio/Visual including Screen Set up in both rooms
225 (2 nights)	1 Meeting Room, 80 Attendees, Schoolhouse Style 1 Meeting Room. 100 Attendees, Schoolhouse Style 1 Meeting Room, 120 Attendees, Schoolhouse Style 3 Meeting Room, 50 Attendees, Schoolhouse Style 3 Meeting Room, 35 Attendees, Schoolhouse Style Audio/Visual including Screen set up in all rooms Internet and Power per seat all rooms Microphones
28 (1 night)	1 Meeting Room, 75 attendees, Round tables 1 Meeting Room, 20 attendees, Conference Set up Audio/Visual including Screen Set up in both rooms
30 (2 nights)	1 Meeting Room, 75 attendees, Round tables 1 Meeting Room 20 attendees, Conference Set up Audio/Visual including Screen Set up in both rooms
90 (1 night)	1 Meeting Room, 260 attendees, Theater Style 1 Meeting Room 100 attendees, Conference Set up with additional exhibit space at rear of room 2 Meeting Rooms, 25 attendees, Round Tables 2 Meeting Rooms, 60 attendees, Round Tables Audio/Visual including Screen Set up in both rooms
60 (1 night)	2 Meeting Rooms, 100 attendees, Schoolhouse Style Audio/Visual including AV Screen set-ups in both meeting rooms Internet and Power per seat
110 (1 night)	2 Meeting Rooms, 100 attendees, Schoolhouse Style Audio/Visual including AV Screen set-ups in both meeting rooms Internet and Power per seat

8.1 General Requirements for Hotel Accommodations, Venue and Hotel Services

General Requirements: Respondents shall meet or exceed each of the following requirements as described. Prices shall be inclusive of all stated requirements.

- Facilities: Respondents shall include floor plan or diagram depicting layout of facility and meeting spaces in their bid response
- Location: Bidder shall be located within 20 miles of FLVS Offices at 2145 Metrocenter Blvd., Orlando FL 32835
- Quality of Guest Rooms: Respondent shall meet or exceed the requirement of a minimum 3 star rating
- Parking: Must have adequate on-site parking for event attendees
- Extended Stay: Rates shall be available for early arrival or extended stay for up to 3 days before and/or after event at the discretion of the employee subject to room type and availability
- Early Departure: Respondent shall not charge penalties for early departures
- Room Rate: Room rate is inclusive of resort fees, the OCCCD (Orange County Convention Center District) 1% (if applicable) and any other charges applicable to stay
- Taxes: The bidder acknowledges that FLVS is a tax free entity and will not charge any sales tax to FVLS
- Guest Rooms: Respondent shall not charge any penalty for room reservation shortage for events where 85% of the room block is utilized
- Renewals: Respondent agrees to negotiate additional years for optional renewals
- Meeting Space: Meeting Room costs shall be inclusive of room set-up, tables, chairs, and linens
- Meeting Space: Meeting rooms can be set up in Schoolhouse, Theater, and or Conference style configurations
- Meeting Space: All meeting spaces shall be fully prepared prior to meeting start times in accordance with schedule provided
- Meeting Space: Complimentary drinking water, pads and pens in meeting rooms for all attendees
- Meeting Space: Respondent is capable of providing easels, easel pads, microphones, projectors, and podiums in meeting rooms
- Meeting Space: There are no gratuities for meeting room set up or breakdown
- Wireless Internet: Complimentary wireless internet shall be available in guest rooms and public areas

8.5 Definitions for Scope of Services

Star Hotel Rating

Facilities meeting a 3-star rating are typically located near a major expressway, business center, and/or shopping area, these hotels offer nice, spacious rooms and decorative lobbies. On-site restaurants may be average in size but will offer breakfast, lunch, and dinner. Valet and room service, a small fitness center, and a pool are often available. It is expected that general facilities are well maintained, secure and rooms and meeting areas are clean.

Single Occupancy

Room with one bed (King or Queen)

Double Occupancy

Room with two double beds

Additional Per Head

Additional cost of second person in a shared double occupancy room

Small Meeting Room

Up to 25 classroom style

Medium Meeting Room

Up to 50 classroom style

Large Meeting Room

Up to 100 classroom style

Jr. Ballroom

Up to 250 at round tables

Medium Ballroom

Up to 500 at round tables

Grand Ballroom

Up to 1,000 at round tables

Conference Style

Room set up with round tables with 10 seats per table

Theater or Cinema Style

An arrangement of chairs in rows all facing one point within the meeting space (not tables or desks included).

Classroom Style

Includes 6 food tables with up to 3 chairs per table all facing podium or front of room instructor (desk or table)

Continental Breakfast Menu

A continental breakfast includes but is not limited to sliced bread with butter/jam/honey, cheese, meat/yogurt/ and or other protein, croissants, pastries, rolls, fruits, fruit juice, water and various hot beverages (coffee, tea, hot chocolate) and standard condiments. This shall include set-up and place settings.

American Breakfast Buffet Menu

A standard hot breakfast includes but is not limited to eggs, sliced bacon and or sausage, sliced bread or toast with jam/jelly/butter, pancakes with syrup, cereal, coffee tea and hot chocolate, and fruit juice and standard condiments. This shall include set-up and place settings.

Lunch Buffet - Cold

A cold buffet lunch includes but is not limited to assorted sandwiches, chips, salads (with choice of two dressings), coleslaw, fruit, ice tea, hot coffee/tea with condiments, This shall include set-up and place settings.

Lunch buffet - Hot

A 'hot' lunch buffet includes but is not limited to a carving board with choice of two proteins (meat) , bread or rolls with butter, salad with choice of two dressings, starch, vegetables, ice tea, hot coffee/tea with condiments. This shall include set-up and place settings.

Plated Lunch

A plated (sit-down) lunch includes but is not limited to a protein (meat), starch, bread or rolls with butter, vegetable, soup or salad (with choice of two dressings), ice tea, hot coffee/tea with condiments. This shall include room set-up, table settings, and wait service.

Dinner buffet

A dinner buffet includes but is not limited to a meat (protein), salad with choice of two dressings, starch, vegetable, bread or rolls with butter, ice tea, hot coffee/tea with condiments. This shall include set-up and place settings.

Plated Dinner

A plated (sit-down) dinner includes but is not limited to a meat (protein), salad with choice of two dressings, break or rolls with butter, starch, vegetables, ice tea, and hot coffee/tea with condiments. This shall include room set-up, table settings, and wait service.

Snacks for Break Time – Choice of or similar

Pretzels, peanuts and beverage

Cookie and Milk with beverage service

8.6 Exceptions to the ITB Note: FLVS reserves the right to reject proposals with exceptions to the requirements of this ITB and /or take the exceptions into consideration.

No.	Summary of Exception	Exception to Requirement

8.7 Alternatives to The Scope of Work – Alternative Product shall meet or exceed specified requirements.

No.	Summary of Alternative	Alternative to Scope Paragraph Number

9.0 Bid Price Sheet

9.1 Respondents shall complete pricing table for "Sample Event" as shown. Total cost of sample event shall be used for evaluation purposes only. Extended cost shall reflect the estimated quantity multiplied by the unit price to equal the extended cost. Costs shall be inclusive of all fees, and charges supporting specified requirements in Scope of Services (Section 8).

9.1.A Calculation Example

Item Description	Estimated Quantity	Unit of Measure	Unit Price	Extended Cost
Double Occupancy Room 1 night	35	Per Night	\$75.00	\$2,625.00

9.1.B Sample Event (Respondents shall provide rates for June 1, 2019)

Item Description	Estimated Quantity	Unit of Measure	Unit Price	Extended Cost
Double Occupancy Room 1 night	35	Per Night	\$	\$
Single Occupancy Room 1 night	10	Per Night		
Extra Person in Room one night	5	Per Night	\$	\$
1 Meeting Room for 75 attendees at round tables (1 room for 2 days)	1	Per Day	\$	\$
2 Meeting Rooms for 50 attendees Schoolhouse Style for 2 days	2	Per day		
AV Screen set-ups in both meeting rooms Secure Wireless Internet and Power per seat for 2 days	1	Per Day	\$	\$
Onsite Parking per vehicle	50	Per Day	\$	\$
All Inclusive Total			\$	

9.2 Respondent shall complete the all tables provided in this section. Respondent shall provide their best rates as indicated for each item specified. FLVS is a tax-exempt entity; pricing shall not include any sales tax. Individual requirements shall be competed through Request for Quote, or secondary bid with all qualifying respondents. The pricing provided in Section 9.2 shall serve as the maximum rates for all Request for Quotes, or secondary bids for the term of the agreement.

9.2.A Provide the nightly maximum rate for hotel rooms for each month of the year by room type as indicated below:

Month	Single Occupancy Room per night	Double Occupancy Room per night	Cost for Additional Person in Room	Suite Per night
January	\$	\$	\$	\$
February	\$	\$	\$	\$
March	\$	\$	\$	\$
April	\$	\$	\$	\$
May	\$	\$	\$	\$
June	\$	\$	\$	\$
July	\$	\$	\$	\$
August	\$	\$	\$	\$
September	\$	\$	\$	\$
October	\$	\$	\$	\$
November	\$	\$	\$	\$
December	\$	\$	\$	\$

9.2.B Meeting Space(s)

Provide maximum costs associated with each size / type of meeting space below indicating any difference in cost by calendar season.

Item Description	January 1 – March 31	April 1 – June 30	July 1 – September 30	October 1 – December 31
1 Meeting Room 1 to 25 attendees with round tables	\$	\$	\$	\$
1 Meeting Rooms 1 – 50 attendees schoolhouse style	\$	\$	\$	\$
1 Meeting Room 1 - 75 attendees with round tables	\$	\$	\$	\$
1 Meeting Room 1 - 100 attendees schoolhouse style	\$	\$	\$	\$
1 Meeting Room 1 – 100 attendees conference style with rear exhibit space	\$	\$	\$	\$
1 Meeting Room 1 – 150 attendees schoolhouse style	\$	\$	\$	\$
1 Meeting Room 1 – 200 attendees theater style	\$	\$	\$	\$
1 Meeting Room 1 – 260 attendees theater style	\$	\$	\$	\$

9.2.C Cancellations

i) Provide costs associated with cancellation of an event an event (with guest rooms) with no food and beverages requirements. Respondents shall identify the number of days required in advance of an event for cancellation and the percentage (%) of the total cost that will be assessed upon cancellation.

Number of Days Notice Required for \$0 Cost		_____	
Event cancellation Number of days prior to event	_____	Percentage of Total Cost	_____ %

ii) Provide costs associated with cancellation of an event an event (with guest rooms) with food and beverages requirements. Respondents shall identify the number of days required in advance of an event for cancellation and the percentage (%) of the total cost that will be assessed upon cancellation.

Number of Days Notice Required for \$0 Cost		_____	
Event cancellation Number of days prior to event	_____	Percentage of Total Cost	_____ %

9.3 Food and Beverage Services (Optional)

Provide pricing for each of the identified food and beverage services in accordance with the descriptions provided in Section 8. Pricing shall be “per person” and shall be all-inclusive.

