

*McLean Independent School District*



**REQUEST FOR COMPETITIVE SEALED PROPOSALS FOR  
CONTRACTOR SERVICES  
RFP No. 23-011**

for

***Gymnasium HVAC Project***

***Proposal Due – 2:00 p.m. on July 20, 2023***

McLean Independent School District  
600 Rowe St.  
McLean, TX 79057

# REQUEST FOR PROPOSAL, No. 23-011

July 6, 2023

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## I. NOTICE & ADVERTISEMENT RPF NO. 23-011, CONTRACTOR SERVICES

McLean Independent School District is requesting competitive sealed proposals for a general contractor as set out in Texas Government Code, Chapter 2269, Subchapter D, for the replacement and improvements to the HVAC system at the main McLean ISD Gymnasium, as described in the drawing and specifications attached hereto and incorporated herein as Exhibit "B" (the "Gymnasium HVAC Project"). Proposals must be mailed via US postal service to: PO Box 90, McLean, TX 79057; or, may be hand delivered to: McLean ISD, Superintendent's office at 600 Rowe St., McLean, TX 79057. All sealed proposals must arrive by 2:00 p.m., July 20, 2023 (the "Proposal Deadline"). Each proposal shall be identified by typing on the outside of an opaque envelope: **"Gymnasium HVAC Project, RFP No. 23-011."** Proposals received after 2:00 p.m., July 20, 2023 will be returned unopened. *Note that the District offices are closed on Fridays during the summer.*

**FEDERALLY FUNDED PROJECT.** The Gymnasium HVAC Project will be funded, at least in part, by Federal ESSER funds. Contractor must ensure compliance with all applicable state and federal laws, including without limitation minimum prevailing wage rates.

The District reserves the right to reject, in its sole discretion, any or all proposals submitted in response to the RFP, or any part of any proposal and/or waive minor technicalities. **The District reserves the right to seek clarification and/or request additional information.** District will award a contract, if any, that serves the best interests of the District. District's waiver of any deviations in any proposal will not constitute a modification of this RFP and will not preclude District from asserting all rights against Contractor for failure to fully comply with all terms and conditions of this RFP. ***Should a proposal contain conflicting terms, the District reserves the right to enforce the term or terms in such proposal that it determines to be in the best interest of the District, and Contractor agrees to be bound by the terms it has proposed that that the District determines are most favorable it.*** All proposals in response to this RFP become the property of the District and may constitute contracting information that is subject to release to any requester under the provisions of the Texas Public Information Act, Chapter 552 of the Texas Government Code, and Attorney General Opinions issued under that statute. If Contractor believes any portion of the Proposal is excepted from release, it should clearly mark such portion as "CONFIDENTIAL," and provide written legal authority as to why Vendor believes such information should not be released.

The District may re-issue another RFP for the services as described in this RFP or similar services at any time.

**Per Section 44.043, of the Education Code, (b) notwithstanding any other provision of this chapter, a school district:**

1. May not consider whether a contractor is a member of or has another relationship with any organizations; and
2. Shall ensure that its Proposal specifications do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

For additional information, see the Proposal Instructions. All inquiries relating to this RFP should be directed to Amy Calvert at 806-779-2571 or [amy.calvert@mcleanisd.com](mailto:amy.calvert@mcleanisd.com).

Unless a prevailing wage schedule is otherwise attached hereto, the Board of Trustees, for the purpose of complying with Section 2258, Subchapter B of the Texas Government Code for all

public contracts, has adopted the prevailing wage rates as determined by the United States Department of Labor in accordance with the Davis-Bacon Act as the published rates for the District. These rates are listed on the following website <https://sam.gov/content/wage-determinations>.

It is the responsibility of the Contractor to ensure that it and all subcontractors pay the appropriate wage rate or higher on the Project or be subject to penalty as set forth in section 2258.023 of the Texas General Government Code.

**THE DISTRICT RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS AND TO WAIVE IRREGULARITIES OR INFORMALITIES AS MAY BE DEEMED IN THE DISTRICT'S BEST INTEREST.**

**WAIVER OF CLAIMS: BY TENDERING A RESPONSE TO THIS RFP, THE CONTRACTOR ACKNOWLEDGES THAT IT HAS READ AND FULLY UNDERSTANDS THE REQUIREMENTS FOR SUBMITTING A PROPOSAL, AND THE PROCESS USED BY THE DISTRICT FOR SELECTING A CONTRACTOR. FURTHER, BY RESPONDING AND FOR BEING CONSIDERED FOR THIS PROJECT, THE CONTRACTOR FULLY, VOLUNTARILY AND UNDERSTANDINGLY WAIVES AND RELEASES ALL CLAIMS AGAINST DISTRICT, OR ANY OF ITS TRUSTEES, OFFICERS, AGENTS AND/OR EMPLOYEES THAT COULD ARISE OUT OF THE ADMINISTRATION, EVALUATION, REJECTION, RECOMMENDATION, OR SELECTION OF ANY PROPOSAL SUBMITTED IN RESPONSE TO THIS RFP.**

## II. PROPOSAL INSTRUCTIONS

### 1.1 RECEIPT AND OPENING OF PROPOSALS

- A. McLean Independent School District (hereinafter referred to as “District” or “Owner”), invites Proposals for replacement and improvements to the HVAC system at main McLean ISD Gymnasium (the “Gymnasium HVAC Project”).
- B. SUBMISSION OF PROPOSALS: Proposals shall be submitted in a sealed, opaque envelope Addressed to Amy Calvert, Business Manager. Proposals shall be mailed by U.S. Postal Service or delivered by hand or overnight carrier to:

McLean ISD  
Attn: Amy Calvert, Business Manager  
Mailing Address: PO Box 90, McLean, TX 79057  
Physical Address: 600 Rowe St., McLean, TX 79057

PROPOSALS SHALL BE SUBMITTED NO LATER THAN THE PROPOSAL DEADLINE OF: July 20, 2023 at 2:00 p.m.

ALL ENVELOPES CONTAINING PROPOSALS SHALL BE MARKED WITH "Gymnasium HVAC Project, RFP No. 23-011"

ALL PROPOSALS MUST BE RECEIVED BY DISTRICT BEFORE THE PROPOSAL DEADLINE.

- C. LATE PROPOSALS: District is not responsible for lateness of mail, carrier, etc. and the time/date stamped in District's office shall be the official time of receipt.
- D. OPENING: Upon the Deadline, proposals will be opened and the following will be read aloud:

Name of firm responding  
Fees or prices

- E. LOCATION OF PROPOSAL OPENING: Proposals will be publicly opened on date and at the time indicated in 1.1.B. above. Opening will be at the following location:

McLean Independent School District  
Administration Office  
600 Rowe St.  
McLean, TX 79057

- F. NO ORAL, electronic, telegraphic, telephonic or facsimile transmitted proposal(s) will be considered.
- G. PRE-PROPOSAL MEETING: The District reserves the right to call a pre-proposal meeting. If such a meeting is called, it will be scheduled before the Deadline during the week of July 17, 2023, and all contractors who have requested an RFP packet from the District, or expressed written interest in the

Project, will be notified of the date and time. **All Contractors are strongly encouraged to attend the pre-proposal meeting, if scheduled. The purpose of the meeting will be to inspect the site, review any specific requirements and answer questions.**

## 1.2 METHOD OF PROPOSAL

- A. DOCUMENTS: Each Contractor must submit three (3) hard copies and one (1) electronic copy on a USB flash drive of the proposal documents.
- B. ETHICS: The Contractor shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official or agent of the District.
- C. CONFLICT OF INTEREST: Public officials with a substantial interest in a business entity or in real property must file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and may be required to abstain from further participation in the matter in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitle C, Chapter 171.

Local government officers may be required to file a conflicts disclosure statement with respect to a Contractor in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitle C, Chapter 176.

### **Notice to Contractors: Conflict of Interest Questionnaire is Required by Chapter 176 of the Texas Local Government Code**

Any person or entity, as well as agents of such persons, who contracts or seeks to contract with McLean Independent School District for the sale or purchase of property, goods, or services (hereafter referred to as Contractor) are required to file a completed conflict of interest questionnaire in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitle C, Chapter 176. Each person or entity that contracts with the District is responsible for complying with all applicable disclosure requirements. Forms and instructions will be included in the RFP package.

- D. CERTIFICATE OF INTERESTED PARTIES: Effective September 1, 2019, Texas governmental entities must comply with the "Disclosure of Interested Parties" mandated by Texas Government Code Title 10, Subtitle F, Chapter 2252.908. Briefly stated, contracts requiring an action or vote by the governing body of the entity or agency before the contract may be signed (regardless of the dollar amount) or that have a value of at least \$1 million will require the on-line completion of Form 1295 "Certificate of Interested Parties," per Texas Government Code § 2252.908. Therefore, Contractor will be required to create, electronically file, and present such Form 1295 to the District using the Texas Ethics Commission's online filing application at final execution of any contract with the District.
- E. NO BOYCOTT OF ISRAEL. Pursuant to Texas Government Code, Chapter 2271, as amended, if Contractor is a for-profit organization, association,

corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott Israel and will not boycott Israel during the term of any resulting contract. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

- F. COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR A FOREIGN TERRORIST ORGANIZATION. In accordance with Texas Government Code, Chapter 2252, Subchapter F, the District is prohibited from entering into a contract with a company that is identified on a list prepared and maintained by the Texas Comptroller or the State Pension Review Board under Texas Government Code Sections 806.051, 807.051, or 2252.153. By execution of any Agreement resulting from this RFP 23-011, proposer certifies to the District that it is not a listed company under any of those Texas Government Code provisions. Proposer hereby voluntarily and knowingly acknowledges and agrees that any resulting Agreement shall be null and void should facts arise leading the District to believe that the proposer was a listed company at the time of this procurement.
  
- G. NO DISCRIMINATION OF FIREARM ENTITIES OR TRADE ASSOCIATIONS. Pursuant to Texas Government Code, Chapter 2274, as enacted in SB19 by the 87th Legislature, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten (10) or more full-time employees and the value of the contract with District is \$100,000 or more, the Contractor represents and warrants to the District that the Contractor does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of any contract resulting from this RFP.
  
- G. STATE CONTRACTS AND INVESTMENTS IN COMPANIES THAT BOYCOTT ENERGY COMPANIES. Pursuant to Texas Government Code, 2274, as enacted in SB13 by the 87th Legislature, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten

(10) or more full-time employees and the value of any contract with District resulting from this RFP is \$100,000 or more, the Contractor represents and warrants to the District that the Contractor does not boycott energy companies and will not boycott energy companies during the term of any contract resulting from this RFP.

- H. ABORTION PROVIDER. By submitting a Proposal in response to this RFP, Contractor verifies that it is not an abortion provider or an affiliate of abortion providers.
  
- I. **INDEMNIFICATION: THE SELECTED CONTRACTOR SHALL BE REQUIRED TO DEFEND, INDEMNIFY, HOLD, AND SAVE HARMLESS THE DISTRICT AND ALL ITS TRUSTEES, OFFICERS, AGENTS AND EMPLOYEES FROM ALL COSTS, CLAIMS, SUITS, OR ACTIONS, OF ANY CHARACTER, NAME AND DESCRIPTION BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON, PERSONS, OR PROPERTY ARISING OUT OF THE AWARD OF THE CONTRACT OR ON ACCOUNT OF ANY NEGLIGENT ACT OR FAULT OF THE SELECTED CONTRACTOR, OR OF ANY AGENT, EMPLOYEE, SUBCONTRACTOR OR SUPPLIER IN THE EXECUTION OF, OR PERFORMANCE UNDER, ANY CONTRACT WHICH MAY RESULT FROM THIS RFP, AND THE SELECTED CONTRACTOR SHALL PAY ANY JUDGMENT AND COSTS WHICH MAY BE OBTAINED AGAINST DISTRICT ARISING OUT OF SUCH INJURY OR DAMAGES;** provided and except, however, that this indemnification provision shall not be construed as requiring the selected Contractor to indemnify or hold harmless a registered architect, a licensed engineer or agent, servant, or employee of a registered architect or licensed engineer, from liability for personal injury, death, property injury, or any expense that arises from personal injury, death or property damage, that is caused by or results from (1) defects in plans, designs or specifications prepared, approved or used by the architect or engineer; or, (2) negligence of the architect or engineer in the rendition or conduct of professional duties called for arising out of the construction contract and the plans, designs or specifications that are a part of the construction contract.
  
- J. COMPLIANCE: The selected Contractor and proposal shall comply with all federal, state, county and local laws, including local building codes. The selected Contractor shall not hire nor allow work by any illegal alien.
  
- K. **WAIVER OF CLAIMS: BY TENDERING A PROPOSAL TO THIS RFP, THE CONTRACTOR ACKNOWLEDGES THAT IT HAS READ AND FULLY UNDERSTANDS THE REQUIREMENTS FOR SUBMITTING A PROPOSAL, AND THE PROCESS USED BY DISTRICT FOR SELECTING A CONTRACTOR. FURTHER, BY SUBMITTING A PROPOSAL AND BEING CONSIDERED FOR THIS PROJECT, THE CONTRACTOR FULLY, VOLUNTARILY AND UNDERSTANDINGLY WAIVES AND RELEASES ALL CLAIMS AGAINST DISTRICT OR ANY OF ITS TRUSTEES, OFFICERS, AGENTS AND/OR EMPLOYEES THAT COULD ARISE OUT OF THE ADMINISTRATION, EVALUATION, REJECTION, RECOMMENDATION, OR SELECTION OF ANY**



## PROPOSAL SUBMITTED IN RESPONSE TO THIS REQUEST FOR PROPOSAL.

- L. Unless a prevailing wage schedule is attached hereto, the District, for the purpose of complying with Section 2258, Subchapter B of the Texas Government Code for all public contracts, has adopted prevailing wage rates as determined by the United States Department of Labor in accordance with the Davis-Bacon Act as the published rates of the District. These rates are listed on the following website: <https://sam.gov/content/wage-determinations>. It is the responsibility of the Contractor to pay the appropriate rate or higher on the construction project or be subject to penalty as set forth in section 2258.023 of the Texas Government Code.
- M. The District reserves the right to require all contractors to submit statements as to previous experience in performing comparable work. The competency and responsibility of contractors and their proposed subcontractors will be considered in making an award.
- N. Each Contractor agrees in submitting its proposal that no modifications, withdrawals or cancellations may be made to the proposal during the forty-five (45) days following the time and date the District has ranked and selected Contractors.
- O. The District reserves the right to issue Addenda at any time prior to the Proposal Deadline. All such Addenda become, upon issuance, an inseparable part of the RFP.
- P. The District is qualified for exemption from State and Local Sales Tax pursuant to the provisions of Article 20.04 (F) of the Texas Limited Sales, Excise and Use Applicable State Sales Taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.
- Q. It is the intention of the District to award the work within 45 days from the date Contractors are ranked and selected by the District. However, the District may reject any or all proposals and/or abandon all or part of the Project if it determines that doing so to be in the best interest of the District.
- R. Awards shall be made with reasonable promptness to the Contractor(s) whose proposal best conforms to this invitation and will be the most advantageous to the District based on criteria and corresponding weights set forth herein at Section 1.9. Price is a single factor to be considered. **Award(s) may be made based on factors other than the lowest priced proposal.** Should a proposal contain conflicting terms, the District reserves the right to enforce the term or terms in such proposal that it determines to be in the best interest of the District, and Contractor agrees to be bound by the terms it has proposed that are most favorable to the District.
- S. Pursuant to Texas Government Code 552, Subchapter J, the selected Contractor will be bound by the following terms if the resulting contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or

services by the District or if the resulting contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to the resulting contract that is in the possession or custody of the Contractor and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the Contractor that Contractor provide that information to the District.

