

CONSENT AGENDA ITEM
BOARD MEETING
June 28, 2022

TOPIC: **APPROVE PURCHASE OF MARKETING SERVICES**

BACKGROUND:

Fort Worth ISD (FWISD) borders various school districts. In addition, there are various charter operators in, or in close proximity to, District boundaries. In recent years, the marketing, for recruitment purposes, of ISDs and Charters has increased. Families need to be informed of the programming within Fort Worth ISD in order to make an informed choice.

Fort Worth ISD (FWISD) sought proposals from diverse and qualified firms to:

- 1) Administer comprehensive and diverse marketing campaigns,
- 2) Provide project-based PR and marketing services,
- 3) Create compelling marketing collateral,
- 4) Share information about the programs and opportunities of Fort Worth ISD,
- 5) Communicate programs, deadlines, requirements and other important information to all students, parents, families, staff, and community stakeholders, in various languages included but not limited to English and Spanish.

Respondents to this Request for Proposal were required to demonstrate the ability to perform a variety of marketing services in general and multicultural markets, including but not limited to: Marketing analyses and research, Campaign development, Online/print/digital/social media ads, and Various creative services. The services will be provided between July 1st, 2022 – March 30th, 2024.

STRATEGIC GOAL:

3 - Enhance Family and Community Engagement

ALTERNATIVES:

1. Approve Purchase of Marketing Services
2. Decline to Approve Purchase of Marketing Services
3. Remand to Staff for Further Study

SUPERINTENDENT’S RECOMMENDATION:

Approve Purchase of Marketing Services

FUNDING SOURCE: *Additional Details*

General Fund	199-13-6299-001-999-99-417-000000.....	\$391,615
	XXX-13-6200-XXX-XXX-XX-XXX-XXXXXXX.....	\$893,000

COSTS:

Not-to-Exceed - \$1,234,615

VENDOR:

Alpha Business Images - ABI*

PURCHASING MECHANISM:

Bid/RFP/RFQ

Bid/Proposal Statistics

Bid Number: 22-111

Number of Bid/Proposals received: 13

HUB Firms: 3*

Compliant Bids: 13

**Awarded vendor is a Historically Underutilized Business.*

The above bid/proposal has been evaluated in accordance with the Texas Education Code Section 44.031(b) regarding specifications, pricing, performance history, etc. The vendor listed above has been selected to support this purchase.

Purchasing Support Documents Needed:

- Bid – Bid Summary / Evaluation
- Inter-Local (IL) – Price Quote and IL Contract Summary Required
- Sole Source – Price Quote and Notarized FWISD Sole Source Affidavit
- Emergency – Price Quote and Emergency Affidavit

PARTICIPATING SCHOOL(S)/DEPARTMENT(S)/EDUCATIONAL ENTITY:

All Fort Worth ISD Schools

RATIONALE:

This contract will support FWISD’s effort to increase awareness about the District’s school and program options, attract and retain students, and positively impact district enrollment.

This process would also gather information from our communities about the programming and support they would like to see in the schools. The information gathered will be valuable in the District’s continuous improvement efforts.

INFORMATION SOURCE:

David Saenz

Letter of Agreement (“Agreement” or “agreement”)

Date 5.19.21

Client: Fort Worth ISD

Job Number FWISD21005

Project: Marketing and Public Relations

Job Description and Usage

Alpha Business Images, LLC (“ABI”) will provide to Fort Worth ISD (“FWISD”) the services and works described herein (collectively, the “Work Product”):

SEE EXHIBIT A

- Build brand equity and awareness
- Build campaign to increase Enrollment of Students into Fort Worth ISD schools across the District
- Build campaign to increase enrollment of students into FWISD Gold Seal Program
- Build communication strategy for teacher retention

Project Management

Kayleigh Maddie and Bria Robinson will serve as the day-to-day contacts. Dawn Davidson will lead creative and Sophia Johnson will lead strategy. ABI’s team will work directly with David Saenz to ensure smooth, consistent communication is maintained throughout the project’s development. Sophia Johnson of ABI and David Saenz of FWISD will agree in writing on any changes to Work Product, assigned tasks, payment, or the project schedule.

Reporting - Communication is critical to the success of any relationship. ABI will prepare and submit status reports on activities and meetings as requested. In addition, ABI will be available to communicate with FWISD staff as needed to ensure close coordination for urgent deadlines and activities.