Item Description	January 1 – March 31	April 1 – June 30	July 1 – September 30	October 1 – December 31
Continental Breakfast Buffet	\$	\$	\$	\$
American Breakfast Buffet	\$	\$	\$	\$
Lunch Buffet - Hot	\$	\$	\$	\$
Sit Down Lunch (plated)	\$	\$	\$	\$
Dinner Buffet	\$	\$	\$	\$
Sit Down Dinner (plated)	\$	\$	\$	\$
Snack Break	\$	\$	\$	\$

9.4 Audio Visual Services (Optional)

Provide line item pricing for each of the items described below for Audio and Visual Services.

Item Description	Unit of Measure	Cost
Projector (LCD)	Per Item Per Day	\$
Screens 6'	Per Item Per Day	\$
Screens 8'	Per Item Per Day	\$
Cradle 10'x10'	Per Item Per Day	\$
Fast Fold 7.5'x10'	Per Item Per Day	\$
Dress Kit (for FF Screen)	Per Item Per Day	\$
Pipe/Drape (for FF Screen)	Per Item Per Day	\$
Microphones – Wireless (lavaliere or handheld)	Per Item Per Day	\$
Microphones - Wired (handheld)	Per Item Per Day	\$
Video – Monitor (minimum 42')	Per Item Per Day	\$
Video – DVD Player	Per Item Per Day	\$
Audio Equipment – 4 channel mixer	Per Item Per Day	\$
Audio Equipment – 12 channel mixer	Per Item Per Day	\$
Audio Equipment – Sound System w/ speakers	Per Item Per Day	\$
Audio Equipment – Sound Patch	Per Item Per Day	\$
Meeting Room Aids – easel	Per Item Per Day	\$
Meeting Room Aids – Flipchart Pad	Per Item Per Day	\$
Meeting Room Aids – Flip Chart, Pad & Markers	Per Item Per Day	\$
Meeting Room Aids – Whiteboard & Markers	Per Item Per Day	\$
Meeting Room Aids – Podium	Per Item Per Day	\$
Meeting Room Aids – Speaker Phone	Per Item Per Day	\$
Meeting Room Aids – Wireless Mouse	Per Item Per Day	\$
Meeting Room Aids – Laser Pointer	Per Item Per Day	\$
Meeting Room Aids – Riser Section	Per Item Per Day	\$
Meeting Room Aids – AV Cart with Power	Per Item Per Day	\$
Meeting Room Aids – Extension Cord	Per Item Per Day	\$
Meeting Room Aids – Power Strip	Per Item Per Day	\$
Meeting Room Aids – HDMI Cord	Per Item Per Day	\$
Technicians 10 hour day	Per Day	\$
Technicians extended (above 10 hours)	Per Hour	\$
Secure/Private Wireless Internet	Per Day	\$
Rigging	Per Day	\$

Notes:

- Unit price bid will be used to determine the correct extended price if discrepancy is identified.
- Extended price shall be computed as Estimated Total Quantity multiplied by Proposed Unit Cost
- FLVS payment term shall be Net 45 days as per §218.73. Respondents' additional payment discount (i.e. 2% /10 days).
- All quantities are estimated and could be higher or lower at the discretion of FLVS.
- FLVS reserves the right to make award(s) by lots, individual item, group of items, all or none or a combination therefore, to reject any and/or all Bids or to waive any minor irregularity or technicality. Responders are cautioned to make no assumptions unless their proposal has been evaluated as being responsive. Cash discounts for prompt payment shall not be considered in determining the lowest net cost for bid evaluation purposes.
- If catalogue item pricing decreases, respondent shall honor lower pricing with FLVS
- FLVS reserves the right to renegotiate line item pricing for any bulk orders
- Unit price will be used to determine the correct extended price if calculation error is found.
- All quantities are estimated and could be higher or lower at the discretion of FLVS in accordance with the Purchase Order.
- See section 7.1.4 regarding Price Increases

Acceptance of Invoice Payments via FLVS Visa Purchasing Card

State whether the Respondent will accept 100% payments via the FLVS Visa Purchasing Card. No additional charges, fees or price increases may be assessed by the vendor for the use of Procurement/Charge/Bank cards during the life of any award resulting from this contract, and any applicable extensions.

PCard Acceptance		(Check one)	
Respondent shall accept payment via PCard (with no additional Fees)		<input type="checkbox"/> Yes	<input type="checkbox"/> No

Vendor Acknowledgment and Approval

I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies or equipment, and in all respects fair and without collusion or fraud. The following information, including an authorized representative signature and witness, is required to be submitted with your proposal in order to be considered for evaluation and award. The person signing below acknowledges and agrees with all proposed information as submitted and has the authorization of the said company to enter into a contractual agreement with FLVS for the purposes as proposed and as described herein. Please print below unless where a signature is required.

VENDOR INFORMATION			
Company Name:		Contact Name:	
Mailing Address:		Phone:	
Fed Tax ID:		Email:	
Fingerprinting Required?	No	Fingerprinting Completed?	Yes, ___ No ___ N/A ___
<i>I agree to abide by all conditions of this offer and certify that I am authorized to sign this offer for the vendor and that the vendor is in compliance with all requirements of the Request for Quote</i>		Signature: _____	Typed Name _____
		Date: _____	

FAILURE TO SUBMIT AT THE BID OPENING, THE SIGNED BID PRICE SHEET SHALL RESULT IN REJECTION OF YOUR BID SUBMITTAL.

10. REFERENCES

I _____ being of _____

(Name/Title)

(Name of Company)

Hereby give Florida Virtual School authorization to check our company's previous performance.

Authorizing Signature _____

NOTE: All references shall be contacted via an online web form. If you wish to see a copy of the questions please contact the procurement personnel listed on page one (1) of this document.

References: Respondent shall provide three (3) written letters of reference (preferable within the last (36) months).

REFERENCE 1.	
COMPANY NAME:	
COMPANY ADDRESS:	
CONTACT PERSON:	
PHONE NUMBER:	FACSIMILE NUMBER:
EMAIL:	APPROXIMATE CONTRACT VALUE \$ _____
REFERENCE 2.	
COMPANY NAME:	
COMPANY ADDRESS:	
CONTACT PERSON:	
PHONE NUMBER:	FACSIMILE NUMBER:
EMAIL:	APPROXIMATE CONTRACT VALUE \$ _____
REFERENCE 3.	
COMPANY NAME:	
COMPANY ADDRESS:	
CONTACT PERSON:	
PHONE NUMBER:	FACSIMILE NUMBER:
EMAIL:	APPROXIMATE CONTRACT VALUE \$ _____

Appendix A Contractor's Statement of Qualification

Provide written responses to the following questions. If the answer to any of the questions is "Yes", Contractor shall describe fully the circumstances, reasons therefore, the current status, and ultimate disposition of each matter that is the subject of this inquiry.

1. Has Contractor been declared in default of any contract? Yes or No
2. Has Contractor forfeited any payment of performance bond issued by a surety company on any contract? Yes or No
3. Has an uncompleted contract been assigned by Contractor's surety company on any payment of performance bond issued to Contractor arising from its failure to fully discharge all contractual obligations thereunder? Yes or No
4. Within the past three (3) years, has Contractor filed for reorganization, protection from creditors, or dissolution under the bankruptcy statutes? Yes or No
5. Is Contractor now the subject of any litigation in which an adverse decision might result in a material change in the firm's financial position or future viability? Yes or No
6. Is Contractor currently involved in any state of a fact-finding, negotiations, or resistance to a merger, friendly acquisition, or hostile take-over, either as a target or as a pursuer? Yes or No
7. License Sanctions: List any regulatory or license agency sanctions. The Board may perform a background check on Proposer with all state and regulatory agencies.

8. Provide the following financial information:

\$ _____	Earnings before Interest & Taxes
\$ _____	Total Assets
\$ _____	Net Sales
\$ _____	Market Value of Equity (Common & Preferred Stock)
\$ _____	Total Liabilities
\$ _____	Current Assets
\$ _____	Current Liabilities
\$ _____	Retained Earnings

Authorized Representative's Signature

Company Name

Access the FLVS Vendor Application, Commodity Codes and W-9 form at:
<https://www.flvs.net/about/procurement-opportunities/vendor-application>

Appendix B
Acknowledgement Of Business Type

This form must be signed in the presence of a Notary Public or other officer authorized to administer oaths and submitted with the bid on the specified due date and time. The undersigned Respondent certifies that this proposal package is submitted in accordance with the scope of services in its entirety and with full understanding of the conditions governing this proposal. The Respondent further declares that he/she has carefully examined the scope of services, instructions, terms and conditions of this Invitation to Bid and that Respondent's proposal is made according to the provisions of the bid and that he/she will meet or exceed the scope of services, requirements, and standards contained in the Invitation to Bid.

BUSINESS ADDRESS OF RESPONDENT:

Address

City, State, Zip Code

Telephone No. _____ Fax No. _____

SIGNATURE OF RESPONDENT

If an Individual: _____
Signature
doing business as _____

If a Partnership: _____
Name of Partnership
by: _____
Partner Signature

If a Corporation: _____
Corporate Name

(a _____ Corporation) In what State is the Corporation Incorporated?

If not incorporated under the laws of Florida, are you licensed to do business in Florida? Yes _____ No _____
by: _____ Title: _____

Signature

Attest: _____ (SEAL)

Corporate Secretary

NOTARY PUBLIC

State Of: _____ County Of: _____

On this _____ day of _____, 20____, before me appeared (name) _____ who is personally known to me or who has produced _____ as identification sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) to execute the affidavit and did so as his or her free act and deed.

Notary Public Signature: _____ Notary Name, Printed, Typed or Stamped:

Commission Number: _____ My Commission Expires: _____

**Appendix C
Statement Of Affirmation And Intent**

TO: FLORIDA VIRTUAL SCHOOL, PROCUREMENT DIVISION

PROJECT: _____

DATE: _____

The undersigned, hereinafter called the Respondent, declares that the only persons, or parties interested in their Response are those named herein, that this Response is, in all respects, fair and without fraud that it is made without collusion with any other vendor or official of Florida Virtual School. Neither the Affiant nor the above-named entity has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive pricing in connection with the entity's submittal for the above project. This statement restricts the discussion of pricing data until the completion of negotiations and execution of the Agreement for this project.

The Contractor certifies that no Board Member, Director, or any Florida Virtual School Employee directly or indirectly owns assets or capital stock of the bidding entity, nor will directly or indirectly benefit by the profits or emoluments of this Response. (For purposes of this paragraph, indirect ownership or benefit does not include ownership or benefit by a spouse or minor child.)

The Contractor certifies that no member of the entity's ownership or management is presently applying for an employee position or actively seeking an elected position with the School. In the event that a conflict of interest is identified in the provision of services, the Proposer agrees to immediately notify FLVS in writing.

The Proposer further declares that he/she has carefully examined the scope of services, instructions, terms and conditions of this Invitation to Bid and that Contractor's Response is made according to the provisions of the ITB and that he/she will meet or exceed the scope of services, requirements, and standards contained in the Request for Proposals.

The Contractor agrees to abide by all conditions of the negotiation process. In conducting negotiations with FLVS, Contractor offers and agrees that if this negotiation is accepted, the Contractor will convey, sell, assign, or transfer to FLVS all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular, commodities or services purchased or acquired by FLVS. At the School's discretion, such assignment shall be made and become effective at the time the School tenders' final payment to the Contractor. The Response constitutes a firm and binding offer by the Contractor to perform the services as stated.

Contractor acknowledges that all information contained herein is part of the public domain as defined in the Public Records Act, Chapter 119, F.S.