- T. The selected Contractor must:
1. Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the District for the duration of the Contract;
  2. Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Contractor upon request of the District; and,
  3. On completion of the Contract, either:
    - a. Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the Contractor; or
    - b. Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.
    - c. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with the requirements of that subchapter.
    - d. Further, under Texas Government Code Section 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.
    - e. If a Contractor fails to provide to the District the requested information, Texas Government Code Section 552.373 requires the District to notify the Contractor in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Contractor fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance.

### 1.3 PREPARATION OF PROPOSAL

- A. Make proposal in name of principal and if co-partnership, give names of all parties.
- B. Give Contractor's complete address.

- C. If proposal is submitted by an agent, provide satisfactory evidence of agency authority.
- D. Fill in all prices in both words and figures.
- E. Submit proposal in sealed, opaque envelope, labeled "Gymnasium HVAC Project, RFP 23-011," and indicate on the outside of envelope the Contractor's name and address.
- F. If forwarded by mail, enclose sealed envelope containing proposal in another envelope addressed as indicated.
- G. Proposal(s) must be received prior to opening time. **ANY PROPOSAL RECEIVED AFTER THE PROPOSAL DEADLINE AND TIME LISTED HEREIN SHALL BE RETURNED UNOPENED AND WILL BE CONSIDERED VOID AND UNACCEPTABLE.**
- H. Qualification Statements: Along with the requirements identified above, each Contractor shall complete and include an AIA-A305 Contractors Qualification Statement, or similar document, in the proposal package submitted.

#### 1.4 WITHDRAWAL OR REVISION OF PROPOSAL

- A. Proposal may be withdrawn or revised prior to scheduled time for opening, under following terms:
  - 1. Contractor may, without prejudice to himself, withdraw proposal after it has been deposited, provided request for such withdrawal is received in writing before time set for opening.
  - 2. After opening, no proposal may be withdrawn.
  - 3. Any interlineation, alteration, or erasure made before receiving time must be initialed and dated by the person who signed the proposal, guaranteeing authenticity.
  - 4. Once a proposal has been opened, it may not be changed for the purpose of correcting an error to the price proposed.

#### 1.5 NON-RESPONSIVE PROPOSAL

- A. Proposal(s) are considered NON-RESPONSIVE and may be rejected for any reason unless otherwise permitted by law, including without limitation:
  - 1. If there are unauthorized additions, conditional proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous.
  - 2. If Contractor adds any provisions reserving right to accept or reject any award, or to enter into a contract pursuant to an award.

- B. District reserves right to reject any or all proposal and to waive irregularities or informalities as may be deemed in District's best interest, and/or re-issue an RFP for the Project, as it may determine in its sole discretion.
- C. A proposal that is rejected will not be evaluated and will not be considered.

#### 1.6 PROPOSAL SECURITY

- A. Each individual proposal package submitted must be accompanied by Proposal Security made payable to District in an amount of five percent (5%) of the amount proposed. Proposal Security shall be in the form of a Cashier's Check or a Proposal (Bid) Bond, duly executed by Contractor as principal and having as surety thereon, a corporate surety company duly authorized and admitted to do business in the State of Texas and licensed by the State of Texas to issue such bond, as a guarantee that the Contractor will enter into a contract and execute required Performance and Payment Bonds within ten (10) days of the District's award of a contract.
- B. Each proposal must be accompanied by information establishing that the agent signing the bond is authorized to write the bond in the amount requested, and if applicable, that reinsurance requirements, have been met, including limits and ratings or other evidence of company solvency.

Contractor must demonstrate to District that he can secure required bonds, issued by a corporate surety company authorized and admitted to do business in the State of Texas and licensed in the State of Texas to issue such bond, which bonds shall be written in the form acceptable to the District.

#### 1.7 INTERPRETATIONS

- A. If Contractor is in doubt as to the true meaning or intent of the proposal documents, Contractor must submit a written request for interpretation, directed to the District's Business Manager, Amy Calvert, at 806-779-2571 or [amy.calvert@macleanisd.com](mailto:amy.calvert@macleanisd.com).
- B. Contractor submitting request is responsible for its prompt and actual delivery.
- C. Requests for interpretations must be received on or before three (3) business days prior to proposal Deadline.
- D. Only interpretations or clarifications answered by the District's representative or Superintendent above will be binding.
- E. District is not responsible for any other explanation or interpretations, which anyone presumes to make.
- F. Any corrections, approvals, supplemental instructions or changes to the proposal documents will be made by written Addenda.

- G. Addenda can be issued only by the District.
- H. Addenda will be mailed, delivered or emailed to all Contractors that request an RFP packet from the District.
- I. Contractors shall acknowledge receipt of all Addenda.
- J. Failure to receive such Addendum does not relieve Contractor from any obligation under Contractor’s proposal as submitted.
- K. All formal written Addenda become a part of the proposal documents.

1.8 INSURANCE REQUIREMENTS

The successful Contractor will be required to supply proof of insurance in accordance with the following schedule prior to the start of the Project. District requires that Contractor’s insurance be placed only with companies that have achieved at least an “A” rating with A.M. Best. The District reserves the right to require higher limits of coverage depending on the size, scope, and nature of the contract. District must be named as an additional insured and must be provided a waiver of subrogation on all policies.

<u>TYPES OF INSURANCE COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
1. Workers Compensation	Statutory
2. Employer’s Liability	\$1,000,000 each accident \$1,000,000 disease each employee \$1,000,000 disease policy limit
3. Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 general aggregate
Products – completed operations	\$2,000,000 aggregate
Personal and advertising injury	\$1,000,000 per occurrence
Medical payments	\$5,000
4. Business Automobile Liability	\$1,000,000 bodily injury each person \$500,000 bodily injury each occurrence \$100,000 property damage each occurrence
5. Contractual Liability	\$1,000,000 per occurrence \$1,000,000 general aggregate
6. Umbrella/Excess Liability	\$1,000,000 minimum amount
7. Builder’s Risk	Amount of Contract Sum

(Property damage deductible not to exceed \$25,000 per occurrence).

**\*NOTE\*** Any deviations from the types and amounts of coverage stated above should be specified in the proposal, and could be a basis for not selecting a proposal.

## 1.9 METHOD OF AWARD-SELECTION PROCESS

### A. Criteria and Weights:

Purchase price	10%
The Contractor's experience and reputation	20%
Quality of the Contractor's goods or services	10%
Contractor's overall responsiveness of proposal	10%
Contractor's past relationship with the District	25%
Contractor's financial stability/bonding capability	10%
Qualifications of Contractor's personnel	15%

The Board, pursuant to Texas Government Code §2269.053, delegated and authorized the Business Manager and the Superintendent to evaluate and rank those Contractors responding to RFP based on the weighted criteria above and to negotiate a contract on behalf of the District with the highest ranked Contractor with whom acceptable terms can be reached. The Board further authorized the Superintendent execute such contract on the District's behalf. The Board further authorized that if a suitable contract cannot be reached with the highest ranked Contractor, the Superintendent shall formally, and in writing, end negotiations with the highest ranked Contractor and he and the Business Manager shall proceed to negotiate with the next Contractor in the order of the selection ranking until a contract on acceptable terms is reached or negotiations with all ranked Contractors have ended.

### B. Per Section 44.043(b), of the Education Code, notwithstanding any other provision of this chapter, a school district:

1. May not consider whether a Contractor is a member of or has another relationship with any organizations; and
2. Shall ensure that its bid specifications do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

### C. Minimum Standards for Responsible Contractors: Contractors are required to affirmatively demonstrate their responsibility by meeting the following minimum requirements for consideration:

1. have adequate financial resources;
2. be able to comply with the required or proposed schedules;
3. have a satisfactory record of performance;
4. have a satisfactory record of integrity and ethics; and
5. be otherwise qualified and eligible to receive an award.

The District may require other information sufficient to determine Contractor's ability to meet these minimum standards listed above.

- D. In addition to requirements of the proposal documents, District may require additional information to establish responsibility of Contractor. District may further require identification of proposed subcontractors, suppliers and/or other persons and/or organizations proposed for portions of the Work and substantial data to determine their qualifications and experience. If requested, Contractor must submit all data to District. District may also consider and use as part of the evaluation, the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted in the Proposal Documents or prior to the award of contract.
- E. District may conduct such investigations as District deems necessary to assist in the evaluation of any proposal and to establish the responsibility, qualifications and financial ability of Contractor, proposed subcontractors, suppliers and other persons and organizations to perform and furnish the Work in accordance with the Proposal Documents to District's satisfaction within the prescribed time.
- F. If the contract is to be awarded, it will be awarded to the best-qualified Contractor whose proposal, as determined by the District, indicates to be in the best interests of the District.
- G. Evaluation of Alternates - Any and/or all/none of the alternates may be considered in the evaluation. District may award contract on base proposal plus any and/or all/none of the alternates.
- H. Unbalanced Proposal - If the best Contractor's proposal is significantly unbalanced either in excess of or below reasonable cost analysis values normally associated with the work, the proposal will be considered as non-responsive and will not be considered for award. The District reserves the right to evaluate and determine the next qualified proposal for consideration of award.
- I. District anticipates award within forty-five (45) days after Contractors are ranked and selected by the District.
- J. As provided in this RFP, under state regulations and District policy, discussions may be conducted with responsible Contractors who submit proposals determined to be reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding of any responsiveness to this RFP's requirements. Proposals shall be accorded fair treatment with respect to any opportunity for discussion, and such revisions may be permitted after submission and before award for the purpose of obtaining the best and final proposal. In conducting these discussions, there shall be no disclosure of any information derived from proposals submitted by competing contractors.

#### 1.10 CONFIDENTIAL DATA

Any data that is to be considered as confidential in nature must be clearly marked as such by Contractor and will be treated as confidential by District to the extent allowable by the Texas Public Information Act, Texas Government Code §552.001, *et seq.* Information not so marked shall be deemed “contracting information” and subject to disclosure upon request in accordance with the Texas Public Information Act, Texas Gov. Code Chapter 552.

The requirements of Subchapter J, Chapter 552, Government Code, may apply to this RFP and the Contractor agrees that any resulting contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

#### 1.11 ASSIGNMENT

The successful Contractor shall not sell, assign, transfer or convey a contract, in whole or in part, without the prior written consent of District.

#### 1.12 VENUE

This RFP and any resulting contract will be governed and construed according to the laws of the State of Texas, and is performable within the boundaries in McLean ISD. Mandatory venue for any legal action arising out of this RFP or any resulting contract shall be in a state district court in the county where the District’s Administrative Offices are located.

#### 1.13 CONTRACT

This RFP is not a contract. The District will begin negotiations with the Contractor selected as the highest ranked Contractor based on the District’s evaluation of the criteria and weights herein in order to execute a contract as described below. If a contract cannot be executed between the District and the highest ranked Contractor, the District reserves the right to end negotiations and proceed to negotiate a contract with the next highest ranked Contractor, and so on until a contract for the Gymnasium HVAC Project is obtained.

The District intends to use a non-AIA Standard Form Owner/Contractor Agreement, in the form attached hereto as Exhibit A. **Time is of the essence. Only revisions necessary and applicable for this project will be made, material deviations to terms of the Agreement will not be considered by the District.**



### III. SCOPE OF SERVICES AND CONTRACT

#### **Project Description, RPF NO. 23-011**

It is anticipated that the project construction will begin upon approval of a contract by the District and receipt of proof of applicable insurance and bonds.

**Project:** In general, the work will include replacement of the HVAC unit(s) and related improvements at the McLean ISD Gymnasium, as more particularly detailed in the drawing and specifications attached hereto and incorporated herein as Exhibit B.

**Estimated Project Budget** – Not to exceed \$150,000

The estimated Project Budget may not be indicative of the final cost of construction.

**Anticipated Commencement of Construction** – August 7, 2023

**Estimated Project Final Completion Date** – 30 days from Commencement of Construction, subject to delivery of necessary equipment and materials and adjustments as permitted by the contract documents.

**Liquidated Damages** - \$250/day for each day following Final Completion

#### **Contract Form and Scope of Services**

The District will contract directly with the selected Contractor. The Contractor will then conduct subcontractor selection/bidding and contract with all other subcontractors for the work, as needed. The District reserves the right to contract separately with other suppliers, vendors and contractors as deemed in the best interest of the District's Project.

Payment and performance bonds will be required of the Contractor for the Gymnasium HVAC Project. The District will make all payments directly to the Contractor for its distribution of payments to subcontractors and suppliers as appropriate.

**The District may elect to procure certain materials/equipment directly, with coordination and scheduling support from the Contractor. The materials/equipment would then be assigned to the Contractor with the full acceptance of responsibilities for coordination and installation.**

The District has business impact and related costs for late completion. Liquidated damages, as specified above, are addressed in the contract for Construction.

## IV. PROPOSAL RESPONSE GUIDELINES

Information included in your response to this Request for Proposal will be evaluated and used to determine the firms invited to interview, if any. Clarity and completeness are encouraged. Duplication of information in multiple locations is discouraged. The information provided will be used to evaluate eligibility for consideration and to score eligible responses against the criteria and weights as published herein.