Payment and Term of Agreement

In exchange for Marketing & Advertising Services, FWISD will pay ABI a monthly fee based on any work completed in the previous month for agency fees, third-party

expenses and media buying as outlined in Exhibit A and any approved estimates. FWISD will pay the Monthly Fee beginning June 1, 2022 and continuing on the 15th day of each calendar month thereafter. ABI will accomplish the Work Product assignments including associated meetings. Should FWISD wish to engage ABI on assignments that exceed assignments detailed under Work Product, a separate written agreement for the additional scope of services and payment of the amount for additional fees will be required. For any third-party expenses, a cost estimate will be given to FWISD for approval in writing before such costs are billed to FWISD, and ABI shall not be required to incur any such third-party expenses until ABI receives written approval from FWISD. The Monthly Fee does not cover any third-party expenses (including, without limitation, costs for photography, printing, video production, materials, more than one full color sample, courier, shipping, specialty fonts, stock photography, photo manipulation, illustrations, and any other third-party products and/or services). All other third-party cost will be paid upon delivery of finished products to FWISD.

The term of this Agreement is one year with two renewable years. This Agreement will terminate automatically at the end of one year unless ABI and FWISD renew for another term on or before the termination date of the Agreement.

Terms and Conditions

All Work Product and all tangible and intangible rights therein shall belong exclusively to FWISD and all Work Product shall, to the extent possible, be considered a work made for hire for FWISD within the meaning of Title 17 of the United States Code. To the extent any such Work Product is not considered a work for hire, ABI hereby automatically, irrevocably and always SELLS, ASSIGNS, CONVEYS, AND OTHERWISE FULLY TRANSFERS all right, title, and interest in such Work Product, including all rights in the processes relating to the Work Product, and all copyrights and other Intellectual Property Rights pertaining to the Work Product.

For purposes of this Agreement, “Intellectual Property Rights” means any and all (a) patents, patent disclosures and inventions (whether patentable or not), (b) rights to make, have made, prepare, have prepared, sell, have sold, export, have exported, import, have imported, license, and have licensed, (c) trademarks, corporate names, Internet domain names, and registrations and applications for the registration thereof together with all of the goodwill associated therewith, (d) copyrights and other rights associated with works of authorship throughout the world, including neighboring rights, moral rights, and mask works, (e) computer software programs, data, databases and documentation thereof, (f) trade secrets and other confidential information, (g) other intellectual and industrial property rights of every kind and nature throughout the world and however designated, whether arising by operation of law, contract, license, or otherwise, (h) registrations, applications, renewals, extensions, continuations, divisions, revisions, revivals or reissues thereof now or hereafter in effect, (i) causes of action for past, present or future infringement or misappropriation of, based upon, or

relating to, the Work Product and any and all rights to receive income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and (j) profits, benefits, and advantages that shall or may arise from any of the foregoing.

Notwithstanding anything in this Agreement to the contrary, the Work Product and the Intellectual Property Rights do not include anything that ABI uses or creates to use for itself or for ABI's other customers in the ordinary course of ABI's business (including, without limitation, digital templates, animation techniques, online application development, videos, and any other such items) ("ABI's Tools"). However, ABI's Tools do not include anything delivered to FWISD or created by ABI solely for FWISD pursuant to this Agreement using ABI's Tools.

At the request of FWISD, its successors and/or permitted assigns, ABI will, without additional consideration, timely execute all papers and perform such other acts as FWISD, its successors or assigns, deems necessary to ensure that FWISD is the sole owner of all Intellectual Property Rights in the Work Product and to otherwise give full and proper effect to this Agreement.

An approval signature on this Agreement shall be evidence of consent and agreement.

FWISD agrees that it shall not hold ABI or its agents, subcontractors, owners, members, shareholders, partners, directors, officers, managers, independent contractors, attorneys, accountants, advisors, or employees ("ABI's Related Parties") liable for any incidental or consequential damages that arise from ABI's or ABI's related Parties' failure to perform any aspect of the Agreement in a timely manner, regardless of whether such failure was caused by negligent acts or omissions of ABI, ABI's Related Parties, or a third party.