The signer of this Response guarantees, as evidence of the sworn affidavit required herein, the truth and accuracy of all statements and information hereinafter provided. The undersigned hereby authorizes any public official, surety company, bank depository, material, or equipment manufacturer or distributor or any person or firm or corporation to furnish any pertinent information requested by Florida Virtual School or their representative, deemed necessary to verify the information provided and statements made regarding the standing and general reputation of the applicant.

Signature of Authorized Firm Representative _____

Date _____

Name and Title of Authorized Firm Representative (Typed) _____

E-mail Address: _____

Name of Firm (Typed): _____

Address, City, Zip: _____

Telephone Number: _____ Fax Number: _____

Sworn to and subscribed before me this _____ day _____ of 20 _____

Notary Public Commission Expiration Date

APPENDIX D

MUTUAL NONDISCLOSURE AGREEMENT

This Mutual Nondisclosure Agreement (this "*Agreement*") is made and entered into as of [REDACTED] by and between Florida Virtual School, a state of Florida entity, and [REDACTED] (referred to from this point as "*Company*"). Florida Virtual School (FLVS) and the Company agree as follows:

1. **Purpose.** The parties wish to explore a business opportunity of mutual interest and in connection with this opportunity, each party may disclose to the other certain confidential technical and business information that the disclosing party desires the receiving party to treat as confidential.
2. **"Confidential Information"** means any information disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, prototypes, samples, plant and equipment), which is designated as "Confidential," "Proprietary" or some similar designation. Information communicated orally shall be considered Confidential Information if such information is confirmed in writing as being Confidential Information within a reasonable time after the initial disclosure. Confidential Information may also include information disclosed to a disclosing party by third parties. Confidential Information shall not, however, include any information which: (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession; or (vi) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.
3. **Non-use and Non-disclosure.** Each party agrees not to use any Confidential Information of the other party for any purpose except to evaluate and engage in discussions concerning a potential business relationship between the parties. Each party agrees not to disclose any Confidential Information of the other party to third parties or to such party's employees, except to those employees of the receiving party who are required to have the information in order to evaluate or engage in discussions concerning the contemplated business relationship. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder.
4. **Maintenance of Confidentiality.** Each party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party shall take at least those measures that it takes to protect its own most highly confidential information and shall ensure that its employees who have access to Confidential Information of the other party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees. Neither party shall make any copies of the Confidential Information of the other party unless the same are previously approved in writing by the other party. Each party shall reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.
5. **No Obligation.** Nothing herein shall obligate either party to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the business opportunity.
6. **No Warranty.** ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS". EACH PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE.
7. **Return of Materials.** All documents and other tangible objects containing or representing Confidential Information which have been disclosed by either party to the other party, and all copies thereof which are in the possession of the other party, shall be and remain the property of the disclosing party and shall be promptly returned to the disclosing party upon the disclosing party's written request.
8. **No License.** Nothing in this Agreement is intended to grant any rights to either party under any patent, mask work right or copyright of the other party, nor shall this Agreement grant any party any rights in or to the Confidential Information of the other party except as expressly set forth herein.
9. **Term.** The obligations of each receiving party hereunder shall survive until such time as all Confidential Information of the other party disclosed hereunder becomes publicly known and made generally available through no action or inaction of the receiving party.

10. Remedies. Each party agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies.

11. Solicitation of Employees. Each Party (FLVS and Contractor) agrees that, during the Term of this Agreement and for a period of twelve months following the termination of this Agreement for any reason, such Party shall not, directly or indirectly, on its own behalf for as a representative of any other person or entity, solicit or induce any employee of the other Party to terminate his or her employment relationship or to enter into employment with any other person or entity.

12. Public Records. Florida Virtual School is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law including: (a) keeping and maintaining public records that ordinarily and necessarily would be required by the BOARD in order to perform the service; (b) providing the public with access to public records on the same terms and conditions that the BOARD would provide the records and at a cost that does not exceed the cost provided in chapter or as otherwise provided by law; (c) ensuring that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meeting all requirements for retaining public records and transfer at no cost to the BOARD, all public records in possession of the contractor upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the BOARD in a format that is compatible with the information technology systems of the BOARD. The parties agree that if the contractor fails to comply with a public records request, then Florida Virtual School must enforce the contract provisions in accordance with the contract and as required by Section 119.0701, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT, CUSTODIANOFRECORDS@FLVS.NET, OR BY PHONE 407-513-3325, OR BY MAIL TO: 2145 METROCENTER BLVD., SUITE 100, ORLANDO, FL 32835.

13. Miscellaneous. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one instrument. This Agreement shall bind and inure to the benefit of the parties hereto and their successors and assigns. This Agreement shall be governed by the laws of the State of Florida, without reference to conflict of laws principles. In any action arising out of or related to this Agreement, the parties hereto consent to the exclusive jurisdiction and venue in the courts located in the Orange County of Florida. This document contains the entire agreement between the parties with respect to the subject matter hereof, and neither party shall have any obligation, express or implied by law, with respect to trade secret or proprietary information of the other party except as set forth herein. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties hereto.

IN WITNESS WHEREOF, the parties have caused this Mutual Nondisclosure Agreement to be executed by their duly authorized representatives as of the date first written above.

Florida Virtual School

Signature: _____
Print Name: _____
Title: _____
Date: _____

Company

Signature: _____
Print Name: _____
Title: _____
Company/
School/District: _____
Phone Number: _____
Email: _____
Date: _____

Appendix E
Addenda Form

The signer of this response guarantees, as evidence by the sworn affidavit required herein, the truth and accuracy of all statements and of all answers to interrogatories hereinafter made.

The undersigned hereby authorizes any public official, engineer, architect, surety company, bank depository, material or equipment manufacturer or distributor or any person, firm or corporation to furnish any pertinent information requested by Florida Virtual School or their representative, deemed necessary to verify the statements made in this qualification form or regarding the standing and general reputation of the applicant. The signer also states that all information given is an accurate representation of the office location and resources from where the services are to be rendered.

Receipts of the following Addenda are hereby acknowledged: (List all Addenda as follows):

ADDENDUM NO	_____	Dated	_____
ADDENDUM NO	_____	Dated	_____
ADDENDUM NO	_____	Dated	_____

Date: _____

Name of Organization: _____

Name: _____

Title _____

Signature _____

DISPUTE RESOLUTION CLAUSE

In the event a dispute occurs, or a clarification of minor contract terms becomes necessary, please indicate your Contractor representative.

Representative's Name: _____

Telephone Number: _____

FLVS representative will be the Procurement Director.

**Appendix F
Fair Labor Standards Act - "Hot Goods"**

The undersigned hereby certify that these goods are or will be produced in compliance with all applicable requirements of sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under section 14 thereof.

The undersigned shall be required to stamp or print such certifications on the invoices which covers the resalable goods shipped, and which are furnished to the School District.

Company Official Signature: _____
Date: _____

PUBLIC ENTITY CRIMES

Per the provisions of Florida Statute 287.133 (2) (A), "A person or affiliate who has been placed on the convicted Vendor(s) list following a conviction for a public entity crime may not submit a response on a contract to provide any goods or services to a public entity, may not submit a response on a contract with a public entity for the construction or repair of a public building or public work, may not submit responses on leases of real property to a public entity, may not be awarded or perform work as a Vendor(s), supplier, sub-vendor(s) or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statute 287.017 for category two for a period of 36 months from the date of being placed on the convicted Vendor(s) list."

Company Official Signature: _____
Date: _____

FEDERAL DEBARMENT CERTIFICATION

Certification regarding debarment, suspension, ineligibility and voluntary exclusion.

The prospective lower tier (\$25,000) participant certifies, by submission of this response, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this response.

Company Official Signature: _____
Date: _____

Appendix G

Drug-Free Workplace Certification

Tie response preference shall be given to businesses with drug-free workplace programs. Whenever two or more responses, which are equal with respect to price, quality and service, are received by the State or by any political subdivision for the procurement of commodities or contractual services, a response received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie responses will be followed if none of the tied Awardee(s) have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace, and specifying the actions that will be taken against employees for violations of such prohibition.

Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

Give each employee engaged in providing the commodities or contractual services that are under response a copy of the statement specified in subsection (1).

In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under response, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States, or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.

Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

AS THE PERSON AUTHORIZED TO SIGN THE STATEMENT, I CERTIFY THAT THIS COMPANY COMPLIES FULLY WITH THE ABOVE DRUG-FREE WORKPLACE REQUIREMENTS.

Company Official Signature: _____

Date: _____

Appendix H
Public Records Act/Chapter 119 Requirements

Florida Virtual School is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law including:

1. Keeping and maintaining public records that ordinarily and necessarily would be required by the Board in order to perform the service.
2. Providing the public with access to public records on the same terms and conditions that the BOARD would provide the records and at the cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
3. Ensuring that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
4. Meeting all requirements for retaining public records and transfer at no cost to the BOARD, all public records in possession of the Contractor upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the BOARD in a format that is compatible with the information technology systems of the BOARD.

The parties agree that if the contractor fails to comply with a public records request, then Florida Virtual School must enforce the contract provisions in accordance with the contract and as required by Section 119.0701. Florida Statutes.

Company Official Signature:

Date:

Proposing agency shall specify any exceptions to Public Records Act/Chapter 119 Requirement by including a detailed justification of the applicable content to be redacted for exemption. All exemptions must be stated specifically according to the Statute. Exceptions shall be reviewed for compliance. Contractor is responsible for defending all exemptions.

Appendix I
Certification Regarding Anti-Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or shall be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1) -(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official: _____

Name and Title of Contractor's Authorized Official: _____

Date: _____

COMPLIANCE WORKSHEET – APPENDIX J

Formal Company Name: _____
 Business Address: _____
 Web Address: _____

Type of Business (*check one*):
 Sole Proprietorship: Partnership: Corporation: Joint Venture: Other (specify): _____

Incorporated in the State of Florida Yes: No: If "No" specify where incorporated: _____

Copy of certification from Florida Secretary of State providing corporate status attached Yes: <input type="checkbox"/> No: <input type="checkbox"/>	Out of State corporation: Florida Business License attached: Yes: <input type="checkbox"/> No: <input type="checkbox"/>
--	---

Location of Corporate Office: _____

Office Locations: Orange County: Central Florida: or contiguous county:

Federal Employer Identification Number: _____	
---	--

Number of Active Clients: _____	Number of Active Clients (past 5 years)				
Number of Inactive Clients: _____	2017	2016	2015	2014	2013
Number of Clients Past 5 Years: _____					

Number of Years in Business: _____

License Sanctions (if any): _____ Debarments (if any): _____

History of changes to ownership: _____

Financial Stability Compliance & Qualifications

Indicate type of supporting document included with your proposal in accordance with Section 3.2.1.

- Statement from Certified Accountant Dun & Bradstreet Report or SER
 Certified Financial Statements and/or Tax Returns Annual Report Ratios

Authorized Parties

<p align="center"><u>Primary Contact Information</u></p> <p>Name: _____ Title: _____ Address: _____ Telephone: _____ Email: _____</p>	<p align="center"><u>Principals & Authorized Signatures</u></p> <p>Name: _____ Title: _____ Name: _____ Title: _____</p>
---	---

Contractor Certification and/or License (if applicable)

Certifying or Licensing Agency	Description of License or Certification	License or Cert. Number or ID

FERPA

If Contractor is provided access to any student personally identifiable information (as defined under FERPA), Contractor acknowledges that it will comply with the privacy regulations outlined in the Family Educational Rights and Privacy Act ("FERPA"), for the handling of such information, to the extent such regulations apply to Contractor. Contractor will not disclose or use any student information except to the extent necessary to carry out its obligations under its agreement as permitted by FERPA.