Under each category of response, as applicable, indicate why your firm is the most desirable to the District and why your proposal represents the best value for the District. Please note that how you respond to this issue can impact multiple categories in the evaluation criteria. *[Please describe the quality of materials and scope of work.]*

**Proposals to this RFP shall include:**

- 1. AIA Document A305, Contractor Qualification Statement.**
- 2. Project Related Experience List including relevant recent project work for similar facilities including dates, sizes of contracts and references for the same.**
- 3. Resumes and References for Key Personnel proposed for this Project. Resumes of key personnel must show experience in projects of similar size, complexity and related challenges. Provide references that can substantiate their experience and background in similar types of facility construction.**
- 4. Acknowledge that a Certificate of Insurance will be provided with the coverages and amounts indicated in the Agreement and Conditions.**
- 5. Proof of Bonding Capability.**

## V. EVALUATION

The Superintendent and Business Manager shall review all proposals immediately upon opening and rank contractors based on the criteria and weights provided herein. The Superintendent and Business Manager will negotiate with the highest ranked contractor until a suitable contract can be executed by the Superintendent. If a suitable contract cannot be negotiated, the Superintendent may formally end negotiations in writing with the highest ranked contractor and proceed to negotiate with the next highest ranked contractor until a suitable contract can be reached, or all proposals are rejected.

By using this RFP process, the District reserves the right to discuss with potential Contractor's their proposal, scope of work, materials and fixtures so the District may select a Contractor and proposal that is in its best interest based on the criteria identified herein. **The District intends to base the selection on the proposals submitted, but reserves the right to request additional information and/or conduct interviews.**

**It is anticipated any interview, if conducted, will be 15 minutes, with 10 minutes for each Contractor's presentation and remaining time for questions and discussion. The chemistry and comfort of the team is vital to the selection. The Contractor's focus on the interview should be specific to this project and the District's concerns, including:**

1. What has the Contractor done recently that is similar to this in schedule, complexity, scope and building type?
2. What experience do the individuals proposed for the project have with similar and related work?
3. What are your thoughts on the schedule? Issues, most problematic portions of the Project? What strategies, tactics can be used to expedite Project completion?
4. What unique leverages/advantages do you offer the Project? Knowledge, experience, subcontractor market issues, vendor/equipment supplier issues, city processes, etc.
5. Use of local subcontractors, how do you solicit bids from qualified local firms?

**MCLEAN ISD  
PROPOSAL FORM  
Gymnasium HVAC Project**

Company Name: \_\_\_\_\_

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

To: McLean Independent School District  
 Attn: Amy Calvert, Business Manager  
 Mailing Address: PO Box 90, McLean, TX 79057  
 Physical Address: 600 Rowe St., McLean, TX 79057

The undersigned has carefully examined the Contract Documents (including all amendments thereto), Conditions of the Contract, the Drawing and Specifications, and addenda to the Drawing and Specifications (in any), the site, premises and all conditions affecting the work on the Project listed above. The undersigned proposes to furnish all labor, materials, services and equipment necessary to complete the entire work in strict accordance with the above documents for the sum indicated below.

Based on your company's plan to complete this Project, indicate your Guaranteed Maximum Price for the Scope of Work for this Project.

Item Description	Quantity	Unit	Unit Price	Total:
Mechanical Systems	1	LS	\$ _____	\$ _____
Electrical Systems	1	LS	\$ _____	\$ _____
Recommended Owners Contingency Amount (if any):				\$ _____

**TOTAL PROPOSAL AMOUNT: \$** \_\_\_\_\_

**The Amount proposed shall be inclusive of all costs, fees and expenses to be paid.**

\_\_\_\_\_  
 Contractor's Representative

\_\_\_\_\_  
 Date

Please describe specifications for materials you propose to use if not specified in the proposal documents; be sure to describe quality, durability, manufacturer's warranties, energy efficiency ratings, access to replacements, etc. (attach separate sheet if needed).

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**ATTACHMENTS**

Acknowledge by initialing in the blank that the following items are attached to this Proposal:

- Felony Conviction Notice \_\_\_\_\_
- Non-Collusion Affidavit \_\_\_\_\_
- Statement of Qualifications (AIA – A305) \_\_\_\_\_
- Conflict of Interest Questionnaire \_\_\_\_\_
- Verification of Compliance with State and Federal Laws \_\_\_\_\_
- Disclosure of Interested Parties (Form 1295) \_\_\_\_\_
- Bid Bond/Proposal Guarantee \_\_\_\_\_

If the undersigned is notified of the acceptance of this proposal within forty-five (45) days after delivery of this proposal, Contractor agrees and pledges to be Substantially Complete on the entire work on or before the dates specified in the Contract. If the work is not complete by such date, the Contractor and/or his Surety shall be liable for and shall pay to the District for each calendar day of delay beyond the scheduled dates until the work is Substantially Completed and Finally Completed, the amount of liquidated damages is set out in the Contract Documents.

**Proposal Guarantee:** The undersigned furnishes herewith the Proposal guarantee in the amount of 5% of the Total Proposal amount and attaches it to this Proposal. This Proposal guarantee warrants that the undersigned will not withdraw his Proposal for the period of forty-five (45) days after the scheduled closing time for the receipt of Proposals, and if this Proposal is accepted, the undersigned will enter into a formal contract (in a form prepared by the District) and that the required 100% performance bond and the 100% payment bond will be provided to the District. In the event of the withdrawal of this Proposal within the period stipulated above, or failure of the undersigned to enter into a contract or provide the required bonds within ten (10) days after the undersigned has received notice of the acceptance of this Proposal, the undersigned shall be liable to the District for the full amount of the Proposal guarantee.

It is understood that the District reserves the right to accept or reject any and all Proposals and to waive all informalities and irregularities. It is further agreed that this Proposal shall be valid for a period of forty-five (45) days from the date of opening thereof.

WAIVER OF CLAIMS: BY TENDERING A PROPOSAL IN RESPONSE TO THE DISTRICT'S RFP 23-011, THE CONTRACTOR ACKNOWLEDGES THAT IT HAS READ AND FULLY UNDERSTANDS THE REQUIREMENTS FOR SUBMITTING A PROPOSAL, AND THE PROCESS USED BY THE DISTRICT FOR SELECTING A CONTRACTOR. BY SUBMITTING A PROPOSAL, THE CONTRACTOR FULLY, VOLUNTARILY AND UNDERSTANDINGLY WAIVES AND RELEASES ANY AND ALL CLAIMS AGAINST DISTRICT AND ITS TRUSTEES, OFFICERS, AGENTS AND/OR EMPLOYEES THAT COULD ARISE OUT OF THE ADMINISTRATION, EVALUATION, OR RECOMMENDATION OF ANY PROPOSAL SUBMITTED IN RESPONSE TO THIS RFP.

**ACKNOWLEDGEMENT OF PROPOSAL**

Company Name: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

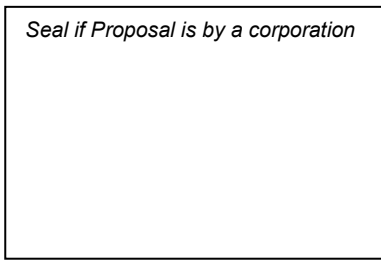
Office Phone: \_\_\_\_\_

Mobile Phone: \_\_\_\_\_

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

Fax: \_\_\_\_\_

It is understood that the District reserves the right to reject any or all proposals, or waive any informalities in the proposal process.



\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name and Title, if a Corporation

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

**THIS PROPOSAL FORM MUST BE SUBMITTED BY 2:00 p.m. July 20, 2023.**

# MCLEAN ISD

## FELONY CONVICTION NOTICE REQUIREMENTS

(Texas Education Code Sec. 22.08341. Criminal History Record Information Review of Certain Contract Employees)

CONTRACTOR : \_\_\_\_\_

CONTRACT : RFP 23-011, Gymnasium HVAC Project  
*(description of work to be performed for which this notice is requested)*

Texas Education Code §44.043, Notification of Criminal History, Subsection (a), states, “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. This notice must include a general description of the conduct resulting in the conviction of a felony.”

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

THIS NOTICE IS NOT REQUIRED OF A PUBLICLY HELD CORPORATION

MCLEAN ISD Board Policy CH (LEGAL) also states the following with regard to criminal history information:

“The District may obtain criminal history record information that relates to an employee of, or applicant for employment by, a person that contracts with the District to provide services if:

1. The employee or application has or will have continuing duties related to the contracted services; and,
2. The duties are or will be performed on school property or at another location where students are regularly present.”

# MCLEAN ISD

## FELONY CONVICTION NOTICE

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

VENDOR: \_\_\_\_\_

AUTHORIZED COMPANY OFFICIAL: \_\_\_\_\_  
*(print name)*

*Choose the following, as applicable:*

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

SIGNATURE OF COMPANY OFFICIAL: \_\_\_\_\_

*OR*

- B. My firm is not owned nor operated by anyone who has been convicted of a felony.

SIGNATURE OF COMPANY OFFICIAL: \_\_\_\_\_

*OR*

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

NAME OF FELON (S): \_\_\_\_\_

DETAILS OF CONVICTION(S): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNATURE OF COMPANY OFFICIAL: \_\_\_\_\_



## MCLEAN ISD

### NON-COLLUSIVE BIDDING CERTIFICATION

The undersigned affirms that they are duly authorized to execute a contract, that this company, corporation, firm, partnership or individual has not prepared this bid/proposal in collusion with any other bidder, and that the contents as to prices, terms and conditions have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this bid/proposal.

Vendor: \_\_\_\_\_

Street Address: \_\_\_\_\_ City, State, Zip \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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

Bidder (Print Name): \_\_\_\_\_

Position with Company: \_\_\_\_\_

Signature of Company Officer: \_\_\_\_\_

Company Officer Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

# **MCLEAN ISD**

## **VERIFICATION OF COMPLIANCE WITH STATE AND FEDERAL LAWS**

### **Certification of Eligibility**

By submitting a proposal in response to this RFP, Contractor certifies that at the time of submission, it is not on the Federal Government's list of suspended, ineligible, or debarred entities. In the event of placement on the list between the time of bid submission and time of award, the Contractor will notify the District. Failure to do so may result in terminating the contract for default.

### **Acknowledgment of Federal Funds.**

Contractor acknowledges that the Gymnasium HVAC Project will be funded with Federal ESSER funds, and as such are contingent upon compliance with all terms and conditions of the funding award and the applicable contract terms as provided under 2 C.F.R. Part 200, Appendix II.

### **Certification Regarding Employment Assistance Prohibited**

Contractor certifies and agrees that it shall not assist an employee, contractor or agent of the District or of any other school district in obtaining a new job if the proposer knows or has probable cause to believe that the individual engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personal file does not violate this prohibition.

### **Certification Relating to State Contracts with and Investments in Companies that Boycott Israel**

Pursuant to Texas Government Code, Chapter 2271, as amended, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott<sup>1</sup> Israel and will not boycott Israel during the term of any contract resulting from the solicitation.

### **Certification Relating to State Contracts with and Investment in Companies that do Business with Iran, Sudan, or any known foreign terrorist organizations**

Effective September 1, 2017, Contractor verifies that it/he/she does not do business with Iran, Sudan, or any known foreign terrorist organizations and will not do business with Iran, Sudan, or any known foreign terrorist organizations during the term of this contract. The term "foreign terrorist organization" is defined by Texas Government Code Section 806.001, effective September 1, 2017.

### **Certification Regarding No Discrimination of Firearm Entities or Trade Associations**

Pursuant to Texas Government Code, Chapter 2274, as enacted in SB19 by the 87<sup>th</sup> Legislature, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten (10) or more full-time employees and the value of the contract with District is \$100,000 or more, the Contractor represents and warrants to the District that the Contractor does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association<sup>2</sup> and will not discriminate against a firearm entity or firearm trade association during the term of any contract resulting from the solicitation.

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<sup>1</sup> "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

<sup>2</sup> A "firearm entity" means a firearm, firearm accessory, or ammunition manufacture, distribute, wholesaler, supplier or retailer, or a sport shooting range. A "firearm trade association" means any person, corporation, unincorporated association, federation, business league or business organization that is not organized or operated for profit for which none of its net earnings inures to the benefit of any private shareholder or an individual that has two or more firearm entities as members, or is exempt for federal income taxation under Section 501(c) of the Internal Revenue Code.

**Certification Relating to State Contracts with and Investments in Companies that Boycott Energy Companies**

Pursuant to Texas Government Code, 2274, as enacted in SB13 by the 87<sup>th</sup> Legislature, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten (10) or more full-time employees and the value of the contract with District is \$100,000 or more, the Contractor represents and warrants to the District that the Contractor does not boycott energy companies<sup>3</sup> and will not boycott energy companies during the term of any contract resulting from the solicitation.

**Relating to No Contracts with an Abortion Provider**

The Vendor verifies by its signature below that it is not an abortion provider or an affiliate of abortion providers.

**Certification of Compliance with Texas Family Code**

As per Section 14.52 of the Texas Family Code, added by S.B. 84, Acts, 73<sup>rd</sup> Legislature, R.S. (1993), all Contractor must complete and submit with the proposal the certification as follows:

I, the undersigned Contractor, do hereby acknowledge that NO sole proprietor, partner, majority shareholder of a corporation or an owner of 10% or more of another business entity is 30 days or more delinquent in paying child support under a court order or a written repayment agreement. I understand that under this provision, a sole proprietorship, partnership, corporation or other entity in which a sole proprietor, partner, majority shareholder or a corporation or other entity in which a sole proprietor, partner, majority shareholder or a corporation or an owner of 10% or more of another entity is 30 days or more delinquent in paying child support under a court order or a written repayment agreement is NOT eligible to bid or receive a state contract.

Contractor Name: \_\_\_\_\_

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

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

Title \_\_\_\_\_ Date: \_\_\_\_\_

<sup>3</sup> "Boycott energy companies" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on or limit commercial relations with a company because the company engages in the exploration, production utilization, transportation, sale or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law.