If either party breaches this Agreement, then the other party may terminate this Agreement upon fourteen (14) days written notice to the breaching party. Notice shall be delivered to Sophia Johnson for ABI or David Saenz for FWISD (as the case may be). If FWISD breaches this Agreement, FWISD shall pay to ABI \$2,500 plus any unpaid fees amount due and owing to ABI prior to the date of termination and any third-party expenses incurred on behalf of FWISD by ABI as liquidated damages. If ABI and/or its subcontractors breaches this Agreement, ABI shall pay to FWISD \$2,500 as liquidated damages. The parties agree that in such an event actual damages will be difficult to measure and that the agreed amounts are reasonable.

Either party may, in its sole discretion, terminate this Agreement without cause by giving the other party thirty (30) days prior written notice (to the notice addresses set forth below). Upon such termination, ABI will render and deliver to FWISD a final invoice for all unpaid fee amounts, charges, expenses, and any other costs due to ABI and accrued prior to the date of termination from FWISD or incurred by ABI on behalf of FWISD under this Agreement. FWISD will pay to ABI the full amount shown on the invoice within seven (7) days from the date of the invoice, unless FWISD disputes the

invoice amount, at which time the dispute resolution provisions of this Agreement set forth below will be followed with respect to the disputed amount, but any undisputed amount will be paid with seven (7) days from the date of the invoice.

At such time that this Agreement terminates (whether for cause, automatically, or as a result of a breach) and upon payment in full by the FWISD to ABI of the amount shown on ABI's final invoice, all Work Product, in whatever format, created for FWISD pursuant to the terms of this Agreement shall be delivered to FWISD within ten (10) days of the expiration of the Agreement with usage rights as outlined in this Agreement. If FWISD disputes an amount shown on ABI's final invoice but wants all or any portion of the Work Product delivered before the dispute is resolved, then FWISD shall pay to ABI the reasonable value of such Work Product, and ABI shall deliver such Work Product to FWISD within ten (10) days after ABI receives such payment.

ABI's performance under this Agreement is expressly conditioned on cooperation from FWISD, including, without limitation FWISD providing access to and accurate and timely communication with FWISD's leadership and feedback from FWISD leadership and designated representatives.

There are no third-party beneficiaries to this agreement.

This Agreement may not be assigned by either party without the prior written consent of the other party, and any attempted assignment is void, except that ABI has the right to use subcontractors to assist ABI in providing the services ABI is required to perform under this agreement. ABI will inform and obtain written approval from FWISD of subcontractors before engaging the subcontractors for FWISD services. Subject to the \$7,500 liquidated damages provision stated above, ABI is liable to FWISD for the actual damages to FWISD caused by any subcontractor controlled by ABI for breach of the subcontractor's duties under this Agreement. Notwithstanding anything in this Agreement to the contrary, in no event shall ABI's liability to FWISD for the acts or omissions of any subcontractor include any consequential, punitive, or exemplary damages related to any breach of contract, torts, or other unlawful acts or omissions.

This agreement constitutes the entire agreement of the parties relating to the subject matter of, and the transactions contemplated by this agreement. Any and all previous agreements with respect to these matters are superseded by this Agreement, subject to any exceptions expressly stated in this agreement. No oral understandings, statements, promises, or inducements contrary to or inconsistent with the terms this Agreement exists.

No term, provision or condition of this agreement may be modified in any respect except by writing that is executed by the parties to this agreement.

No person has any authority to make any representations or promises on behalf of any of the parties not set forth herein, and this Agreement has not been executed in

reliance upon any representation or promise except those expressly contained in this agreement.

THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH AND SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS AND, WHERE APPLICABLE, THE LAWS OF THE UNITED STATES.

The obligations of the parties are performable and venue for any dispute or legal action arising out of this agreement shall lie in Dallas County, Texas.

Any disputes arising out of this Agreement shall be submitted by either party to JAMS located in Dallas County, Texas for mediation. Mediation shall be non-binding. Mediation shall occur in Dallas, Texas. The cost of any mediator used by the parties shall be paid equally by both parties. ABI and FWISD shall pay their own attorneys' fees related to mediation. If the issue is not resolved within thirty (30) days from the date the issue was submitted to mediation, the dispute may be submitted to a court of competent jurisdiction in Dallas County, Texas. The prevailing party in the litigation is entitled to the recovery of reasonable attorneys' fees.

Any notice required by or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the following addresses:

For ABI: Sophia Johnson
 400 North Saint Paul
 Suite 300
 Dallas, Texas 75201

For FWISD: David Saenz
 100 N University Drive
 Fort Worth, Texas 76107-3010

Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, electronic mail, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided in this agreement.