Company: _____

Authorized Representative's Name: _____

Authorized Representative's Signature: _____

Date: _____

Appendix K COMPLIANCE CHECK LIST

Authorized Parties and Contact Information

Primary Contact Details (name, address, telephone, email)	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
List of persons authorized signatures for proposing organization attached.	Yes: <input type="checkbox"/> No: <input type="checkbox"/>

Appendix and Attachment Check List

Appendix	Description	Attached
Section 3	References (including 3 letters of reference)	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Section 3	Cost Proposal & P Card Acceptance Response	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Section 3	Submission Label (affixed to outside of package)	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Section 8	Meeting or exceeding stated requirements	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Section 8	Floor plan of hotel including meeting space	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix A	Contractor's Statement of Qualifications	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix B	Acknowledgement of Type of Business	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix C	Statement of Affirmation and Intent	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix D	Mutual Non-Disclosure Agreement	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix E	Addenda Form / Dispute Resolution Clause	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix F	Fair Labor Act / Public Crimes / Federal Debarment Certifications	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix G	Drug Free Work Place Certification	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix H	Public Records Act / Chapter 119 Requirements	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
(Section 6.18)	Certificate of Insurance (with active/adequate coverage)	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix I	Anti-Lobbying Certification	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix J	Compliance Worksheet	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix K	Requirements Checklist	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
(Section 3.3.1)	Financial Stability Compliance including Ratios	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
(Section 8.8)	Exceptions / Alternatives	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
(See Appendix A)	Vendor Application Form	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
Appendix L	Sample FLVS Terms and Conditions	Yes: <input type="checkbox"/> No: <input type="checkbox"/>

Comments/Notes:



Sample FLORIDA VIRTUAL SCHOOL Standard Master Service Contract Form

Solicitation Title	Solicitation Number	Contract Number
--------------------	---------------------	-----------------

1. This Contract is entered between FLVS and the Contractor named below:

Entity Name Florida Virtual School	(hereafter called FLVS)
Contractor's Name	
(hereafter called Contractor)	

2. Contract to Begin: _____ Date of Completion: _____ Renewals: _____

3. Performance Bond, if any: _____ Other Bonds, if any: _____

4. Maximum Amount of this Contract: \$ _____

Authorized Person to Receive Contract Notices for FLVS:	Authorized Person to Receive Contract Notices for Contractor:
---	---

6. The parties agree to comply with the terms and conditions of the following attachments which are by this reference made a part of the Contract:

Attachment 1 – FLVS Standard Master Service Contract Terms and Conditions for Services
Attachment 2 – Solicitation (referenced above)
Attachment 3 – Solicitation (referenced above) Addendum
Attachment 4 – Contractor's Final Response
Attachment 5 -- Statements of Work (SOW) & Change Orders
Attachment 6 - Contract Renewal Amendments (if any)

IN WITNESS, WHEREOF, this Contract has been executed by the parties hereto.

7. _____
Contractor

Contractor's Name *(If other than an individual, state whether a corporation, partnership, etc.)*

By <i>(Authorized Signature)</i>	Date Signed
----------------------------------	-------------

Printed Name and Title of Person Signing

Address

8. _____
FLVS

FLVS Name
Florida Virtual School

By <i>(Authorized Signature)</i>	Date Signed
----------------------------------	-------------

Printed Name and Title of Person Signing

Address
2145 Metrocenter Blvd. Orlando, Florida 32835

FLORIDA VIRTUAL SCHOOL
STANDARD MASTER SERVICE CONTRACT
Attachment 1
Contract Terms and Conditions for Services

1. DEFINITIONS AND GENERAL INFORMATION

1.1 Definitions. The following words shall be defined as set forth below:

- (i) **"FLVS"** means Florida Virtual School or the entity identified in the Standard Master Service Contract Form to contract with the Contractor for the Services identified in the Contract.
- (ii) **"FLVS Standard Master Service Contract" or "Contract"** means the agreement between FLVS and the Contractor as defined by FLVS Standard Master Service Contract Form and its incorporated documents.
- (iii) **"FLVS Standard Master Service Contract Form"** means the document that contains basic information about the Contract and incorporates by reference the applicable Contract Terms and Conditions, the RFX, Contractor's Response to the RFX, the final pricing documentation for Services and any mutually agreed clarifications, modifications, additions and deletions resulting from final contract negotiations. No objection or amendment by a Contractor to the RFX requirements or the Contract shall be incorporated by reference into this Contract unless FLVS has accepted the Contractor's objection or amendment in writing. FLVS Standard Contract Form is defined separately and referred to separately throughout FLVS Standard Master Service Contract as a means of identifying the location of certain information. For example, the initial term of the Contract is defined by the dates in FLVS Standard Master Service Contract Form.
- (iv) **"Contractor"** means the provider(s) of the Services under the Contract.
- (v) **"Purchase Order"** means the form or format used to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, or other authorized means).
- (vi) **"Response"** means the Contractor's submitted response to the RFX, including any modifications or clarifications accepted by FLVS.
- (vii) **"RFX"** means the Request for Proposal, Request for Bid, Invitation to Negotiate or other solicitation document (and any amendments or addenda thereto) specifically identified in FLVS Standard Master Service Contract Form that was issued to solicit the Services that are subject to the Contract.
- (viii) **"Services"** means the services and deliverables as provided in the SOW and as further described by the Response and the Contract.
- (ix) **"State"** means the State of Florida, FLVS, and any other authorized state entities issuing Purchase Orders against the Contract.
- (x) **"Statement of Work (SOW)"** means the Contractor's Responsibilities as described in detail in Attachment 5.

1.2 Priority of Contract Provisions. Any pre-printed contract terms and conditions included on Contractor's forms or invoices shall be null and void.

- 1.3 Reporting Requirements.** Contractor shall provide all reports required by the SOW. In addition, unless otherwise provided in the SOW, Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a quarterly written report to FLVS.
- 1.4 Construction of Contract:** FLVS and the contractor waive application of the principle of contract construction that ambiguities are to be construed against a contract's drafter, and agree that this Agreement is their joint product. FLVS and the Contractor agree that they have had their respective attorneys review and approve this Agreement or that they have had the opportunity to do so. Time is of the essence with regard to each and every obligation of the Contractor contained in the Agreement. Each such obligation is deemed material, and a breach of any such obligation (including a breach resulting from the untimely performance thereof) shall constitute a material breach.

2. DURATION OF CONTRACT

- 2.1 Contract Term.** The Contract between FLVS and the Contractor shall begin and end on the dates specified in FLVS Standard Master Service Contract Form unless terminated earlier in accordance with the applicable terms and conditions. This Contract shall not be deemed to create a debt of FLVS for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.

The initial term of the contract shall be for a <<INSERT NUMBER OF YEARS (SPELLED OUT)>> <<(INSERT NUMBER ONLY)>> year period following execution of Standard Master Service Contract. The initial term of the contract shall be from <<INSERT BEGINNING DATE>> through <<INSERT END DATE>> and the anticipated award date is <<INSERT BOARD APPROVAL DATE>>.

- 2.2 Contract Renewal.** FLVS shall have the option, in its sole discretion, to renew the Contract for additional terms as defined in FLVS Standard Master Service Contract Form on a year-to-year basis by giving the Contractor written notice of the renewal decision at least sixty (60) days prior to the expiration of the initial term or renewal term. Renewal will depend upon the best interests of the FLVS, funding, and Contractor's performance. Renewal will be accomplished through the issuance of a Notice of Renewal Amendment. Upon FLVS election, in its sole discretion, to renew any part of this Contract, Contractor shall remain obligated to perform in strict accordance with this Contract unless otherwise agreed by FLVS and the Contractor.

This contract may be renewed for <<INSERT NUMBER OF YEARS (SPELLED OUT)>> <<(INSERT NUMBER ONLY)>> year periods provided all terms and conditions remain unchanged and in full force and effect. This option to renew requires the mutual agreement of both parties. Refusal by either party to exercise this option to renew will require this contract to expire on the original or mutually agreed date.

- 2.3 Contract Extension.** In the event that this Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the Services, FLVS may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the FLVS a continuous supply of the Services.

3. DESCRIPTION OF SERVICES

- 3.1 Statement of Work (SOW):** All Services shall be provided in accordance with the specifications contained in the attached Statement of Work, the terms of the Contract, and as further described in Contractor's Response.
- 3.2 Non-Exclusive Rights.** The Contract is not exclusive. FLVS reserves the right to select other contractors to provide services similar to the Services described in the Contract during the term of the Contract.
- 3.3 No Minimums Guaranteed.** The Contract does not guarantee any minimum level of purchases or use of Services.

4. COMPENSATION

4.1 Pricing and Payment. The Contractor will be paid for Services provided pursuant to the Contract and final pricing documents as incorporated into FLVS Standard Master Service Contract Form and the terms of the Contract. Unless clearly stated otherwise in the Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties. FLVS shall pay the amount set out in Attachment 3 or in the applicable Statements of Work for any goods and/or services purchased hereunder. Payments made to the Contractor may be by a Visa Purchasing Card.

4.2 Purchase Orders. FLVS shall order services by issuing a purchase order. Purchase orders, used in conjunction with a Statement of Work (SOW), shall reference the SOW to establish the specific deliverables, costs, payment schedules, start/completion dates, etc. for specific assignments.

The award of the response shall not constitute an order. Before any shipments are made or services rendered, Proposer must receive a purchase order. Services shall be made as specified on the purchase order or reference the corresponding Contractual agreement governing the specifications and terms and conditions. Contractor will not be compensated for work performed without receipt of a purchase order.

4.3 Billing/Invoice. The Contractor shall submit an invoice for the Services supplied to FLVS under the Contract at the billing address specified in the Purchase Order or Contract. Invoices must include the FLVS purchase order number. Any invoice submitted as a result of the award of this Bid shall be itemized reflecting the items on the purchase order. "Lump sum" invoices shall not be submitted nor will be accepted for multiple line purchase orders. FLVS will only pay the dollar amounts authorized on the purchase order. The invoice shall comply with all applicable rules concerning payment of such claims. FLVS shall pay all approved invoices in arrears and in accordance with applicable provisions of State law.

Invoices should be submitted within fifteen (15) days of completion of work. Detailed invoices are to be sent to the attention Project Manager for approval for hours worked on the listed projects. FLVS will only reimburse Contractor for expenses incurred in performing services authorized in advance by FLVS project manager. FLVS shall pay to Provider the fees for services within forty-five (45) days of receipt of invoice.

Unless otherwise agreed in writing by FLVS and the Contractor, the Contractor shall not be entitled to receive any other payment or compensation from FLVS for Services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract.

4.4 Delay of Payment Due to Contractor's Failure. If FLVS in good faith determines that the Contractor has failed to perform or deliver Services as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such Service is performed or delivered. In this event, FLVS may withhold that portion of the Contractor's compensation which represents payment for Services that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes FLVS to incur costs, FLVS may deduct the amount of such incurred costs from any amounts payable to Contractor. FLVS authority to deduct such incurred costs shall not in any way affect FLVS authority to terminate the Contract.