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

**FORM CIQ**

<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<p><b>OFFICE USE ONLY</b></p> <p>Date Received</p>
<p><b>1</b> Name of vendor who has a business relationship with local governmental entity.</p>	
<p><b>2</b> <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>	
<p><b>3</b> Name of local government officer about whom the information is being disclosed.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p>	
<p><b>4</b> Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p style="margin-left: 40px;">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="margin-left: 80px;"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p style="margin-left: 40px;">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="margin-left: 80px;"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>	
<p><b>5</b> Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>	
<p><b>6</b> <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>	
<p><b>7</b></p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Signature of vendor doing business with the governmental entity      Date</p>	

**Exhibit A**

**Sample Non-AIA Standard Form Owner/Contractor Agreement**

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**MCLEAN INDEPENDENT SCHOOL DISTRICT  
STANDARD FORM OWNER/CONTRACTOR AGREEMENT**

**GYMNASIUM HVAC PROJECT  
(RFP 23-011)**

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**MCLEAN INDEPENDENT SCHOOL DISTRICT  
STANDARD FORM OWNER/CONTRACTOR AGREEMENT**

**GYMNASIUM HVAC PROJECT  
(RFP 23-011)**

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THIS AGREEMENT made as of the \_\_\_\_ day of \_\_\_\_\_, 2023, between the Owner:

McLean Independent School District  
Mailing Address: PO Box 90, McLean, TX 79057  
Physical Address: 600 Rowe St., McLean, TX 79057

The Owner's authorized representative is: Johnny James, Superintendent, or his successor  
Phone number: (806) 779-2571  
Email: johnny.james@region16.net

The term "Owner" means the McLean Independent School District or the Owner's authorized representative.

The Owner's Architect/Engineer<sup>1</sup> is: Open Range Engineering Services, PLLC  
PO Box 2179  
Pampa, TX 79066

The Engineer's authorized representative is: **Ronald E. Nelson**  
Phone number: (806) 665-1115  
Email: \_\_\_\_\_

The Contractor is: ***Name and Address***

The Contractor's authorized representative is: \_\_\_\_\_  
Phone number: (\_\_\_\_) \_\_\_\_\_  
Email: \_\_\_\_\_

The Project is: Replacement and improvements to HVAC system at the McLean ISD Gymnasium.

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<sup>1</sup> The terms "Architect" or "Engineer" or "A/E" are generic references to the design professional selected by the District for the Project, which may be a properly licensed and credentialed engineer, who will provide professional design and contract administration services, and shall mean a reference to Open Range Engineering Services, PLLC who may be an architect or engineer, whichever term is applicable to this Project.

**WITNESETH:**

The Owner and Contractor agree as follows:

**1. THE CONTRACT DOCUMENTS.**

The Contract Documents consist of this Standard form Owner/Contractor Agreement (the "Agreement"), all sections of the Project Manual, if any, including Drawings, Specifications, and Addenda issued prior to execution of the Contract; manufacturer's installation instructions, the Owner's Request for Proposals and Contractor's Proposal documents submitted in response to such Request; other documents as may be listed in this Agreement; Exhibit(s) attached hereto; and, all modifications issued after the Agreement. A Modification is (1) a written amendment to the Agreement signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect, if any. The Project Manual is a volume assembled for the Work which includes the bidding requirements, sample forms, Conditions of the Contract and Specifications.

In the event of conflict, terms and conditions contained in this Agreement shall take precedence over terms and conditions contained in the Project Manual, if any, and the terms and conditions in the Project Manual, if any, shall take precedence over all other terms and conditions contained in the other Contract Documents, unless specifically agreed otherwise herein.

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written Modification signed by Contractor, approved by Owner's Board of Trustees, and signed by the representative of Owner's Board of Trustees who is authorized to sign contracts. As a material consideration for the making of the Contract, modifications to the Contract shall not be construed against the maker of said modifications. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect, if any, or the Architect's consultants, if any, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, if any, or (4) between any persons or entities other than the Owner and the Contractor.

**2. DATE OF COMMENCEMENT, FINAL COMPLETION, AND LIQUIDATED DAMAGES.**

a. The date of commencement is the date to be fixed in a written notice to proceed issued by the Owner, which shall be not later than [REDACTED], 2023.

b. The Contractor shall achieve Final Completion of the entire Project not later than [REDACTED], 20 [REDACTED], subject to adjustments as provided in the Contract.

c. **Time is of the Essence and Liquidated Damages.** Timely Substantial Completion and Final Completion are essential conditions of this Agreement. Contractor agrees to achieve



Substantial Completion and Final Completion of the Project by the dates designated under Section 2.b. above, or by the agreed extended date, as provided by Section 8.b. herein. It is specifically understood and agreed by and between Owner and Contractor that time is of the essence in the Substantial and Final Completion of the Project and Owner shall sustain additional damages as a result of Contractor's failure, neglect or refusal to achieve said deadline. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Contractor that the amounts stated below are the minimum value of the costs and damages caused by failure of Contractor to complete the Work within the allotted or agreed extended times for Substantial and Final Completion, that such sums are liquidated damages and shall not be construed as a penalty. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not finally completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum(s) shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for the following categories of damages to the Owner: potential hazards to students, staff and visitors, additional architectural, engineering, program management fees (and fees of any other consultants); increased administrative or operational expenses; additional attorney's fees; increased maintenance and custodial costs and additional, utilities, security and clean-up costs, and other increased costs. Failure to complete the Work within the designated or agreed extended dates of Substantial and Final Completion, shall be construed as a breach of this Agreement. Owner and Contractor agree that should Contractor fail to achieve Substantial or Final Completion of the Work by the respective deadlines, Owner shall continue to be damaged to a greater degree by such delay. Contractor and Owner agree that the amount, of liquidated damages for each calendar day Substantial Completion or Final Completion is delayed beyond the date set for such Substantial Completion or Final Completion for the Project shall be the sum of **[\$250]** per day. Owner may deduct such liquidated damages from any Payment made to Contractor before or at Final Payment; or, if sufficient funds are not available, then Contractor shall pay Owner, the amounts specified per day for each and every calendar day the breach continues after the deadline for Final Completion of the Work.

Such damages shall be in addition to, and not in lieu of, any other rights or remedies Owner may have against Contractor for failure to timely achieve Final Completion of the Project in accordance with Contract Documents. If the Work is not finally completed by the time stated in the Agreement, or as extended, no payments for Work completed beyond that time shall be made until the Project reaches Final Completion.

### **3. CONTRACT SUM.**

The Owner shall pay the Contractor for the Contractor's full performance of the Contract, the Contract Sum of **\_\_\_\_\_** Thousand Dollars (**\$ \_\_\_\_\_**), subject to additions, deductions and/or liquidated damages as provided in the Contract.

**The Contract sum contains an Owner's Contingency in the amount of \_\_\_\_\_ Dollars and 00/100 (\$ \_\_\_\_\_). This contingency, if any, is for the sole use of the Owner to be used for changes in the scope of the Work and for the betterment of the Project. Owner's authorized representative may approve any expenditure from Owner's Contingency for a change order to**

increase the Contract Sum without further Board of Trustees' approval within limits specified in Section 9.a of this Agreement. If the Owner's Contingency is not expended or not fully expended, then any unused portion shall belong to the Owner and shall be deducted from the Contract Sum.

#### 4. PROGRESS PAYMENTS.

a. Based upon Applications for Payment submitted to the Owner by the Contractor, and approved by the Architect, the Owner will make progress payments as provided below.

b. Progress Payments, when due, shall be made to Contractor in accordance with Owner's ordinary business practices in proportion to the services performed, less a retainage of five percent (5%). Any Application for Payment remaining unpaid after forty-five (45) days, shall be subject to simple interest as set out in Texas Government Code Chapter 2251, Subchapter B. Nothing contained herein shall prevent or otherwise limit Owner from withholding any payment or portion of a payment for which Owner has provided Contractor notice of a bona fide dispute.

c. Based on Contractor's Applications for Payment and on the Architect/Engineer's observations and evaluations of the Project, or based on the Owner's observations and evaluations if there is no Architect/Engineer, the Owner will determine the amounts due to Contractor.

d. Any payment for undisputed amounts not paid in the time specified under Texas Government Code §2251.001, *et seq.* above shall be overdue. An overdue payment bears interest at the legal rate established by the Texas Government Code, §2251.025.

#### 5. FINAL PAYMENT.

a. Final payment, constituting the entire unpaid balance of the Contract Sum (less any offsets or damages as provided in the Contract Documents), will be made by the Owner when (1) the Contract has been fully performed by the Contractor as determined by Owner and/or Owner's Architect/Engineer, if applicable, and (2) the completed Project has been accepted by the McLean ISD Board of Trustees or its designee.

b. Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner:

(1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Project have been paid or otherwise satisfied,

(2) a certificate evidencing that the required insurance will remain in force after final payment and will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner,

(3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Owner,

(4) consent of surety to final payment,

(5) other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner, and

(6) written warranties and other documents required by the Contract and submitted to the Owner's Superintendent of Schools.

c. Acceptance of final payment by the Contractor shall constitute a waiver of all claims by the Contractor, except those previously made in writing and identified by the Contractor as unsettled at the time of final Application for Payment.

## **6. OBLIGATIONS OF CONTRACTOR.**

### **a. REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR.**

Before ordering materials or equipment or commencing the Project, the contractor shall carefully:

- (1) study and compare the Contract Documents with each other and with other information furnished by Owner,
- (2) verify all indicated dimensions,
- (3) take field measurements,
- (4) verify field conditions, and
- (5) compare the field measurements and conditions and other information known to the Contractor with the Contract Documents, and verify that there are no impediments to the Project being constructed at the proposed site.

Errors, inconsistencies or omissions discovered shall be reported in writing to the Architect/Engineer and Owner at once. In the event that discrepancies occur between ordered material and actual conditions, of which the Architect/Engineer and/or Owner were not notified beforehand, costs to correct such discrepancies shall be borne by Contractor.

### **b. SUPERVISION AND CONSTRUCTION PROCEDURES.**

- (1) The Contractor shall supervise and direct the Project, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Project under the Contract, unless the Contract gives other specific instructions concerning these matters.

(2) The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Project under a contract with the Contractor.

(3) On trench excavations in excess of five feet in depth, Contractor shall bear sole responsibility for design and execution of acceptable trenching and shoring procedures in accordance with Texas Government Code §2166.303, Texas Health & Safety Code, Subchapter C, §756.021, *et seq.*, and OSHA 1926.652-.653. Contractor shall pay a qualified engineer to prepare detailed plans and specifications directing Contractor in safe execution of trenching and shoring.

**c. LABOR AND MATERIALS.**

(1) Unless otherwise provided in the Contract, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Project, whether temporary or permanent and whether or not incorporated or to be incorporated in the Project.

(2) The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, Subcontractors, and all other persons carrying out the Contract. Contractor shall also require adequate and appropriate dress of Contractor's employees, Subcontractors, and all other persons carrying out the Contract.

(3) Contractor shall at all times maintain job records, including, but not limited to, invoices, payment records, payroll records, daily reports, logs, diaries, and job meeting minutes, applicable to the Project. Owner reserves the right to audit contractor's books and records relevant to all services provided under the Contract Documents. In the event such audit reveals any errors in over payments by the Owner, Contractor shall refund Owner the full amount of such overpayment within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to withhold such amounts owing the Owner from any payments due the Contractor. Contractor shall make such reports and records available to inspection or audit by the Owner and its agents within five (5) working days of request by Owner, or its agent. Such records shall be maintained by Contractor for at least four years.

(4) Criminal History Checks.

(a) So that Owner can obtain the national criminal history record information required by Texas Education Code § 22.08341 on all "covered employees" (as defined in this Section) of Contractor, its subcontractors, or any subcontracting entities who will perform the Work, Contractor shall submit to Owner the name and all identifying information necessary to enable Owner to obtain the national criminal history information on those covered employees before they begin the

Work. Contractor's submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Work after its review of the criminal history information, but cannot disclose the criminal history information to Contractor. Contractor shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

(b) If Contractor receives information that a "covered employee" has a reported "disqualifying criminal history", as those terms are defined below, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three (3) business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

(c) For the purposes of this Section, "covered employees" means employees, agents, or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060, and 19 Texas Administrative Code Section 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school; a felony offense under Texas Penal Code Title 5 Offense Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

(d) In addition to the above requirements, Owner or Contractor will at least annually obtain criminal history record information that relates to any employee, agent, or applicant of the Contractor, if the person has or will have duties related to the Project, and the duties are or will be performed on Owner's Project, or at another location, where students are likely to be present. Contractor shall provide a list of all covered employees, with all necessary identifying information, to allow Owner to obtain criminal history record information for covered employees of the Contractor and all subcontracting entities. Contractor shall update this list on Owner's request. Contractor shall assume all expenses associated with the background checks and shall immediately remove any employee, agent, or subcontractor who was convicted of a felony or a misdemeanor involving moral turpitude from Owner's property, or other location where students are likely to be present. Owner shall determine what constitutes "moral turpitude" or a "location where students are likely to be present."

(e) Failure to comply with the requirements of Texas Education Code §22.08341

to the extent Contractor is capable shall constitute an immediate event of default by Contractor.

**d. WARRANTY.**

The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract, that work on the Project shall be performed in a good and workmanlike manner, that the Project will be free from defects not inherent in the quality required or permitted, and that the Project will conform with the requirements of the Contract.

**e. TAXES.**

The Owner qualifies for exemption from State and Local Sales Tax pursuant to the provisions of Chapter 151 of the Tax Code of the State of Texas. The Contractor may claim exemption from payment of applicable State and Local Sales Taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. However, the Contractor shall pay all necessary local, county and state taxes, compensation tax, social security and withholding payments as required by law. **THE CONTRACTOR SHALL INDEMNIFY AND SAVE HARMLESS THE OWNER OF AND FROM ALL CLAIMS AND DEMANDS MADE BY FAILURE OF THE CONTRACTOR OR SUBCONTRACTORS TO COMPLY WITH THE PROVISIONS OF ANY OR ALL OF SAID LAWS AND AMENDMENTS.**

**f. PERMITS, FEES AND NOTICES.**

(1) The Contractor shall secure and pay for the building permit and other permits, governmental fees and licenses necessary for proper execution and completion of the Project which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

(2) The Contractor shall comply with, give notices and certifications and provide certifications as may be required by applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Project including, but not limited to, 19 T.A.C. §61.1040.

**g. USE OF SITE.**

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract, as designated by the Owner, and shall not unreasonably encumber the site with materials or equipment.

**h. CLEANING UP.**

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Project the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools,

construction equipment, machinery and surplus materials so that the Project is fit to use for its intended purpose. If the Contractor fails to clean up as provided in the Contract, the Owner may do so and the cost thereof shall be charged to the Contractor as an offset against any amounts still owed to the Contractor or billed to the Contractor directly.