Both parties acknowledge having carefully read this Agreement; that they have had the opportunity to review this Agreement with their own counsel; that they fully understand its final and binding effect; and that each party is signing this Agreement knowingly and voluntarily.

The failure of either party to enforce or to require timely compliance with any term or provision of this Agreement shall not be deemed to be a waiver or relinquishment of

rights or obligations arising hereunder, nor shall this failure preclude the enforcement of any term or provision or avoid the liability for any breach of this Agreement.

Each part, term, or provision of this Agreement is severable from the others. Notwithstanding any possible future finding by a duly constituted authority that a particular part, term, or provision is invalid, void, or unenforceable, this Agreement has been made with the clear intention that the validity and enforceability of the remaining parts, terms, and provisions shall not be affected thereby. Any invalid, unlawful, or unenforceable provision in this Agreement shall be reformed to the extent necessary to render it valid, lawful, and enforceable in a manner consistent with the intentions of the parties regarding such provision.

This Agreement shall be deemed drafted equally by the parties. The language in the Agreement shall be construed as a whole and according to its plain meaning. Any presumption or principle that the language is to be construed against any party shall not apply. Any headings in this agreement are for convenience and are not intended to affect construction or interpretation. The plural includes the singular and the singular includes the plural; "any" and "all" each mean "any and all"; "each" and "every" each mean "each and every"; and "including" and "includes" are each "without limitation."

This Agreement may be executed in multiple counterparts. All counterparts taken together will constitute this Agreement.

If you agree to the terms of this Agreement, please so indicate by signing below and returning two copies of the original. One fully executed copy will be returned to you for your files.

We are looking forward to an exciting year of marketing the Fort Worth ISD and strengthening its reputation as subject matter on the North Texas region.

Sincerely,

Sophia R. Johnson
Chief Executive Officer
Alpha Business Images, LLC

Alpha Business Images, LLC

By: _____
Printed Name: Sophia R. Johnson

Title: CEO

Date: _____

Agreed and Accepted:



Fort Worth ISD

By: _____
Printed Name: David Saenz

Title: Chief Innovation Officer

Date: _____

Gold Seal Program Enrollment Campaign			FY23-24 Enrollment					Awareness Campaign (Social Media + Display)				
January	February	March	April	May	June	July	August	September	October	November	December	January
\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$6,000	\$7,000	\$7,000	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500
\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$4,500	\$5,000	\$5,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000
\$3,000	\$3,000	\$3,000	\$3,500	\$3,500	\$4,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
\$2,500	\$2,500	\$2,500						\$2,000	\$2,000	\$2,000	\$2,000	\$2,000
			\$1,000	\$1,000	\$1,500	\$2,500	\$2,500					
			\$1,000	\$1,000	\$1,500	\$2,500	\$2,500					
\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$12,000	\$15,000	\$15,000					
\$22,000	\$22,000	\$22,000	\$25,000	\$25,000	\$30,000	\$40,000	\$40,000					
				\$30,000								\$30,000
				\$9,000								
			\$3,000	\$3,000	\$4,000	\$5,000	\$5,000					
			\$5,000								\$5,000	
\$45,000	\$45,000	\$45,000	\$56,000	\$90,000	\$63,500	\$82,000	\$82,000	\$14,500	\$14,500	\$14,500	\$19,500	\$44,500
\$4,950	\$1,980	\$1,980	\$4,950	\$3,300	\$3,300	\$3,300	\$3,300	\$1,980	\$1,980	\$1,980	\$1,980	\$1,980
\$7,425	\$4,950	\$4,950	\$7,425	\$4,950	\$4,950	\$4,950	\$4,950	\$4,950	\$4,950	\$4,950	\$4,950	\$4,950
\$25,000			\$30,000									
\$10,000			\$10,000									
			\$5,000					\$5,000				
\$1,650	\$1,650	\$1,650	\$1,650	\$1,650	\$1,650	\$1,650	\$1,650	\$1,650	\$330	\$330	\$330	\$330
\$49,025	\$8,580	\$8,580	\$59,025	\$9,900	\$9,900	\$9,900	\$9,900	\$13,580	\$7,260	\$7,260	\$7,260	\$7,260
\$94,025	\$53,580	\$53,580	\$115,025	\$99,900	\$73,400	\$91,900	\$91,900	\$28,080	\$21,760	\$21,760	\$26,760	\$51,760