4.5 Set-Off Against Sums Owed by the Contractor. In the event that the Contractor owes FLVS any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, FLVS may set off the sum owed against any sum owed by FLVS to the Contractor in FLVS sole discretion.

5. TERMINATION

5.1 Immediate Termination. This Contract will terminate immediately and absolutely if FLVS determines that adequate funds are not appropriated or granted or funds are de-appropriated such that FLVS cannot fulfill its obligations under the Contract, which determination is at FLVS sole discretion and shall

be conclusive. Further, FLVS may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

- 5.1.1** In the event the Contractor is required to be certified or licensed as a condition precedent to providing the Services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
 - 5.1.2** FLVS determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
 - 5.1.3** The Contractor fails to comply with confidentiality laws or provisions; and/or
 - 5.1.4** The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.
- 5.2 Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for FLVS to declare the Contractor in default of its obligations under the Contract:
- 5.2.1** The Contractor fails to deliver or has delivered nonconforming Services or fails to perform, to FLVS satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
 - 5.2.2** FLVS determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
 - 5.2.3** The Contractor fails to make substantial and timely progress toward performance of the Contract;
 - 5.2.4** The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or FLVS reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
 - 5.2.5** The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
 - 5.2.6** The Contractor has engaged in conduct that has or may expose FLVS to liability, as determined in FLVS sole discretion; or
 - 5.2.7** The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of FLVS.
 - 5.2.8** The Contractor is found guilty of a public crime.
- 5.3 Notice of Default.** If there is a default event caused by the Contractor, FLVS shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in FLVS written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, FLVS may:
- 5.3.1** Immediately terminate the Contract without additional written notice; and/or
 - 5.3.2** Procure substitute services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,
 - 5.3.3** Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.
- 5.4 Termination Upon Notice.** Following thirty (30) days' written notice, FLVS may terminate the Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon

submission of invoices and proper proof of claim, for Services provided under the Contract to FLVS up to and including the date of termination.

5.5 Termination Due to Change in Law. FLVS shall have the right to terminate this Contract without penalty by giving thirty (30) days' written notice to the Contractor as a result of any of the following:

5.5.1 FLVS authorization to operate is withdrawn or there is a material alteration in the programs administered by FLVS; and/or

5.5.2 FLVS duties are substantially modified.

5.6 Payment Limitation in Event of Termination. In the event of termination of the Contract for any reason by FLVS, FLVS shall pay only those amounts, if any, due and owing to the Contractor for the Services actually rendered up to the date specified in the notice of termination for which FLVS is obligated to pay pursuant to the Contract or Purchase Order. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to FLVS under the Contract in the event of termination. The FLVS shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.

5.7 The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of FLVS, the Contractor shall:

5.7.1 Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters FLVS may require;

5.7.2 Immediately cease using and return to FLVS, any personal property or materials, whether tangible or intangible, provided by FLVS to the Contractor;

5.7.3 Comply with FLVS instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;

5.7.4 Cooperate in good faith with FLVS and its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor(s); and

5.7.5 Immediately return to FLVS any payments made by FLVS for Services that were not delivered or rendered by the Contractor.

6. CONFIDENTIAL INFORMATION

6.1 Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by FLVS to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by FLVS. If it is reasonably likely the Contractor will have access to FLVS's confidential information, then:

6.1.1 The Contractor shall provide to FLVS a written description of the Contractor's policies and procedures to safeguard confidential information;

6.1.2 Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;

6.1.3 The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and

6.1.4 The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract.

The private or confidential data shall remain the property of FLVS at all times. Some Services performed for FLVS may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

- 6.2 No Dissemination of Confidential Data.** No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of FLVS, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of FLVS. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of FLVS.
- 6.3 Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify FLVS and cooperate with FLVS in any lawful effort to protect the confidential information.
- 6.4 Reporting of Unauthorized Disclosure.** The Contractor shall immediately report to FLVS any unauthorized disclosure of confidential information.
- 6.5 Survives Termination.** The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

7. INDEMNIFICATION

- 7.1 Contractor's Indemnification Obligation.** The Contractor agrees to indemnify and hold harmless FLVS, its Board of Directors, and all State of Florida officers, employees, agents, and volunteers who are engaged in any activities relating to the Contract (collectively, "Indemnified Parties") from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, related to or arising from:
 - 7.1.1** Any breach of the Contract;
 - 7.1.2** Any negligent, intentional or wrongful act or omission of the Contractor or any employee, agent or subcontractor utilized or employed by the Contractor;
 - 7.1.3** Any failure of Services to comply with applicable specifications, warranties, and certifications under the Contract;
 - 7.1.4** The negligence or fault of the Contractor in design, testing, development, manufacture, or otherwise with respect to the Services provided under the Contract;
 - 7.1.5** Claims, demands, or lawsuits that, with respect to the goods (if any) or any parts thereof, allege product liability, strict product liability, or any variation thereof;
 - 7.1.6** The Contractor's performance or attempted performance of the Contract, including any employee, agent or subcontractor utilized or employed by the Contractor;
 - 7.1.7** Any failure by the Contractor to comply with the "Compliance with the Law" provision of the Contract;
 - 7.1.8** Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Florida or the United States;
 - 7.1.9** Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or

7.1.10 Any failure by the Contractor to adhere to the confidentiality provisions of the Contract.

7.2 Duty to Reimburse State Tort Claims Fund. To the extent such damage or loss as covered by this indemnification is also covered by the State of Florida Tort Claims Fund ("the Fund"), the Contractor (and its insurers) agrees to reimburse the Fund. To the full extent permitted by the Constitution and the laws of the State and the terms of the Fund, the Contractor and its insurers waive any right of subrogation against the FLVS, the Indemnified Parties, and the Fund and insurers participating thereunder, to the full extent of this indemnification.

7.3 Litigation and Settlements. . No settlement or compromise of any claim, loss or damage entered into by the Indemnified Parties shall be binding upon Contractor unless approved in writing by Contractor. No settlement or compromise of any claim, loss or damage entered into by Contractor shall be binding upon the Indemnified Parties unless approved in writing by the Indemnified Parties. Both parties recognize that the Florida Legislature has waived sovereign immunity for liability relating to certain torts, but only to the extent specified in § 768.28 of the Florida Statutes.

7.4 CLAIMS AND DISPUTES

7.4.1 The term "Claim" as used herein shall mean any and all demands made by one party hereunder against the other party, whether such demand be for money, time or the assertion of any right or obligation that arises out of the Contract Documents.

7.4.2 Initial notice of Claims by Contractor shall be made in writing to FLVS within seven (7) calendar days after the first day of the event giving rise to such Claim or else Contractor shall be deemed to have waived the Claim. Written supporting data shall be submitted to FLVS within thirty (30) calendar days after the occurrence of the event, unless FLVS grants additional time in writing, or else Contractor shall be deemed to have waived the Claim.

7.4.3 Contractor shall proceed diligently with its performance as directed by FLVS, regardless of any pending Claim, unless otherwise agreed to by FLVS in writing. FLVS shall continue to make payments in accordance with the Contract Documents during the pendency of any Claim.

7.5 Intellectual Property Indemnification. Contractor shall, at its own expense, indemnify, defend and hold harmless the Indemnified Parties, from and against any third-party liabilities, claims, demands or suits alleging that the Indemnifying Party's goods or services infringes any patent, trademark, copyright or other Intellectual Property right of a third party and shall pay all damages awarded or agreed to under a settlement for the Indemnified Parties;

In case any of the Services is in any suit held to constitute infringement and its use is enjoined, Contractor shall, at its option and expense:

7.5.1 Procure for FLVS the right to continue using the Services;

7.5.2 Replace or modify the same to the reasonable satisfaction of FLVS so that it becomes non-infringing; or

7.5.3 Remove the same and cancel any future charges pertaining thereto.

Contractor, however, shall have no liability to FLVS if any such patent, copyright, or trademark infringement or claim thereof is based upon or arises out of:

7.5.4 Compliance with designs, plans or specifications furnished by or on behalf of FLVS as to the Services;

7.5.5 Use of the Services in combination with apparatus or devices not supplied by Contractor, but only if combination is the cause of the infringement; or

7.5.6 Use of the Services in a manner for which the same was neither designed nor contemplated.

7.6 Procedure for Indemnification. For all claims subject to indemnification obligations, FLVS will: (i) provide prompt notice to Contractor of the claim (but delayed notification shall not constitute a basis for avoiding indemnification unless the delay materially prejudices Contractor's ability to defend the claim); (ii) subject to approval of the Attorney General of the State of Florida, provide Contractor with control over the defense and/or settlement of such claim (with the Indemnified Parties retaining the right to be represented by their own counsel at their own expense if they so elect), and (iii) provide reasonable cooperation and assistance, with regard to such claim. Contractor may not resolve any claims against FLVS in a manner that imposes any liability other obligations on the Indemnified Parties without FLVS' prior written consent.

7.7 Survives Termination. The indemnification obligation of Contractor shall survive termination of the Contract.

8. INSURANCE

8.1 Contractor shall provide all insurance as required.

8.1.1 Contractor shall obtain and maintain in full force prior to performance and effect throughout the initial Term and any Renewal Term no less than 5 years past the completion of the project with a reputable insurance carrier qualified to do business in the state or states in which the Premises are located and having a rating of not less than "A" from A.M. Best & Company. All certificates of insurance shall be provided within ten calendar days of contract execution.

8.1.2 All policies of insurance shall be written on a per occurrence basis. All such insurance policies shall, to the extent permitted under applicable law, provide that (a) the policies shall not be cancelled nor shall any material change be made therein without at least ten (10) days prior written notice to Florida Virtual School (FLVS) and (b) FLVS is to be named as an additional insured party with respect to Respondent activities.

8.1.3 General Liability Insurance of not less than One Million (1,000,000) per occurrence and Two Million (2,000,000) General Aggregate for bodily injury and property damage liability, and personal injury and advertising liability. The General Liability policy should be on CGL 0001 (12/04) or equivalent form. Insurance shall be primary and non-contributory to any other insurance of the certificate holder and shall name the certificate holder, owners and any other required by written contract or an agreement as additional insured.

a) Policy should be endorsed with a "per project aggregate". All coverage's should include contingent liability and contingent property damage liability. If coverage is written on a Claims made basis the retroactive and continuity dates should be at least the first day services begin with FLVS. Policy should include an endorsement waiving all rights to subrogate against FLVS.

b) The above policies for General Liability insurance must be so written as to include Contingent Liability and Contingent Property Damage Insurance to protect the contract against claims arising from the operation of subcontractors.

8.1.4 Worker's Compensation Insurance: The Contractor shall maintain during the life of this Contract, Worker's Compensation Insurance in accordance with Florida Statute 440. Contractors shall require all subcontractors to maintain such insurance during the life of this Contract Employer's Liability Insurance: The Contractor shall maintain, Employer's Liability Insurance shall be in the amounts not less than Five Hundred Thousand Dollars \$500,000.00 each accident for bodily injury by accident, Five Hundred Thousand Dollars \$500,000.00 each employee for bodily injury by disease, and Five Hundred Thousand Dollars \$500,000.00 policy limit for bodily injury by disease.