**i. INDEMNIFICATION.**

**TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, OWNER'S TRUSTEES, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AND AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS, OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (INCLUDING THE WORK ITSELF), INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS, OR EXPENSE IS CAUSED IN PART BY ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY THAT WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF TEXAS.**

**IN CLAIMS AGAINST ANY PERSON OR ENTITY INDEMNIFIED UNDER THIS SECTION BY AN EMPLOYEE OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER THIS SECTION SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR A SUBCONTRACTOR UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.**

**THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS OR AGENTS AND EMPLOYEES OF ANY OF THEM, CAUSED BY OR RESULTING FROM: (1) DEFECTS IN PLANS, DESIGNS, OR SPECIFICATIONS PREPARED, APPROVED, OR USED BY THE ARCHITECT OR ENGINEER; OR (2) NEGLIGENCE OF THE ARCHITECT OR ENGINEER IN THE RENDITION OR CONDUCT OF PROFESSIONAL DUTIES CALLED FOR OR ARISING OUT OF THE CONSTRUCTION CONTRACT AND THE PLANS, DESIGNS, OR SPECIFICATIONS THAT ARE A PART OF THE CONSTRUCTION CONTRACT; AND (3) ARISING FROM : (A) PERSONAL INJURY OR DEATH; (B) PROPERTY DAMAGE; OR (C) ANY OTHER EXPENSE THAT ARISES FROM PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, OR AS OTHERWISE LIMITED BY TEXAS CIVIL PRACTICE & REMEDIES CODE §130.001, ET SEQ.**

**FURTHER, AND IN ACCORDANCE WITH TEXAS INSURANCE CODE §151.102, AS APPLICABLE, THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION SHALL NOT REQUIRE CONTRACTOR TO INDEMNIFY, HOLD HARMLESS, OR DEFEND THE PARTY(S) INDEMNIFIED HEREUNDER AGAINST A CLAIM CAUSED BY THE NEGLIGENCE OR FAULT, THE BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, OR RULE, OR THE BREACH OF CONTRACT OF THE OWNER, ITS AGENT OR EMPLOYEE OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF THE OWNER, OTHER THAN THE CONTRACTOR OR ITS AGENT, EMPLOYEE OR SUBCONTRACTOR OF ANY TIER.**

**THE PROVISIONS OF THIS SECTION, IN ITS ENTIRETY, SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.**

**j. AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE PROJECT.**

(1) The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of persons or entities proposed for each principle portion of the Project, if any. The Owner will promptly reply to the Contractor in writing stating whether or not the Owner, after due investigation, has reasonable objection to any proposed person or entity. Failure of the Owner to reply within ten (10) District business days shall constitute notice of no reasonable objection.

(2) The Contractor shall not contract with a proposed person or entity to whom the Owner has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

(3) If the Owner has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued. However, no increase in the



Contract Sum shall be allowed for such change unless the Contractor has acted promptly and responsibly in submitting names as required.

- (4) The Contractor shall not change a subcontractor, person or entity previously selected if, upon reasonable notice to Owner, Owner makes reasonable objection to such change.
- (5) The Contractor shall not subcontract the Project as a whole. The approval of Subcontractors in no way relieves the Contractor from full responsibility.
- (6) Communications by and with subcontractors and material suppliers shall be through the Contractor.
- (7) The Contract shall not be construed to create a contractual relationship of any kind:
  - (a) between the Owner and a Subcontractor or Sub-subcontractor, or
  - (b) between any persons or entities other than the Owner and Contractor.

**k. WORKERS' COMPENSATION.**

A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project is required for the duration of the Project.

Duration of the Project includes the time from the beginning of the Work on the Project until the Contractor's/person's work on the project has been completed and accepted by the Owner.

Persons providing services on the Project ("subcontractor" in Texas Labor Code §406.096) include all persons or entities performing all or part of the services the Contractor has undertaken to perform on the Project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.

Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code §401.011(44) for all employees of the Contractor providing services on the project for the duration of the Project.

The Contractor must provide a certificate of coverage to the Owner prior to being awarded the Contract.

If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the Project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.

The Contractor shall obtain from each person providing services on a project, and provide to the Owner:

- (1) A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
- (2) No later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

The Contractor shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

The Contractor shall notify the Owner in writing by certified mail or personal delivery, within ten days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

The Contractor shall post on each project site a notice, in the text, form, and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

The Contractor shall contractually require each person with whom it contracts to provide services on a Project, to:

- (1) Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code §401.011(44) for all of its employees providing services on the project for the duration of the Project;
- (2) Provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
- (3) Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- (4) Obtain from each other person with whom it contracts, and provide to the Contractor:
  - (a) A certificate of coverage, prior to the other person beginning work on the Project; and
  - (b) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

- (5) Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
- (6) Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- (7) Contractually require each person with whom it contracts to perform as required by items 1-6, with the certificates of coverage to be provided to the person for whom they are providing services.

By signing this Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the Owner to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the Owner.

The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC §110.110(i).

#### **1. PAYMENT AND PERFORMANCE BONDS.**

In accordance with Texas Government Code §2253.021, the Contractor shall furnish, before beginning the Work, a Performance Bond in an amount equal to one hundred percent (100%) of the Contract Sum, if the amount payable to Contractor by Owner meets or exceeds \$100,000, to be used as security of the faithful performance of the Contract. The Contractor shall also furnish, before beginning the Work, a Payment Bond in accordance with Texas Government Code §2253.021, in an amount equal to one hundred percent (100%) of the Contract Sum, as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with the Contract. The Performance Bond and the Payment Bond may be in one or in separate instruments in accordance with local law. Surety companies must be authorized to write surety bonds in Texas and any such surety bond must comply with the requirements Section 7.19-1, Texas Insurance Code. Proof of such Performance and Payment Bonds shall be submitted to the Owner's authorized representative for inspection and review prior to beginning any Work on the Project.

- (1) The Contractor shall deliver the required Bonds to the Owner not later than the date set in the Notice to Proceed. All Bonds will be reviewed by the Owner for compliance with the Contract Documents prior to the start of construction.

(2) All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of-attorney. The name, address, and telephone number of a contact person for the Bonding Company shall be provided.

m. **CONTRACTOR'S INSURANCE**

Contractor shall carry the following insurance with the minimum limits set forth herein. Such insurance must be carried with insurance companies acceptable to Owner. Contractor shall maintain such insurance, at its sole cost and expense, in full force and effect until this Contract has been fully performed, all equipment, implements and machinery of Contractor has been removed from, and all employees, agents, representatives and Subcontractors of Contractor have left Owner's premises, and final payment of the Contract Sum is made, unless any such coverage is required pursuant to the terms of the Contract Documents to be maintained after all of the foregoing items have been completed. Contractor shall cause each insurance company (i) to issue the insurance on an occurrence basis; (ii) to provide defense as additional benefit and not within the limits of liability, (iii) to issue an endorsement to all policies that the policies are primary and that Owner's policies are excess, secondary and noncontributing, (iv) issue an endorsement to all policies to provide a waiver of subrogation in favor of Owner, (v) to issue an endorsement to all policies, except the workers' compensation and employer's liability insurance policies, to include Owner and its trustees, officers, employees, and agents as "additional insureds," and, (vi) to include in each insurance policy a provision that the insurance company or companies shall not cancel, non-renew, or change coverage from the requirements of the Contract Documents without providing at least 30 days' advance written notice to Owner. The insurance company or companies shall not exclude from coverage the negligence, of the "additional insureds," unless such negligence is solely attributable to the conduct of an "additional insured." Contractor releases Owner and its trustees, officers, employees and agents from any liability covered by the insurance for which subrogation is waived. Contractor shall provide to Owner at least 30 days' advance written notice of any contemplated cancellation, non-renewal, or material reduction in insurance coverage. Contractor shall provide to Owner a certified copy of any and all insurance policies required in this Contract if Owner requests a copy.

Insurance coverage shall be written for not less than the following limits, or greater if required by law:

(1) Employer's Liability insurance with minimum limits of **\$1,000,000** for each employee for bodily injury by accident and for each employee for bodily injury by disease.

(2) Commercial General Liability insurance, including liability for the Project and blanket coverage, Personal and Advertising Injury, Products-Completed Operations, Medical Payments, Bodily Injury, and Property Damage, with minimum limits of **\$1,000,000** per occurrence, **\$2,000,000** general aggregate, **\$2,000,000** products-completed operations aggregate, **\$1,000,000** personal and advertising injury per occurrence, and **\$5,000** medical expense. Contractor shall obtain an endorsement to each insurance policy to provide aggregate limits per location. Contractor shall cause each insurance company to delete any contractual liability exclusion with respect to the insurance, including insurance coverage for personal injury, hazards of explosion, collapse, fire, and underground property damage.

(3) Business Automobile Liability insurance with minimum combined single limits of **\$1,000,000**. Contractor shall cause each insurance company to provide coverage for liability arising out of the operation of owned, hired, and non-owned vehicles.

(4) Contractual Liability insurance with minimum limits of **\$1,000,000** per occurrence, and **\$1,000,000** general aggregate. Contractor shall obtain an endorsement to each insurance policy to provide aggregate limits per location. The contractual liability insurance shall not be limited to coverage for the Indemnity, Waiver, and Obligation to Defend provisions in this Contract, but, instead, the contractual liability insurance shall cover all of Contractor's obligations to the fullest extent possible under the contractual liability endorsement. Further, the contractual liability insurance shall not limit, in any way, coverage provided to Owner and its trustees, officers, employees, and agents as additional insureds under each of Contractor's insurance policies.

(5) Builder's Risk "all-risk" or equivalent insurance policy, including boiler and machinery insurance, in the amount of the initial Contract Sum plus the value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis. Coverage shall insure against the perils of fire, (with extended coverage) and physical loss or damage including, without limitation or duplication of coverage, lightning, collapse, earthquake, flood, wind storm, hurricane, hail, explosion, riot, civil commotion, smoke, aircraft, land vehicles, theft, vandalism, malicious mischief, falsework, testing and start-up, temporary buildings, debris removal including demolition occasioned by enforcement of any applicable legal requirements, and all other perils, and shall include materials stored on-site, off-site and in transit. Owner shall be a named insured under the policy, and the insurance shall also include the interests of Contractor, subcontractors, and sub-subcontractors. Contractor shall be responsible for maintaining said builder's risk insurance until the date of Final Completion. For any claim made against the builder's risk insurance, the deductible shall not exceed **\$25,000**.

(6) Umbrella/Excess Liability Insurance with minimum limits of **\$1,000,000**. Contractor shall cause each insurance company to provide the insurance on an umbrella basis in excess over and no less broad than the liability coverages required in this Contract, with the same inception and expiration dates as Commercial General Liability insurance, and with coverage that "drops down" for exhausted aggregate limits under liability coverages in this Contract.

Contractor shall provide to Owner before the Work is started and at least 30 days prior to the expiration of a policy or policies of insurance in effect during the term of this Contract a certificate or certificates of insurance evidencing all required insurance in the Contract Documents and acceptable to Owner. All certificates, among other things, shall:

- (1) Show Owner as a certificate holder.
- (2) Show Contractor as the Named Insured.
- (3) Show the names of the insurance companies providing each coverage, the policy numbers of each coverage, and policy dates of each coverage.
- (4) Show the name of the person providing the certificate and that person's address and telephone number.
- (5) Contain the signature of an authorized representative of the person providing the certificate.

- (6) Show that each insurance company named Owner and its trustees, officers, employees, and agents as additional insureds in each insurance policy.
- (7) Show the primary status of each insurance policy.
- (8) Have attached copies of all required endorsements to each insurance policy, and not contain the phrases “endeavor to” and “but failure to mail such notice will impose no obligation or liability of any kind upon Company, its agents or representatives,” or similar phrases and shall include the commitment that each insurance company shall issue each insurance policy to the named and additional insureds, that each policy is in full force and effect, and that each insurance company shall give to Owner at least 30 days’ advance written notice, by certified mail, return receipt requested in the event of cancellation, non-renewal, or material reduction in coverage of any insurance policy.

Contractor shall not procure an insurance policy or policies with deductibles or self-insured retention in excess of \$25,000 or with an endorsement restricting, limiting, or excluding coverage in any manner unless expressly stated otherwise herein or without Owner’s prior written approval. Contractor shall pay all deductibles in the insurance that Contractor is required to provide under the Contract Documents.

The Contractor shall purchase and maintain insurance covering the Owner’s contingent liability for claims which may arise from operations under the Contract. This coverage can be afforded by adding Owner as additional insured on general liability insurance coverage.

Contractor’s failure to procure and maintain the required insurance shall constitute a material breach of, and default under, this Contract. If Contractor fails to remedy the breach within 5 days after notice from Owner, Owner may, in addition to any other remedy available to it, at its option, purchase the insurance, at Contractor’s expense, or immediately terminate this Contract. Contractor shall Indemnify and Defend Indemnified Persons from and against any Claims arising from Contractor’s failure to procure and/or maintain the insurance.

n. **EQUAL EMPLOYMENT OPPORTUNITIES.**

Contractor acknowledges that Owner, as an independent school district, is a political subdivision of the State of Texas and has certain requirements concerning equal employment and affirmative action under state and federal law, and shall comply with all applicable laws, regulations and special requirements under such federal and state laws, and the Contract Documents regarding equal employment opportunity and affirmative action programs.

Contractor and Contractor's Subcontractors, if any, shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth policies of nondiscrimination.

## **7. OWNER'S RIGHTS AND REMEDIES.**

### **a. OWNER'S RIGHT TO REJECT THE PROJECT AND TO REQUIRE TESTING.**

The Owner may reject all or part of the Project which does not conform to the Contract Documents. Whenever the Owner considers it necessary or advisable, the Owner may require and contract separately for additional inspection or testing services necessary for acceptance of the Project. Owner reserves the right to withhold any Progress Payment or portion thereof for any non-conforming or inferior Work on the Project, and the cost of any additional testing associated with non-conforming portions of the Project shall be charged to the Contractor and may be offset against any amounts still owed to the Contractor.

### **b. OWNER'S RIGHT TO STOP THE PROJECT.**

If Owner discovers any defective Work, including any portion of Work not constructed in accordance with the Contract Documents, Contractor shall promptly, without cost to the Owner, correct such defective Work. If Contractor fails to commence such corrections within a reasonable period of time, not to exceed thirty (30) days, and does not diligently continue the prosecution of such corrections, or if the Contractor persistently fails to do the Project in accordance with the Contract, the Owner, by written order, may order the Contractor to stop the Project, or any portion thereof, until the cause for such order has been eliminated.

### **c. OWNER'S RIGHT TO CARRY OUT THE PROJECT.**

If the Contractor defaults or neglects to carry out the Project in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a second seven-day period. If the Contractor within such second seven-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case the Owner shall deduct from payments then or thereafter due the Contractor the cost of correcting such deficiencies. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

### **d. TERMINATION BY THE OWNER FOR CAUSE.**

- (1) The Owner may terminate the Contract if the Contractor:
  - (a) persistently or repeatedly refuses or fails to do the work on the Project, or any part thereof, in accordance with the Contract and/or fails to supply enough properly skilled workers or proper materials;
  - (b) fails to make prompt payment to Subcontractors or for materials or labor;

- (c) repeatedly disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
  - (d) otherwise is guilty of substantial breach of a provision of the Contract,
- or
- (e) is adjudged bankrupt, makes a general assignment for the benefit of his creditors, or has a receiver appointed on account of its insolvency.

(2) When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- (a) take possession of the site and all materials, including tools, and construction equipment and machinery located thereon which have been leased by the Contractor on behalf of the Owner;
- (b) accept assignment of subcontracts; and
- (c) finish the Project by whatever reasonable method the Owner may deem expedient.

(3) When the Owner terminates the Contract for one of the reasons stated in Subparagraph 7(d)(1) above, the Contractor shall not be entitled to receive further payment until the Project is finished.

(4) If the unpaid balance of the Contract Sum exceeds costs of finishing the Project, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be an obligation for payment which shall survive termination of the Contract.

e. **TERMINATION FOR CONVENIENCE.**

The Owner may, at its option and at any time, terminate the whole or any part of this Contract for the convenience of the Owner. Contractor agrees that upon any such termination, the Contractor's sole remedy shall be payment of full value for all Work properly performed up to the time of termination, plus reasonable profit thereon, less all payments Contractor has previously received on account of such Work performed. It shall be a condition precedent for such payment, that Owner has received an application for payment from Contractor for the Work Contractor performed prior to notice of termination. Contractor agrees to waive all claims for damages, including lost or anticipated profits from remaining Work, arising from or related to any such termination by Owner.

f. **SUSPENSION BY THE OWNER FOR CONVENIENCE.**

(1) The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Project in whole or in part for such period of time as the Owner may determine.



(2) An adjustment may be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:

(a) that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or

(b) that an equitable adjustment is made or denied under another provision of this Contract.

## **8. CLAIMS.**

### **a. CLAIMS FOR ADDITIONAL COST.**

If the Contractor wishes to make a claim for an increase in the Contract Sum or for extra costs or damages, the Contractor shall give the Owner written notice thereof within ten days after the event giving rise to such claim. Such claim will be submitted to the Superintendent of the McLean Independent School District, or his designee, and his action shall be final and binding. Failure to give such notice shall be a waiver of the claim and such claim or possible claim shall be invalid and unenforceable unless so made.

### **b. CLAIMS FOR ADDITIONAL TIME.**

(1) If the Contractor wishes to make claim to change the date of Final Completion to allow for additional time, the Contractor shall give the Owner written notice thereof within ten (10) days following the beginning of any such delay. In the case of a continuing delay only one claim is necessary. Such claim will be submitted to the Superintendent of the McLean Independent School District, or his designee, and his action shall be final and binding. Failure to give such notice shall be a waiver of the claim and such claim or possible claim shall be invalid and unenforceable unless so made.

(2) If adverse weather conditions are the basis for a claim for additional time, such claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated and that weather conditions had an adverse effect on the scheduled construction.

## **9. MISCELLANEOUS.**

### **a. AUTHORITY OF BOARD**

Only Owner's Board of Trustees, by majority vote, has the power to enter into a contract, to execute a Change Order requiring an increase in the contract sum, or to agree to an extension to the contractual completion date. The Owner's Board shall designate, as appropriate, an authorized representative or representatives to act on its behalf during the course of construction. Such authorized representatives shall have authority to act on behalf of the Owner concerning decisions which do not require majority vote of the Board of Trustees. Such authorized representatives shall also bring recommendations to the Board of Trustees on any matter that requires the Board's approval. In the event that changes in the scope of the Work are required before the Board's next

regular meeting or in order to facilitate and expedite the timely completion of the Work, the Board's authorized representatives may approve construction Change Orders that do not exceed an aggregate amount of \$ [REDACTED] in increased costs. Any such change(s) shall be confirmed in writing between the Contractor and the Board's authorized representatives and notice of such approved changes shall be given to the Board at its next regular meeting. The Board will act as soon as reasonably possible to avoid undue delays in the construction completion date. If any change order causes the cost of the Project to meet or exceed \$100,000, Contractor shall not proceed, unless or until he has tendered a Performance bond in accordance with Section 6.1 of this Agreement.

The Owner's designated representative is: Johnny James, Superintendent, or his successor.

b. **HAZARDOUS MATERIALS.**

**IF HAZARDOUS MATERIALS ARE ENCOUNTERED AS A RESULT OF CONTRACTOR OR ITS SUBCONTRACTORS' IMPORTATION OF SUCH MATERIALS ONTO THE PROJECT SITE, THE CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OWNER AND ITS TRUSTEES, OFFICERS, DIRECTORS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO, ATTORNEYS' FEES, ARISING OUT OF OR RELATED TO THE CONSTRUCTION WORK IN ANY AREA AFFECTED BY HAZARDOUS MATERIALS.**

If hazardous materials are encountered as a result of the Owner's failure to identify or remove hazardous materials prior to the commencement of construction, Owner agrees to (1) release the Contractor and its subcontractors, officers, directors, and employees from any and all claims, damages, losses, or expenses incurred by Owner arising out of or related to the performance of the Construction Work in the area affected by the hazardous material up to and including the time when Contractor first learns of or discovers the existence of the hazardous materials, but not for any additional work done by the Contractor after the identification of such hazardous materials; (2) release the Contractor from any indemnification obligations in this Agreement arising out of or related to the hazardous materials, except to the extent that any such claims, damages, losses, or expenses incurred by Owner arise from Contractor's actions or inaction after the initial discovery and identification of hazardous materials; and (3) extend the contract time by the actual number of days that Contractor is delayed in the completion of the contract arising out of or related to the identification, test, and/or abatement of the hazardous material if Contractor is unable to complete the Project by the scheduled completion date plus any agreed extension under other conditions of the Agreement.

c. **IMMIGRATION LAW**

Contractor represents and warrants that all contractors and subcontractors working on this project for Owner will comply with all applicable federal and state immigration laws, and verify all employees' eligibility to work in this country. Further, Contractor shall ensure that all contractors and subcontractors will indemnify the Owner for any damages and legal fees that the Owner incurs as a result of Contractor's and/or subcontractor's failure to comply with applicable immigration laws.

**d. PREVAILING WAGE RATES**

- (1) Contractor, Contractor's Subcontractors and Sub-subcontractors shall pay all workers not less than the general prevailing rate of per diem wages for work of a similar character where the Project is located, as detailed in the "Minimum/Prevailing Wage Schedule" provided herein or in the Project Manual. Wages listed are minimum rates only. However, no claims for additional compensation above the Contract Sum shall be considered by the Owner because of payments of wage rates in excess of the applicable rate provided herein. Texas Government Code §2258, *et seq.*; Texas Labor Code §62.0512, *et seq.*
- (2) Contractor shall forfeit, as a penalty to the Owner, \$60 for each laborer, worker or mechanic employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the Contract Documents.
- (3) Owner reserves the right to receive and review payroll records, payment records, and earning statements of employees of Contractor, and of Contractor's Subcontractors and Sub-subcontractors.
- (4) In executing the Work under the Contract Documents, Contractor shall comply with all applicable state and federal laws, including but not limited to, laws concerned with labor, equal employment opportunity, safety and minimum wages.
- (5) If no "minimum wage schedule" is provided herein or in the Project Manual, the Contractor shall use the wage rates determined by the US Department of Labor in accordance with the Davis-Bacon Act, 40 USC Section 3141, which can be accessed on the internet at <https://sam.gov/content/wage-determinations>, or determined by any local contractor association, whichever is less.

**e. TIME.**

- (1) Time limits stated in the Contract are of the essence. By executing the Agreement the Contractor confirms that the amount of time or date selected for Final Completion, as set out in Paragraph 2(b), provides for a reasonable period for performing the Project. Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Project is to be performed and correlated personal observations with requirements of the Contract.
- (2) The Contractor shall proceed expeditiously with adequate forces and shall achieve Final Completion by the date selected for Final Completion.

**f. NO ISRAEL BOYCOTT CERTIFICATION.**

Pursuant to Texas Government Code, Chapter 2271, as amended and re-designated from Chapter 2270, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities

or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement. “Boycott” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

**g. NO ENERGY COMPANY BOYCOTT CERTIFICATION.**

Pursuant to Texas Government Code, 2274, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott energy companies and will not boycott energy companies during the term of this Agreement. “Boycott energy companies” means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on or limit commercial relations with a company because the company engages in the exploration, production utilization, transportation, sale or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law.

**h. NO DISCRIMINATION OF FIREARM ENTITIES OR TRADE ASSOCIATIONS CERTIFICATION.**

Pursuant to Texas Government Code, Chapter 2274, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. A “firearm entity” means a firearm, firearm accessory, or ammunition manufacture, distribute, wholesaler, supplier or retailer, or a sport shooting range. A “firearm trade association” means any person, corporation, unincorporated association, federation, business league or business organization that is not organized or operated for profit for which none of its net earning inures to the benefit of any private shareholder or an individual that has two or more firearm entities as members, or is exempt for federal income taxation under Section 501(c) of the Internal Revenue Code.

i. **COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR A FOREIGN TERRORIST ORGANIZATION.**

In accordance with Texas Government Code, Chapter 2252, Subchapter F, Owner is prohibited from entering into a contract with a company that is identified on a list prepared and maintained by the Texas Comptroller or the State Pension Review Board under Texas Government Code Sections 806.051, 807.051, or 2252.153. By execution of this Contract, Contractor certifies to Owner that it is not a listed company under any of those Texas Government Code provisions. Contractor hereby voluntarily and knowingly acknowledges and agrees that this Contract shall be null and void should facts arise leading the Owner to believe that the Contractor was a listed company at the time of this procurement.

j. **CONTRACTOR IS NOT AN ABORTION PROVIDER.**

By entering into this Contract, Contractor verifies that it is not an abortion provider or an affiliate of abortion providers.

k. **CONTRACTING INFORMATION.**

By entering into this Contract, pursuant to Texas Government Code 552, Subchapter J, the Contractor agrees to be bound by the following terms if the Contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the Owner or if the Contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the Owner in a fiscal year of the Owner. If the Owner receives a written request for public information related to this Contract that is in the possession or custody of the Contractor and not in the possession or custody of the Owner, the Owner shall send, not later than the third business day after the date the Owner receives the written request, a written request to the Contractor that Contractor provide that information to the Owner.

Further, the Contractor must:

- i. Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the Owner for the duration of the Contract
- ii. Promptly, within four business days, provide to the Owner any requested contracting information that is in the custody or possession of the Contractor upon request of the Owner; and,
- iii. On completion of the Contract, either:
  - A. Provide to the Owner at no cost all contracting information related to the Contract that is in the custody or possession of the Contractor; or
  - B. Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the Owner.
  - C. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Contractor agrees that the contract can be terminated if

the Contractor knowingly or intentionally fails to comply with the requirements of that subchapter.

- D. Further, under Texas Government Code Section 552.372(c), the Owner may not accept a bid for or awarding of a contract to an entity that the Owner has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the Owner determines and documents that the entity has taken adequate steps to ensure future compliance.
- E. If a Contractor fails to provide to the Owner the requested information, Texas Government Code Section 552.373 requires the Owner to notify the Contractor in writing of the failure and allow 10 business days to cure the violation. Owner may terminate the Contract if Contractor fails to remedy the failure, Owner determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance.

1. **GOVERNING LAW.**

This Contract shall be governed by the law of the State of Texas, without regard to choice of law. Venue for any legal action arising out of the Project shall be in a state court, as appropriate, in the county where the Owner's Administrative Offices are located.

m. **NO ASSIGNMENT.**

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

n. **WRITTEN NOTICE.**

Written notice shall be deemed to have been duly served if delivered in person or if delivered at or sent by registered or certified mail to the following:

If to Owner: Johnny James, Superintendent, or his successor  
McLean Independent School District  
PO Box 90  
McLean, TX 79057

and to the Owner's authorized representative at the address set forth above.

If to Contractor:

[Redacted Contractor Address]

Contractor's authorized representative or, if a corporation, to an officer of the corporation at the address set forth above.

o. **RIGHTS AND REMEDIES.**

Duties and obligations imposed by the Contract and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

p. **ENTIRE AGREEMENT.**

This Agreement and the additional documents identified and referenced herein represent the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

q. **EDGAR CERTIFICATIONS FOR EXPENDITURE OF FEDERAL FUNDS**

Contractor acknowledges that the Project shall be paid for with Federal funds and agrees to abide and comply with the applicable provisions required by the Education Department General Administrative Regulations (“EDGAR”) as set out in 2 C.F.R. PART 200, and shall execute the ADDENDUM RELATING TO EDGAR CERTIFICATIONS FOR EXPENDITURE OF FEDERAL FUNDS attached hereto as Exhibit “A” and incorporated herein by reference for all intents and purposes.

This Agreement is entered into as of the day and year first written above and is executed in at least two original copies, one of which is to be delivered to the Contractor and one to the Owner.

**OWNER:**  
MCLEAN INDEPENDENT SCHOOL  
DISTRICT

**CONTRACTOR:**  
**COMPANY NAME**

By: \_\_\_\_\_  
*(Signature)*

By: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
Johnny James, Superintendent  
*(Name/Title)*

\_\_\_\_\_  
*(Name/Title)*

**EXHIBIT A**

**ADDENDUM RELATING TO  
EDGAR CERTIFICATIONS FOR EXPENDITURE OF FEDERAL FUNDS**

The following certifications and provisions are required by the Education Department General Administrative Regulations (“**EDGAR**”) and apply when McLean Independent School District (“**MISD**” or the “**District**”) expends federal funds for any contract resulting from the District’s procurement process. Accordingly, upon execution by Vendor, this addendum (this “**Addendum**”) shall become an integral part of the applicable contract between MISD and [REDACTED] (“Vendor”) that is awarded to Vendor through the District’s procurement process (the “Contract”). Vendor’s execution of this Addendum ensures Vendor’s agreement to comply with the terms of this Addendum, EDGAR, and other applicable federal law and regulations. In the event of a discrepancy between the terms of this Addendum and the terms set forth in the Contract, the terms of this Addendum shall prevail.