- 8.1.5 Automobile Liability Insurance: Automobile Liability Insurance shall be maintained, by Vendor as to ownership, maintenance, and use, including loading and unloading, of all owned, non-owned, leased or hired vehicles with limits of not less than One Million Dollars \$1,000,000 combined single limit each accident for bodily injury & property damage liability.
- 8.1.6 Professional Liability and Cyber Liability including: Technology Errors and Omissions, Telecommunications Errors and Omissions, or Multimedia Professional Liability whichever is applicable not less than One Million \$1,000,000, and Network Security Liability, Privacy Liability, Crisis Management, Cyber Extortion, and Media Liability not less than One Million Dollars \$1,000,000

9. BONDS

9.1 The Contractor shall provide all required bonds as stated by FLVS herein. The bonds shall be issued by a company licensed to do business in the state of Florida, with offices in Florida and with a four star rating or higher

- 9.1.1 Bid Bond: Required Not Applicable
- 9.1.2 Contract Bond: Required Not Applicable
- 9.1.3 Maintenance Bond: Required Not Applicable
- 9.1.4 Performance Bond: Required Not Applicable
- 9.1.5 Payment Bond: Required Not Applicable

10. WARRANTIES

- 10.1 Construction of Warranties Expressed in the Contract with Warranties Implied by Law: All warranties made by the Contractor and/or subcontractors in all provisions of the Contract and the Contractor's Response, whether or not the Contract specifically denominates the Contractor's and/or subcontractors' promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the Services to be provided, or by provision of samples to FLVS shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade, the warranty of merchantability, and the warranty of fitness for a particular purpose. The warranties expressed in the Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Services provided by the Contractor. The provisions of this section apply during the term of the Contract and any extensions or renewals thereof.
- 10.2 Warranty – Nonconforming Services and Goods. All Services and any goods delivered by Contractor to FLVS shall be free from any defects in design, material, or workmanship. If any Services or goods offered by the Contractor are found to be defective in material or workmanship, or do not conform to Contractor's warranty, FLVS shall have the option of returning, repairing, or replacing the defective Services or goods at Contractor's expense. Payment for Services and any goods shall not constitute acceptance. Acceptance by FLVS shall not relieve the Contractor of its warranty or any other obligation under the Contract.
- 10.3 Compliance with Federal Safety Acts. Contractor warrants and guarantees to FLVS that the Services provided under the Contract are in compliance with Sections 5 and 12 of the Federal Trade Commission Act; the Fair Packaging and Labeling Act; the Federal Food, Drug, and Cosmetic Act; the Consumer Product Safety Act; the Federal Environmental Pesticide Control Act; the Federal Hazardous Substances Act; the Fair Labor Standards Act; the Wool Products Labeling Act; the Flammable Fabrics Act; the Occupational Safety and Health Act; the Office of Management and Budget A-110 Appendix A; and the Anti-Kickback Act of 1986.
- 10.4 Conformity with Contractual Requirements. The Contractor represents and warrants that the Services provided in accordance with the Contract will appear and operate in conformance with the terms and conditions of the Contract.

- 10.5 Authority to Enter into Contract.** The Contractor represents and warrants that it has full authority to enter into the Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to FLVS.
- 10.6 Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to the Contract are or will be fully satisfied by the Contractor so that FLVS will not have any obligations with respect thereto.
- 10.7 Confidentiality of FLVS Data.** With respect to all confidential data or other materials provided to Contractor in conjunction with this Agreement, including but not limited to financial, statistical, technical, personnel data, and student data, Vendor shall keep and instruct its personnel to keep such information confidential by using the same care and discretion Vendor uses with its own most highly confidential information, but in no even less than a reasonable standard of care. This Agreement shall not affect the rights of either party to use or disclose information (a) which such party can demonstrate to have been in the public domain through no wrongful act of such party prior to the date of its disclosure to such party by the other party; (b) which such party can demonstrate by written records predating disclosure to the other party by such party to have been in the possession of such party on a non-confidential basis prior to the date of its disclosure; (c) which becomes part of the public domain by publication or otherwise not due to any unauthorized act or omission on the part of such party; (d) which such party can show by written records to have been disclosed to the other party on a non-confidential basis by a third party having a lawful right to do so; or (e) which is required to be disclosed by law, or governmental, judicial or legal process, provided, in each case that to the extent not contrary to law or any provision of any regulatory authority, such party timely informs the other party and, at the expense of the other party, cooperates with the other party to limit such disclosure. Vendor further agrees neither it nor its' employees will use student information for any reason including but not limited to bulk commercial mailings (spam), selling email addresses, or revealing the names and email addresses of primary or end users. Vendor ensures that employees with access to student data will abide by this policy.
- 10.8 Assignment.** For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Contractor agrees to and hereby does assign to FLVS all intellectual property rights in all written materials, video, graphics or other multimedia materials, computer programs (including all source and object code, documentation, manuals or specifications relating to same) and any other works or materials created for FLVS under this Agreement or any Statement of Work as such rights are defined in any jurisdiction throughout the world (the "Work Product"). Contractor agrees to execute all documents that may be necessary to confirm FLVS' ownership of the Work Product, acknowledges that FLVS may use the Work Product in whatever way and for whatever purpose it chooses, in its sole discretion, and represents and warrants that any third parties who are permitted to contribute to the Work Product under this Agreement are bound by all of the obligations of this paragraph.
- 10.9 License To Preexisting And Third-Party Materials.** Unless otherwise approved by FLVS in advance, no third-party materials or preexisting Contractor materials will be incorporated into or combined with any Work Product delivered to FLVS. For any third-party materials or preexisting Contractor materials that are approved for use with Work Product, Contractor grants FLVS (on its own behalf and on behalf of any required third parties) a perpetual, non-exclusive, royalty free license to possess and use same for all purposes contemplated in this Agreement, including the right to create derivative works based on same.
- 10.10 Contractor's Representations and Warranties.** Contractor represents and warrants that: (a) all Work Product created hereunder will be wholly original to Contractor and that Contractor has full right, title and authority to transfer ownership of same to FLVS as contemplated hereunder; (b) for any materials or other assets provided under this Agreement for which Contractor does not have full right, title or ownership, that Contractor has all necessary right and authority to grant the licenses or other rights set forth in this Agreement; (c) that there are no third-party restrictions on Contractor's rights, including but not limited to any confidentiality restrictions, license restrictions, encumbrances, liens or use restrictions, that will

prevent FLVS from exercising the rights granted under this Agreement; (d) any Work Product will be compatible with and may be used in conjunction with other software or hardware as described herein, in any Statement of Work, or in any documentation relating to the Work Product; (e) there are no copy protection or similar mechanisms within the Work Product or any materials being licensed with it which will, either now or in the future, interfere with the rights granted herein; (f) the Work Product and any other materials licensed hereunder do not contain any virus, worm, Trojan Horse, tracking software or devices capable of identifying users or tracking use, or any undocumented software locks or drop dead devices which would render inaccessible or impair in any way the operation of the Work Product or any other hardware, software or data which the Work Product is designed to work with; (g) unless approved by FLVS in advance, the Work Product and any materials licensed with it are and shall be free from all liens and encumbrances, shall not contain any "open source" software, freeware or software subject to any public license or similar license obligations; (h) the Work Product, any materials licensed with it and FLVS exercise of its rights hereunder, do not and will not infringe upon, violate or misappropriate any patent, copyright, trade secret, trademark, contract, right of publicity or privacy, or other right or interest of any third party, will not constitute libel or slander against, any person, firm or corporation, and no such third party claims are pending or have been asserted or threatened as of the Effective Date; and (i) any maintenance, support or other services performed hereunder shall be performed in a professional and competent manner in accordance with industry standards and in compliance with all applicable laws, regulations and orders.

10.11 Hosting Or Storing FLVS Data. [THIS PROVISION APPLIES ONLY IF CONTRACTOR IS HOSTING OR STORING DATA FOR FLVS] If this Agreement contemplates Contractor hosting or otherwise storing FLVS' data on FLVS' behalf, Contractor agrees to maintain the appropriate security safeguards reasonably necessary to prevent unauthorized persons from accessing, using, disclosing, or otherwise committing any act that could breach or compromise the privacy, availability, integrity, or content of such data or information. Contractor and/or its designated hosting provider shall transmit and store any and all Confidential Information using a commercially supported encryption solution. Stored information means Confidential Information resting on any end user device, including but not limited to laptop and desktop computers, smartphones, tablets and PDA computers, CD/DVD media, removable flash drives, and backup tapes. Licensor shall transmit all Confidential Information in encrypted form. Licensor shall employ encryption solutions that meet the recommendations of the National Institute of Standards and Technology (NIST) Special Publication 800-111 and Federal Information Processing Standard (FIPS) 140-2.

In the event Contractor or its representatives becomes aware of any unauthorized access to, use or disclosure of, or potential access to or use or disclosure of any of FLVS' data being stored for FLVS (a "Data Breach"), Contractor shall promptly, and at its own expense, (i) notify FLVS of the Data Breach; (ii) cooperate with FLVS in the investigation, analysis, notification and mitigation activities; and (iii) indemnify FLVS for all costs FLVS incurs for those activities.

Contractor shall provide a monthly incremental update of FLVS data in an industry standard format to a repository mutually agreed upon with FLVS.

In the event Contractor's hosting or other storage of FLVS' data is terminated, Contractor must ensure that FLVS is able to output all data, and save all reports, documents, and images in appropriate file folders prior to such termination and will provide, at no additional cost, reasonable assistance to FLVS to recover its data. To facilitate FLVS' recovery of its data, Contractor must provide a Data Dictionary for all data stores that hold or manage FLVS data. "Data Dictionary" means a document that describes the details of all databases and database management systems (DBMS) including the schema used to structure the data, the types of records stored in the database, integrity constraints, whether or not the records are encrypted, relationships and dependencies of the data to other systems, as well as the locations, hostnames, IP addresses of the database and DBMSs; additionally, the document must include the name and locations of all log files, transaction logs, key storage, and all other pertinent details that help identify, locate and access the database system and all of its components. FLVS may

use the information related to such Data Dictionary for creating software interfaces to the applicable databases. The Contractor data systems must provide FLVS with all reasonably required connectivity information to ensure that FLVS may connect any third party or FLVS owned functional components to the Contractor data systems as deemed necessary by FLVS, in its discretion, to obtain its data in useable form and in a manner that will minimize the disruption to FLVS' operations.

- ~~40.42~~ Industry Standards. The Contractor represents and expressly warrants that all aspects of the Services provided or used by it shall at a minimum conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence.
- ~~40.43~~ Contractor's Personnel and Staffing. Contractor warrants that all persons assigned to perform Services under this Contract are either lawful employees of Contractor or lawful employees of a subcontractor authorized by FLVS as specified in the RFX. All persons assigned to perform Services under this Contract shall be qualified to perform such Services. Personnel assigned by Contractor shall have all professional licenses required to perform the Services.
- ~~40.44~~ Security. FLVS requires that a criminal background investigation be made of any and all Contractor personnel utilized to provide Services to FLVS. Contractor represents and warrants that Contractor shall refrain from assigning personnel to any task under this Contract if such investigation reveals a disregard for the law or other background that indicates an unacceptable security risk as determined by FLVS. The Contractor's employees, agents and subcontractors may be granted access to state computers, hardware, software, programs and/or information technology infrastructure or operations to the extent necessary to carry out the Contractor's responsibilities under the Contract. Such access may be terminated at the sole discretion of FLVS. The Contractor shall provide immediate notice to FLVS of any employees, agents and/or subcontractors suspected of abusing or misusing such access privilege. The Contractor represents and warrants that Contractor shall provide notice to FLVS of the changed status of any employee, agent or subcontractor granted access to state computers, hardware, software, programs and/or information technology infrastructure or operations, including, but not limited to, termination or change of the position or contract relationship.
- ~~40.45~~ Jessica Lunsford Act: Effective September 1, 2005, in order to be in compliance with the Jessica Lunsford Act, Awardees meeting any of the three criteria listed below will be required to be Level II fingerprinted and screened by our Human Resources Department. This consists of a FDLE/FBI criminal record and fingerprint search. Contractor shall assign no person to perform work hereunder who has any form of criminal record without the prior written authorization of FLVS.

The Technical Assistance paper for the Jessica Lunsford Act can be accessed at <http://info.fldoe.org/docushare/dsweb/Get/Document-3151/k12%2005-107a>.

- ~~40.46~~ Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

The Contractor certifies by submission of this ITB, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

11. PRODUCT RECALL

If this Contract includes the provision of goods and in the event that any of the goods are found by the Contractor, FLVS, any governmental Agency, or court having jurisdiction to contain a defect, serious quality or performance deficiency, or not to be in compliance with any standard or requirement so as to require or make advisable that such goods be reworked or recalled, the Contractor will promptly communicate all relevant facts to FLVS and undertake all corrective actions, including those required to

meet all obligations imposed by laws, regulations, or orders, and shall file all necessary papers, corrective action programs, and other related documents, provided that nothing contained in this section shall preclude FLVS from taking such action as may be required of it under any such law or regulation. The Contractor shall perform all necessary repairs or modifications at its sole expense except to any extent that the Contractor and FLVS shall agree to the performance of such repairs by FLVS upon mutually acceptable terms.

12. SOLICITATION OF EMPLOYEES

Each Party (FLVS and Contractor) agrees that, during the Term of this Agreement and for a period of twelve months following the termination of this Agreement for any reason, such Party shall not, directly or indirectly, on its own behalf or as a representative of any other person or entity, solicit or induce any employee of the other Party to terminate his or her employment relationship or to enter into employment with any other person or entity. Notwithstanding the foregoing, a general solicitation for resumes or employees published in a newspaper, on the internet or in any other public medium or in a similar manner will not be deemed to be a violation of this Section 12. Contractor acknowledges that FLVS has informed Contractor that FLVS employees are under contract that contain non-compete Agreement and Contractor will not hire said employees unless the non-compete Agreement has expired.

13. CONTRACT ADMINISTRATION

FLVS will periodically inspect work to assure that the requirements of this contract are being met. Should it be found that the requirements specified herein are not being satisfactorily maintained, the Contractor shall be contacted and any discrepancies, inconsistencies, or items not meeting the specifications contained herein, are to be corrected immediately at no additional cost to FLVS. A second discrepancy notice shall serve as notification that any future discrepancies, inconsistencies, or items not meeting specifications contained herein, will result in termination of the Contractor right to proceed further with this work. In such event, the Contractor will be paid only for materials used. The Contractor and their sureties may be liable to FLVS for any additional cost incurred by FLVS to complete the job. At this point, the Contractor shall be considered in default and the contract subject to termination. Performance ratings may be considered during award of future contracts by FLVS.

Failure of the Contractor to comply with any of the provisions of this contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract, at the discretion of FLVS.

FLVS reserves the right to terminate this contract, in whole or in part, should the need for the services cease to exist.

Contractor shall be subject to periodic performance evaluations by FLVS personnel. Continued unsatisfactory ratings shall be cause to find the Contractor in default of the contract.

Upon cancellation of any ensuing agreement, FLVS reserves the right to award the contract to the responsible Proposer(s) offering the next highest rated proposal to FLVS for the unexpired term of the canceled contract, or for a full year period, whichever is deemed to be in FLVS's best interest.

13.1 Compliance with the Law. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders now or hereafter in effect when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or contractors. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under the Contract. Contractor and Contractor's personnel shall also comply with all State and FLVS policies and standards in effect during the performance of the Contract, including but not limited to FLVS's policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics.

13.2 Drug-free Workplace. The Contractor hereby certifies as follows:

- 13.2.1** Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace, and specifying the actions that will be taken against employees for violations of such prohibition.
- 13.2.2** Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 13.2.3** Give each employee engaged in providing the commodities or contractual services that are under proposal a copy of the statement specified in subsection (1).
- 13.2.4** In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States, or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 13.2.5** Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
- 13.2.6** Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.
- 13.3** Amendments. The Contract may be amended in writing from time to time by mutual consent of the parties. If the contract award exceeds the delegated purchasing authority of FLVS, then FLVS must obtain approval of the amendment from the Board. All amendments to the Contract must be in writing and fully executed by duly authorized representatives of FLVS and the Contractor.
- 13.4** Third Party Beneficiaries. There are no third-party beneficiaries to the Contract. The Contract is intended only to benefit FLVS, and the Contractor.
- 13.5** Choice of Law and Forum. The laws of the State of Florida shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Orange County, Florida. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to FLVS.
- 13.6** Attorney's Fees. If any action is commenced to construe or enforce any term, covenant, or condition of this Agreement, the prevailing party in such action shall be entitled to all costs and expenses of said action (including reasonable attorney's fees at the trial and appellate levels) from the unsuccessful party in said action.
- 13.7** Arbitration. In the event of any controversy or claim arising out of or relating to this Agreement, the parties specifically and irrevocably agree to submit such controversy or dispute to resolution by arbitration to be conducted in Orange County, Florida, in accordance with the arbitration rules of the American Arbitration Association. A judgment upon any award or decision rendered by the arbitrator shall be entered by a court having subject matter jurisdiction therein and all parties expressly waive any challenge to the use of arbitration in accordance with this paragraph. The parties hereto agree that jurisdiction ad venue for the entry of a judgment upon said arbitration award or decision shall be in Orange County, Florida. The arbitrators are directed to award the expenses of the arbitration, including required travel and other expenses of the arbitrators and any representatives of the arbitrators, the cost and charges of the American Arbitration Association and all reasonable attorney's fees and costs to the prevailing party in the arbitration.
- 13.8** Parties' Duty to Provide Notice of Intent to Litigate and Right to Demand Mediation. In addition to any dispute resolution procedures otherwise required under this Contract or any informal negotiations which may occur between FLVS and the Contractor, no civil action with respect to any dispute, claim or controversy arising out of or relating to this Contract may be commenced without first giving fourteen

(14) calendar days written notice to FLVS of the claim and the intent to initiate a civil action. At any time prior to the commencement of a civil action, either FLVS or the Contractor may elect to submit the matter for mediation. Either FLVS or the Contractor may exercise the right to submit the matter for mediation by providing the other party with a written demand for mediation setting forth the subject of the dispute. The parties will cooperate with one another in selecting a mediator and in scheduling the mediation proceedings. Venue for the mediation will be in Orlando, Florida; provided, however, that any or all mediation proceedings may be conducted by teleconference with the consent of the mediator. The parties covenant that they will participate in the mediation in good faith.

All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or employees of any mediation service, are inadmissible for any purpose (including but not limited to impeachment) in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Inadmissibility notwithstanding, all written documents shall nevertheless be subject to the Florida Public Records Act, Chapter 119, F.S.

No party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, forty-five (45) calendar days after the date of filing the written request for mediation with the mediator or mediation service, or sixty (60) calendar days after the delivery of the written demand for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire.

- 13.9 Assignment and Delegation.** The Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of FLVS. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.
- 13.10 Use of Third Parties.** Except as may be expressly agreed to in writing by FLVS, Contractor shall not subcontract, assign, delegate or otherwise permit anyone other than Contractor or Contractor's personnel to perform any of Contractor's obligations under this Contract or any of the work subsequently assigned under this Contract. No subcontract which Contractor enters into with respect to performance of obligations or work assigned under the Contract shall in any way relieve Contractor of any responsibility, obligation or liability under this Contract and for the acts and omissions of all subcontractors, agents, and employees. All restrictions, obligations and responsibilities of the Contractor under the Contract shall also apply to the subcontractors. Any contract with a subcontractor must also preserve the rights of FLVS. FLVS shall have the right to request the removal of a subcontractor from the Contract for good cause.
- 13.11 Integration.** The Contract represents the entire agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in the Contract.
- 13.12 Headings or Captions.** The paragraph headings or captions used in the Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.
- 13.13 Not a Joint Venture.** Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties thereto. Each party shall be deemed to be an independent contractor contracting for the Services and acting toward the mutual benefits expected to be derived herefrom. Neither Contractor nor any of Contractor's agents, servants, employees, subcontractors or contractors shall become or be deemed to become agents, servants, or employees of FLVS. Contractor shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.
- 13.14 Joint and Several Liability.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of the Contract, and for any default of activities and obligations.

- 13.15** Supersedes Former Contracts or Agreements. Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between FLVS and the Contractor for the Services provided in connection with the Contract.
- 13.16** Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of FLVS and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.
- 13.17** Notice. Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to the person who signed the Contract on behalf of the party at the address identified in FLVS Standard Master Service Contract Form. Each such notice shall be deemed to have been provided:
- 13.17.1** At the time it is actually received; or,
- 13.17.2** Within one (1) day in the case of overnight hand delivery, courier or Services such as Federal Express with guaranteed next day delivery; or,
- 13.17.3** Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.
- From time to time, the parties may change the name and address of the person designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.
- 13.18** Cumulative Rights. The various rights, powers, options, elections and remedies of any party provided in the Contract shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way un-remedied, unsatisfied or undischarged.
- 13.19** Severability. If any provision of the Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Contract. Further, if any provision of the Contract is determined to be unenforceable by virtue of its scope, but may be made enforceable by a limitation of the provision, the provision shall be deemed to be amended to the minimum extent necessary to render it enforceable under the applicable law. Any agreement of FLVS and the Contractor to amend, modify, eliminate, or otherwise change any part of this Contract shall not affect any other part of this Contract, and the remainder of this Contract shall continue to be of full force and effect.
- 13.20** Time is of the Essence. Time is of the essence with respect to the performance of the terms of the Contract. Contractor shall ensure that all personnel providing Services to FLVS are responsive to FLVS's requirements and requests in all respects.
- 13.21** Authorization. The persons signing this Contract represent and warrant to the other parties that:
- 13.21.1** It has the right, power and authority to enter into and perform its obligations under the Contract; and
- 13.21.2** It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of the Contract and the Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.
- 13.22** Successors in Interest. All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.
- 13.23** Record Retention and Access. The Contractor shall maintain books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and

properly document and calculate all charges billed to FLVS throughout the term of the Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall grant access to all records pertaining to the Contract to FLVS's authorized representative. The Contractor shall permit onsite access visits by designated FLVS employees or agents to conduct audits. These audits may require FLVS access to records and data, computers or communications devices, and other materials whether owned or operated by the Contractor. Access may include, but is not limited to, user level and/or system level access to any computing or communications device; access to information (electronic, hardcopy, etc.) that may be produced, transmitted or stored on the Contractor's equipment or premises; access to work areas; and access to interactively monitor and log traffic on the Contractor's networks.