Vendor agrees and certifies as follows:

**CONTRACT PROVISIONS REQUIRED BY APPENDIX II TO 2 C.F.R. PART 200**

*(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, 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.*

**Pursuant to Federal Rule (A) above, MISD reserves all rights and privileges under applicable law and regulation with respect to this Agreement in the event of a breach of contract by Vendor.**

Does Vendor agree? YES \_\_\_\_\_  
*Initials of Authorized Rep*

*(B) 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 effected and the basis for settlement.*

**Pursuant to Federal Rule (B) above, in the event of a breach or default of this Agreement by Vendor, MISD reserves the right to immediately terminate this Agreement in the event Vendor fails to: (1) meet schedules, deadlines, or delivery dates within the time specified in this Agreement; (2) make any payments owed; or (3) otherwise perform in accordance with this Agreement. MISD also reserves the right to terminate this Agreement immediately, with written notice to Vendor, for convenience, if MISD believes in its sole discretion that it is in the best interest of MISD to do so. Vendor will be compensated for work performed and accepted and goods accepted by MISD as of the termination date if this Agreement is terminated for convenience of MISD. Any award under this procurement process is not exclusive and MISD reserves the right to purchase goods and/or services from other vendors when it is in MISD's best interest.**

Does Vendor agree? YES \_\_\_\_\_  
*Initials of Authorized Rep*

*(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include*



*the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”*

**Pursuant to Federal Rule (C) above, in the event that this Agreement meets the definition of a “federally assisted construction contract”, the equal opportunity clause referenced above is incorporated into this Addendum by reference.**

Does Vendor agree? YES \_\_\_\_\_  
Initials of Authorized Rep

*(D) Davis–Bacon Act, as amended (40 U.S.C. 3141–3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non–Federal entities must include a provision for compliance with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non–Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non–Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti–Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non–Federal entity must report all suspected or reported violations to the Federal awarding agency.*

**Pursuant to Federal Rule (D) above, in the event that this Agreement constitutes or includes a prime construction contract or a contract for the construction, completion, or repair of public work, Vendor agrees that it will comply with all applicable Davis–Bacon Act provisions as supplemented by Department of Labor (“DOL”) regulations and the Copeland “Anti–Kickback” Act, as applicable, throughout the Term of this Agreement.**

Does Vendor agree? YES \_\_\_\_\_  
Initials of Authorized Rep

*(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, all contracts awarded by the non–Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions*

*which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.*

**Pursuant to Federal Rule (E) above, in the event this Agreement exceeds \$100,000 and involves the employment of mechanics or laborers, Vendor agrees that it shall, as applicable, comply with the provisions of 40 U.S.C. §§ 3702 and 3704, as supplemented by DOL regulations, throughout the Term of this Agreement. As stated in Federal Rule (E) above, these requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.**

Does Vendor agree? YES \_\_\_\_\_  
*Initials of Authorized Rep*

*(F) 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.*

**Vendor agrees that it shall comply with all applicable requirements set forth in Federal Rule (F) above throughout the Term of this Agreement.**

Does Vendor agree? YES \_\_\_\_\_  
*Initials of Authorized Rep*

*(G) 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 subgrants 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).*

**Pursuant to Federal Rule (G) above, in the event that this Agreement exceeds \$150,000, Vendor agrees that it will comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act throughout the Term of this Agreement.**

Does Vendor agree? YES \_\_\_\_\_  
*Initials of Authorized Rep*

*(H) 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 governmentwide 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.

**Pursuant to Federal Rule (H) above, Vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment or suspension, declared ineligible, or otherwise excluded from participation by any federal department or agency. Vendor agrees that it will provide immediate written notice to the person to whom this proposal is submitted if at any time during the Term of this Agreement Vendor or its principals becomes disbarred, suspended, declared ineligible, or otherwise excluded from participation by any federal department or agency.**

Does Vendor agree? YES \_\_\_\_\_  
Initials of Authorized Rep

*(I) 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.*

**Pursuant to Federal Rule (I) above, in the event that this Agreement exceeds \$100,000, Vendor certifies that it is currently in compliance with and will continue to comply with the Byrd Anti-Lobbying Amendment throughout the Term of this Agreement. Vendor also agrees that it will file the required certification with the District further certifying such compliance.**

Does Vendor agree? YES \_\_\_\_\_  
Initials of Authorized Rep

*(J) Certification of Procurement of Recovered Materials – 2 CFR §200.323 A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.*

**Vendor agrees that it shall comply with all applicable requirements set forth in Federal Rule (J) above throughout the Term of this Agreement**

Does Vendor agree? YES \_\_\_\_\_  
Initials of Authorized Rep

(K) §200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

**Pursuant to the Federal Rules above, vendor certifies that it will not enter into a contract with the District to provide any of the prohibited equipment listed above.**

Does Vendor agree? YES \_\_\_\_\_  
Initials of Authorized Rep

(L) §200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products

*such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.*

**Pursuant to the Federal Rule above, vendor certifies that it will, to the greatest extent practicable, enter into contracts with the District with items produced within the United States, as outlined above, and will include this requirement in any sub-awards for any District contract that is entered into.**

Does Vendor agree? YES \_\_\_\_\_  
*Initials of Authorized Rep*

Sample

## **ADDITIONAL PROVISIONS REQUIRED UNDER FEDERAL LAW**

A. **Record Retention.** Vendor certifies that it will comply with the record retention requirements detailed in 2 C.F.R. § 200.333, including retaining all records for the requisite period of time.

B. **Energy Policy and Conservation Act.** Vendor certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 *et seq.*).

C. **Buy America Act.** Vendor certifies that Vendor is in compliance with all applicable provisions and accompanying regulations of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

D. **Certification of Employment Verification FAR 22.18, 74 FR 2731, 48 CFR 52.222-54.** As applicable, and as a condition for the award of any Federal contract at \$150,000 or greater, Vendor certifies that vendor is enrolled in, and is currently participating in, E-Verify or any other equivalent electronic verification of work authorization program operated by the U.S. Department of Homeland Security and does not knowingly employ any person who is an unauthorized alien in conjunction with the contracted services. A breach in compliance with immigration laws and regulations shall be deemed a material breach of the contract and may be subject to penalties up to and including termination of the contract.

E. **Certification of Health and Safety Certifications, Licensing, and Regulations.** As applicable to federal funds contracts, all contractors must meet applicable local, state, and federal health and safety certifications, licensing, or regulations which include, but are not limited, to facility use, food establishment, and authorized providers.

F. **Access to Records.** In accordance with 2 C.F.R. § 200.337, Vendor agrees that the District or any of its duly authorized representatives shall have access to any books, documents, papers, and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions. This right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

G. **Historically Underutilized Businesses.** Vendor agrees that it will take all necessary affirmative steps, including those specifically set forth in 2 C.F.R. 200.321(b), to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible in performing under this Agreement.

H. **Geographic Preference.** Pursuant to 2 C.F.R. 200.319(b), except with regard to contracts for architectural and/or engineering services, the District will not use statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except where applicable federal statutes expressly mandate or encourage geographic preference.

I. **Applicability to Subcontractors.** Vendor agrees that all contracts it awards pursuant to this Agreement shall be bound by the foregoing terms and conditions, such that a breach

of any of the foregoing terms and conditions by a contractor or subcontractor of Vendor shall be deemed to be a breach of this Agreement by Vendor.

VENDOR AGREES TO COMPLY WITH ALL FEDERAL, STATE, AND LOCAL LAWS, RULES, REGULATIONS, AND ORDINANCES, AS APPLICABLE. IT IS FURTHER ACKNOWLEDGED THAT VENDOR CERTIFIES COMPLIANCE WITH ALL PROVISIONS, LAWS, ACTS, AND REGULATIONS AS SPECIFICALLY NOTED ABOVE.

Vendor's Name: \_\_\_\_\_

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

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Printed Name and Title of Authorized Representative: \_\_\_\_\_

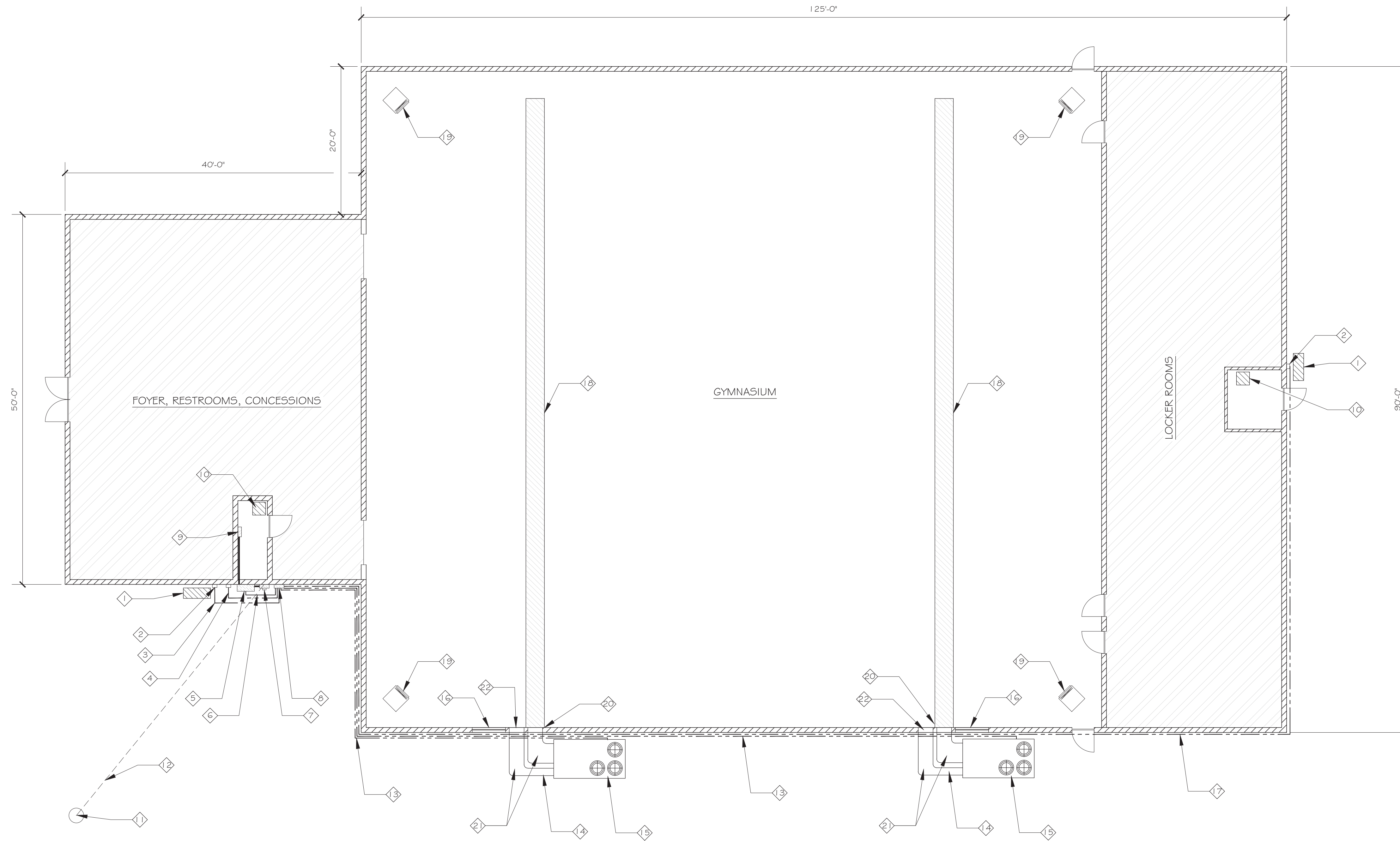
Email Address: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT B**

**Drawing and Specifications**





1 OVERALL SITE PLAN  
VI.1 SCALE: 1/8" = 1'-0"

GENERAL NOTES:

1. CONTRACTOR SHALL VERIFY LOCATIONS OF ALL EXISTING EQUIPMENT AND NEW EQUIPMENT LOCATIONS.
2. CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING ANY AND ALL UTILITIES IN THE CONSTRUCTION AREA.
3. REFER TO THE PROVIDED SCOPE OF WORK AND MATERIALS SPECIFICATIONS.

SHEET NOTES:

AS INDICATED BY #

1. NEW 5 TON CONDENSER UNIT
2. NEW 60A FUSIBLE DISCONNECT FOR CONDENSER UNIT
3. 3/4" Ø CONDUIT WITH 4-#6 WIRE AND 1-#6 GROUND WIRE FOR CONDENSER UNIT.
4. RECONNECT EXISTING EXTERIOR LIGHTING PANEL. USE 1/2" Ø CONDUIT WITH 2-#12 WIRE AND 1-#12 GROUND WIRE FOR EXISTING EXTERIOR LIGHTING PANEL.
5. NEW 400A DISCONNECT, GROUND WITH 1/0 TO GROUNDING ROD AND TO BUILDING STRUCTURE IF NOT ALREADY GROUND. CONNECT TO METER WITH 3" CONDUIT WITH 4-500 MCM WIRE AND 1-#2 GROUND WIRE.
6. 3" Ø CONDUIT WITH 4-3/0 WIRE AND 1-#6 GROUND WIRE FROM 400A DISCONNECT TO 200A PANEL.
7. NEW 320A METER
8. NEW 200A PANEL FOR CONDENSERS AND PACKAGE UNITS.
9. EXISTING PANEL, TO BE RECONNECTED FROM THE NEW 400A DISCONNECT. USE EXISTING CONDUIT AND WIRE IF POSSIBLE. IF NEEDED TO REPLACE USE, 3-3/0 WIRE AND 1-#6 GROUND WIRE.
10. REMOVE EXISTING FURNACE UNIT AND REPLACE WITH NEW FURNACE AND EVAPORATIVE COIL UNIT. CONNECT TO EXISTING DUCTWORK.
11. EXISTING XCEL SERVICE POLE AND TRANSFORMERS.
12. NEW XCEL SERVICE DROP TO WEATHER HEAD ON BUILDING EXTERIOR INTO 3" Ø WITH 4-500 MCM.
13. 1-1/4" Ø CONDUIT WITH 4-#2 WIRE AND 1-#6 GROUND WIRE.
14. SUPPLY AND RETURN DUCTS, HORIZONTAL FROM UNIT, VERTICAL TO APPROXIMATELY 16FT AFF.
15. NEW 1.5 TON PACKAGE UNIT, HORIZONTAL SUPPLY AND RETURN.
16. EXISTING BUILDING EXHAUST FANS TO REMAIN.
17. 1" Ø CONDUIT WITH 4-#6 WIRE AND 1-#6 GROUND WIRE FOR CONDENSER UNIT ON THE NORTH SIDE OF THE GYM.
18. NEW 30" Ø FABRIC DUCT SYSTEM.
19. EXISTING GAS HEATERS TO REMAIN.
20. TRANSITION FROM 24"x24" DUCT THROUGH WALL TO 30" Ø FABRIC DUCT.
21. TRANSITION FROM PACKAGE UNIT SUPPLY AND RETURN CONNECTIONS TO 24"x24" VERTICAL SUPPLY AND RETURN DUCT.
22. 24"x24" RETURN AIR REGISTER.