- 13.24** Solicitation. The Contractor warrants that no person or selling FLVS (except bona fide employees or selling agents maintained for the purpose of securing business) has been employed or retained to solicit and secure the Contract upon an agreement or understanding for commission, percentage, brokerage or contingency.
- 13.25** Immunity from Liability. Every person who is a party to the Contract is hereby notified and agrees that FLVS is immune from liability and suit for or from Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.
- 13.26** Public Records. Florida Virtual School is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law including: (a) keeping and maintaining public records that ordinarily and necessarily would be required by the BOARD in order to perform the service; (b) providing the public with access to public records on the same terms and conditions that the BOARD would provide the records and at a cost that does not exceed the cost provided in chapter or as otherwise provided by law; (c) ensuring that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meeting all requirements for retaining public records and transfer at no cost to the BOARD, all public records in possession of the contractor upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the BOARD in a format that is compatible with the information technology systems of the BOARD. The parties agree that if the contractor fails to comply with a public records request, then Florida Virtual School must enforce the contract provisions in accordance with the contract and as required by Section 119.0701, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT, CustodianofRecords@flvs.net , OR BY PHONE 407-513-3325, OR BY MAIL TO: 2145 METROCENTER BLVD., SUITE 100, ORLANDO, FL 32835.

- 13.27** Debarred, Suspended, and Ineligible Status. Contractor certifies that the Contractor and/or any of its subcontractors have not been debarred, suspended, or declared ineligible by any Agency of the State of Florida or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4. Contractor will immediately notify FLVS if Contractor is debarred by the State or placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.

- 13.28 Use of Name or Intellectual Property.** Contractor agrees it will not use the name or any intellectual property, including but not limited to, FLVS trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of FLVS.
- 13.29 Taxes.** FLVS is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. FLVS is exempt from State and Local Sales and Use Taxes on the services. Tax Exemption Certificates will be furnished upon request. Contractor or an authorized subcontractor has provided FLVS with a sworn verification regarding the filing of unemployment taxes or persons assigned by Contractor to perform Services, which verification is incorporated herein by reference.
- 13.30 Certification Regarding Sales and Use Tax.** By executing the Contract, the Contractor certifies it is registered with the State Department of Revenue, collects, and remits State sales and use taxes as required by Florida law. The Contractor also acknowledges that FLVS may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in FLVS or its representative filing for damages for breach of contract.
- 13.31 Delay or Impossibility of Performance.** Neither party shall be in default under the Contract if performance is delayed or made impossible by an act of God. In each such case, the delay or impossibility must be beyond the control and without the fault or negligence of the Contractor. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract.
- 13.32 Obligations Beyond Contract Term.** The Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to the Contract. All obligations of the Contractor incurred or existing under the Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of the Contract.
- 13.33 Counterparts.** FLVS and the Contractor agree that the Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same Order.
- 13.34 Further Assurances and Corrective Orders.** FLVS and the Contractor agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further Orders as may reasonably be required for carrying out the expressed intention of the Contract.
- 13.35 Transition Cooperation and Cooperation with other Contractors.** Contractor agrees that upon termination of this Contract for any reason, it shall provide sufficient efforts and cooperation to ensure an orderly and efficient transition of services to FLVS or another contractor. The Contractor shall provide full disclosure to FLVS and the third-party contractor about the equipment, software, or services required to perform the Services for FLVS. The Contractor shall transfer licenses or assign agreements for any software or third-party services used to provide the Services to FLVS or to another contractor.
- Further, in the event that FLVS has entered into or enters into agreements with other contractors for additional work related to Services rendered under the Contract, Contractor agrees to cooperate fully with such other contractors. Contractor shall not commit any act, which will interfere with the performance of work by any other contractor.
- 13.36 Order of Preference.** In the case of any inconsistency or conflict among the specific provisions of FLVS Standard Master Service Contract Terms and Conditions (including any amendments accepted by both FLVS and the Contractor attached hereto), the RFX (including any subsequent addenda), and the Contractor's Response, any inconsistency or conflict shall be resolved as follows:
- (i) First, by giving preference to the specific provisions of FLVS Standard Master Service Contract Terms and Conditions.
 - (ii) Second, by giving preference to the specific provisions of the SOW.

- (iii) Third, by giving preference to the specific provisions of the RFX, Contractor's Response, except that objections or amendments by a Contractor that have not been explicitly accepted by FLVS in writing shall not be included in this Contract and shall be given no weight or consideration.

13.37 Intent of References to Bid Documents. The references to the parties' obligations, which are contained in this document, are intended to supplement or clarify the obligations as stated in the RFX and the Contractor's Response. The failure of the parties to make reference to the terms of the RFX or the Contractor's Response in this document shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the RFX and the Contractor's Response. The contractual obligations of FLVS cannot be implied from the Contractor's Response. Contractor may be suspended, terminated, or debarred if it is determined that:

- (i) Contractor has made false certification here or in the RFX; or
- (ii) Contractor fails to carry out the requirements of this contract.

13.38 Severability. In the event any provision of this Agreement (or portion thereof) is determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such provision shall be deemed to have been deleted from this Agreement, while the remainder of this Agreement shall remain in full force and effect according to its terms.

13.39 Travel. If Anticipated Contractor travel costs are included in contractor rates and fees for scope deliverables. FLVS will not be invoiced separately for Contractor travel expenses related to this anticipated travel. If Contractor arranges for their own travel, FLVS will only reimburse up to what is considered acceptable based on FLVS travel policy (Exhibit X - TR001).

14 FEDERAL PROVISIONS [THESE PROVISIONS MAY NOT BE APPLICABLE TO THIS CONTRACT BUT FLVS IS REQUIRED BY THE UNIFORMED GRANT GUIDANCE TO HAVE THIS IN ALL CONTRACTS UTILIZING FEDERAL FUNDS]

14.1 Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

14.2 All Contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

14.3 Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

14.4 Environmental Protection. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the regional office of the Environmental Protection Agency (EPA).

14.5 Debarment and Suspension Certification. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

14.6 Lobbying Certification Contract must adhere to: Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

ATTACHMENT 2
FLVS STANDARD MASTER SERVICE CONTRACT

Solicitation

[\[Attach Solicitation Document\]](#)

ATTACHMENT 3
FLVS STANDARD MASTER SERVICE CONTRACT

Solicitation Addendum

[Attach Solicitation Addendum if Any]

ATTACHMENT 4
FLVS STANDARD MASTER SERVICE CONTRACT

Contractor's Final Response

[Insert Contractor's Proposal]

ATTACHMENT 5

FLVS STANDARD MASTER SERVICE CONTRACT

Statement of Work (SOW) & Change Orders

[Insert Statement of Work/Scope of Work (SOW) & Change Orders if any]



FLORIDA VIRTUAL SCHOOL

Florida Virtual School
Statement of Work (SOW) #
XXXXXX

Master Service Agreement #XXXXXX for: XXXXXX

1. Term of SOW: Start Date: _____ End Date: _____ Project

2. Description and Scope

This statement of work pursuant to the terms of the MSA# XXXXXX between FLVS and XXXXXX identified above is for the purpose of XXXXX. XXXXXX shall be paid as described below by Florida Virtual School.

3. Project Timeline and Milestones

Table with 2 columns: Project Schedule, Milestone Due date. Rows include Kickoff and Completion Due Date.

Notes:

-

4. Deliverables, Cost Structure and Payment Terms

Payment to the Contractor will be provided as described in MSA #XXXXXX. Any changes must be mutually agreed upon through issuance of FLVS Change Order.

Table with 2 columns: Deliverables, Cost. Rows show cost breakdown with dollar signs.

	\$
Completion	\$
TOTAL	\$

Notes:

- No work may begin until FLVS purchase order is issued to the Contractor. Services shall be made as specified on the purchase order or reference the corresponding Contractual agreement governing the specifications and terms and conditions. Contractor will not be compensated for work performed without receipt of a purchase order.
- Invoices will be based upon actual quantities delivered and accepted by FLVS. If fewer items are delivered and accepted, a reduction on the final invoice shall apply.
- Any invoice submitted as a result of this SOW shall be itemized reflecting the items on the purchase order. Unless otherwise stated in the contract, "lump sum" invoices shall not be submitted nor will be accepted for multiple line purchase orders. FLVS will only pay the dollar amounts authorized on the purchase order.
- Contractor will not invoice FLVS for amounts in excess of the above stated costs without prior written approval from FLVS (issuance of Statement of Work Change Order and revised Purchase Order).
- No verbal modifications to this Statement of Work may be made, including, but not limited to, scope, deliverables, milestones, and cost. Any and all modifications to this SOW must be made in writing via Statement of Work Change Order signed by both parties.
- Invoices must include the FLVS purchase order number and be sent to FLVS Accounts Payable (accountspayable@flvs.net) with a copy to XXXXX at XXX@flvs.net.

5. Liquidated Damages *(Include when applicable)*

Liquidated damages shall apply if the Contractor fails to meet the project schedule (Section 3) as specified within the Statement of Work. FLVS may, at its discretion, elect to assess liquidated damages in the amount of \$XXX.XX per calendar day until the earlier of the date that:

- a. the Contractor completes the task
- b. FLVS secures the deliverable elsewhere.
- c. FLVS needs otherwise cease

Set-Off Against Sums Owed by the Contractor. In the event that the Contractor owes FLVS any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, FLVS may set off the sum owed against any sum owed by FLVS to the Contractor in FLVS sole discretion.

6. Authorized Person to Receive Contract/Approval Notices for:

<u>Contractor:</u>	<u>FLVS:</u>
Name:	Name:
Phone:	Phone:
Email:	Email:

Nothing contained in this Statement of Work is agreeing to or authorizing any change in the terms of the MSA #XXXXXXXXXX, nor is this agreement authorizing or agreeing to any financial commitment beyond that authorized by the FLVS Board of Trustees in the Master Service Agreement.

Intellectual Property Ownership. Except for the rights expressly granted in this Agreement, neither party shall acquire any claims to or rights in any Background Intellectual Property of the other party. All right, title and interest in and to any course content or materials created by Contractor as part of the services provided hereunder including without limitation all rights of patent, copyright, trademark, and other intellectual property and proprietary rights, shall vest in FLVS and shall be deemed a “work made for hire,” as that term is defined in the U.S. Copyright Act (17 U.S.C. § 101), by Contractor for FLVS. If the course content, materials or any portion thereof may not be considered a “work made for hire,” Contractor hereby assigns to FLVS its entire right, title and interest in and to such course content and materials.

IN WITNESS WHEREOF, this Contract has been executed by the parties hereto.

Contractor

Contractor’s Name *(If other than an individual, state whether a corporation, partnership, etc.)*

By <i>(Authorized Signature)</i>	Date Signed
----------------------------------	-------------

Printed Name and Title of Person Signing

Address

FLVS

FLVS Name

By <i>(Authorized Signature)</i>	Date Signed
----------------------------------	-------------

Printed Name and Title of Person Signing

Address
2145 Metro Center Blvd. Suite 200, Orlando, FL 32835

<i>SOW Reviewed by:</i>	<i>Signature:</i>	<i>Date of Review:</i>

ATTACHMENT 6
FLVS STANDARD MASTER SERVICE CONTRACT

**Amendments to the "FLVS Standard Master Service Contract Terms and Conditions" and
Any FLVS Special Terms and Conditions**

FLVS Standard Master Service Contract Terms and Conditions are hereby modified as follows:

[Insert Amendments (if any)]