ISSUED FOR CONSTRUCTION	06/2023
NO.	DESCRIPTION DATE
<b>CLIENT</b>	
MCLEAN ISD GYMNASIUM HVAC PROJECT	

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BUILDING DESIGN / ENGINEERING DIVISION  
**OPEN RANGE ENGINEERING SERVICES, PLLC**  
(806) 665-1115  
217 N. CUYLER, SUITE 300  
P.O. BOX 2179  
DOWNTOWN PAMPA  
PAMPA, TEXAS 79066-2179

ENGINEERING STAMP  
06/19/23

JEREMY L. SPROUSE, P.E. No. 132906  
FIRM No. F-5531

OVERALL SITE PLAN  
WORK ORDER NO.: 23-011  
SCALE: 1/8" = 1'-0"  
DRAWN BY: LLR 06/2023  
CHECKED BY: REN 06/2023  
APPROVED BY: JLS 06/2023  
FILE NAME: 23-011-V1.1  
PLOT DATE: 06/2023

REVISION NO.: 0

SHEET NO.  
**V1.1**

## Exhibit B

Client: McLean ISD Project: McLean ISD Gymnasium HVAC Project Document: Project Scope of Work and Specifications	Ref: ORE23-011 Rev. 0, 06/2023 Page 1
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# McLean ISD Gymnasium HVAC Project

## 1. General

- 1.1 The contractor shall provide and pay for all labor, materials, tools, equipment, utilities, supervision, and all other facilities and services to complete the project as specified within the following scope of work and specifications.
- 1.2 The contractor shall submit to the McLean ISD (Owner) a bid and proposal for the work to be performed as outlined in the scope of work and shown in the attached documentation.
  - 1.2.1 Payment for the project bid will be based upon quantities, dimensions, and limits of construction shown in the attached design drawings.
- 1.3 The Scope of Work (SOW) for the replacement, modifications, and additions to the existing heating ventilation and air conditioning (HVAC) for the McLean ISD gymnasium in McLean, TX includes but is not limited to the following:
  - 1.3.1 Removal of two (2) existing furnace units in the existing foyer and locker room spaces.
  - 1.3.2 Installation of two (2) new furnace units, cooling units, and conditioning units in the existing foyer and locker room spaces.
  - 1.3.3 Installation of two (2) new exterior package units for heating and cooling services to the gymnasium.
  - 1.3.4 Removal of existing electrical meter and disconnect.
  - 1.3.5 Installation of new electrical meter, main disconnect, new power service for new units, and connections to the existing building and equipment.
- 1.4 All construction and specifications shall adhere to standards and practices set forth by state and local building codes and guidelines. Contractor shall ensure conformation to NEC 2020, IBC 2021, IFGC 2021, and IMC 2021. Contractor shall install all new electrical service and equipment per NFPA 70 NEC code and follow NFPA 70E standards for electrical safety.
- 1.5 Contractor is responsible for obtaining any and all state or local permits required for the demolition and construction of the drainage mitigation structures.
- 1.6 Contractor shall verify all extents of construction and demolition with Owner or Owner's Representative prior to construction and demolition.
- 1.7 Contractor shall provide required submittals to the Owner prior to construction. Submittals shall include but are not limited to material technical data, tested properties, manufacturers' specifications, etc. as required by the Owner. All material is to be as specified or approved equivalent. Contractor is permitted to contact the Owner's Representative to obtain the specification and installation details for specified materials in this SOW and the design drawings.
- 1.8 Contractor is responsible for all onsite quality assurance of materials through onsite testing and monitoring of construction materials and the overall construction project if required by the Owner and notified prior to bidding. Contractor to communicate with the Owner or the Owner's Representative for approval of final product quality and acceptance.



## Exhibit B

Client: McLean ISD Project: McLean ISD Gymnasium HVAC Project Document: Project Scope of Work and Specifications	Ref: ORE23-011 Rev. 0, 06/2023 Page 2
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- 1.9 Contractor, at their own expense, shall take every precaution to protect against injuries to persons or damage to properties, by storing equipment, materials, and supplies at the project site in an orderly fashion. Before the final payment, the contractor shall remove all surplus material and debris of every nature resulting from their operation and restore the site to its best original and orderly state.
  
- 1.10 Contractors shall comply with all insurance requirements, safety rules, work hours, codes of conduct, and other rules as requested by the Owner. At minimum, contractors are expected to understand and comply with the following:
  - 1.10.1 Any abusive language, conduct, or horseplay that may result in removal from the jobsite.
  - 1.10.2 No alcoholic beverages or illegal drugs or substances will be permitted on the job at any time. Anyone caught consuming, distributing, or selling alcoholic beverages or illegal drugs will be escorted off the jobsite immediately.
  - 1.10.3 Proper work attire will be worn at all times, no suggestive clothing allowed.
  - 1.10.4 No smoking in the building. Smoking is permitted outside at designated locations.
  - 1.10.5 All work areas will be kept clean. It is the responsibility of the contractor to pick up and dispose of trash daily. The work shall include, but is not limited to, continuous housekeeping and maintenance of the building in a reasonable manner. Including sweeping and collection of trash and debris resulting from daily activities and disposed of daily. A completely clean facility for all related areas of construction shall be required prior to final completion of this project.
  
- 1.11 See also attached drawing 23-011-V1.1 for over layout of new HVAC units and electrical systems.



## Exhibit B

Client: McLean ISD  
Project: McLean ISD Gymnasium HVAC Project  
Document: Project Scope of Work and Specifications

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## 2. Material Specifications

### 2.1. Mechanical Systems:

2.1.1. All mechanical system materials and equipment are to be as specified or approved equivalent. Contractor shall provide submittal information to the Owner or the Owners Representative prior to purchasing equipment and materials.

#### 2.1.2. Split Systems:

2.1.2.1. New Interior Furnace Units (two each): Carrier 58SC0A110E21-20 with 85 MBH heating output with 2050 CFM.

2.1.2.2. New Interior Evaporative Coil (two each): Carrier CNPVP6121ACA

2.1.2.3. New Outdoor Condenser (two each): Carrier 24AHA460A0050 with minimum 5-ton cooling capacity.

2.1.2.4. All existing ductwork for the two split system units shall remain in place. Contractor shall connect new units to existing ductwork with rigid insulated ductwork as required.

2.1.3. New Exterior Package Units shall be two each, Carrier 48TCDD16A1M5-0A2J0 with 146 MBH heating output and 15-ton cooling capacity and 7500 CFM. Package units shall have horizontal supply and return to allow the unit to be installed on the ground outside of the gymnasium and allow for ductwork to be installed vertically on the east side of the gymnasium.

2.1.4. All exterior ductwork for the new packaged units from the unit to the exterior wall penetration shall be insulated ridged duct, taped, and sealed to prevent air and temperature loss.

2.1.5. All new interior ductwork to be installed for the package units in the gymnasium shall be DuctSox 30" diameter fabric duct. Fabric duct is to be installed with internal hoop system (HIS) to allow for 1-5% deflation of the duct system. Fabric duct system to be manufactured with standard liner vents with a minimum 30 ft of air throw at 1in average pressure. Contractor is responsible for all transitions from rigid exterior duct system to the interior fabric duct. Fabric color to be determined by Owner prior to purchase of materials.

#### 2.1.6. Concrete:

2.1.6.1. Concrete required for new slabs for exterior package units and condensers shall be a minimum of 3000 PSI concrete at the 28-day cure. All concrete slabs shall have #3 rebar spaced 16" o.c. each way.

2.1.6.2. Concrete slabs for package units shall have a 12" x 12" perimeter foundation with two (2) each #5 rebar continuous. Slab and foundation shall be poured monolithically.

2.1.6.3. All reinforcing steel shall be uniformly supported on appropriately sized rod chairs to maintain ground clearance.

2.1.6.4. All concrete slabs shall be placed on top a minimum of two (2) inch compacted sand fill.

2.1.6.5. All concrete slabs shall be troweled and receive a light broom finish.



## Exhibit B

Client: McLean ISD Project: McLean ISD Gymnasium HVAC Project Document: Project Scope of Work and Specifications	Ref: ORE23-011 Rev. 0, 06/2023 Page 4
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### 2.2. Electrical Systems:

2.2.1. All electrical system materials and equipment are to be as specified or approved equivalent. Contractor shall provide submittal information to the Owner or the Owners Representative prior to purchasing equipment and materials.

2.2.2. New 3 phase meter base rated for continuous duty at 320A and shall be equipped with an approved lever-actuated, locking-jaw, bypass constructed such that the bypass lever cannot be in the bypass position with the socket cover installed. The bypass handle shall be located on the right side of the meter block when facing the meter block. Must be an Xcel approved meter base.

2.2.3. All wire material shall be copper THWN.

#### 2.2.4. Disconnects:

2.2.4.1. New 3 phase 120/240V 400A disconnect with a Nema 3R rating. Square D H325NR.

2.2.4.2. New 3 phase 60A HVAC disconnects with a Nema 3R rating. One for each new 5-ton condenser unit. Square D D322NRB.

2.2.4.3. New package units to be provided with disconnects.

#### 2.2.5. Fuses:

2.2.5.1. New 400A Class RK-1 fuses.

2.2.5.2. New 60A Class H fuses.

#### 2.2.6. Panels:

2.2.6.1. New 3 phase 120/240V 200A panel with a 200A main breaker and 30 spaces Nema 3R rating. Square D QO330MQ200RB.

#### 2.2.7. Circuit Breakers:

2.2.7.1. 2-new 80A bolt on 3 pole circuit breaker 22KA rating.

2.2.7.2. 2-new 40A bolt on 3 pole circuit breaker 22KA rating.

2.2.7.3. 1-new 20A plug in 1 pole circuit breaker 22KA rating.



## Exhibit B

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### 3. Execution of Work

#### 3.1 General:

- 3.1.1 Contractor is responsible for contacting utility location services prior to construction of the project to locate all utilities in and around the construction project site. Contractor shall use caution when performing excavation work around utilities. Hydro excavation, if required, will be the responsibility of and paid for by the contractor to locate and protect the utilities within the construction project site.
- 3.1.2 Contractor is responsible for protecting and preventing damage to existing ISD facilities that are not a part of this SOW. Contractor is responsible to repair and/or replace any damaged portions to the facility that were the responsibility of the contractor.

#### 3.2 Mechanical Construction Methods:

- 3.2.1 Contractor shall remove two (2) existing furnace units. One unit is located in the mechanical room off of the east side of the front foyer and the other unit is located in the mechanical room on the north side of the gymnasium lockers (access from outside). Contractor is responsible for completely removing the units from the project site.
- 3.2.2 Contractor shall install two (2) new furnace units and corresponding condenser units and evaporative coils. Furnace units and evaporative coils shall be placed in the same mechanical rooms as the units that were removed. The condenser units shall be placed outside the building adjacent to the corresponding mechanical room. Each new furnace unit shall connect to existing ductwork located in each mechanical room. Contractor shall verify size and connection at each location prior to construction. Contractor is responsible for sealing any and all penetrations through the CMU block wall. Contractor shall verify connections and drainage of the condensate lines from the evaporative coils.
- 3.2.3 Contractor shall place 5ft x 5ft concrete pads or appropriately sized pre-made air conditioner pads at the required location for each new condenser unit.
- 3.2.4 Contractor shall install two (2) 10ft x 6ft concrete pads for each new package unit on the east side of the gymnasium. Each package unit shall be located to allow for duct work to enter the building adjacent to each building exhaust fan located on the east side of the building.
- 3.2.5 Contractor shall install two (2) exterior package units on the concrete pads located on the east side of the gymnasium.
- 3.2.6 Contractor shall install all required and necessary exterior ductwork and accessories from the ground mount packaged unit to the building wall penetration approximately 16ft above ground level. Contractor shall ensure that all exterior ductwork is taped, caulked, sealed, and insulated to prevent air loss and reduce temperature loss or gain in the ductwork. Contractor is responsible for any and all fittings, materials, penetrations, demolition, construction, etc. required to penetrate and seal the ductwork at the building connection.



## Exhibit B

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Project: McLean ISD Gymnasium HVAC Project  
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- 3.2.7 Contractor shall coordinate with local gas service provider to install the required gas service line to each package unit. When possible, all gas service lines shall be installed underground to each package unit.
- 3.2.8 Contractor shall install the interior fabric duct system adjacent to the main building structural frame. Contractor shall install all connections, hangers, etc. according to the manufacturer's specifications and requirements. Contractor shall ensure that the new fabric duct does not interfere with any lights, basketball goals, or normal gymnasium use.
- 3.2.9 Contractor shall provide all necessary equipment and materials for locating the thermostats on the south wall of the gymnasium, verify final location with Owner or Owner's representative. Each thermostat shall be encased with a clear lockable cover at 48" above finished floor.

### 3.3 Electrical Construction Methods:

- 3.3.1 Contractor shall work with electric utility (Xcel Energy) to have power disconnected.
- 3.3.2 Contractor shall remove 200A meter base and service riser. Meter base and service riser is located outside on the east side of the foyer to the gymnasium. The contractor is responsible for completely removing old equipment from the project site.
- 3.3.3 Contractor shall install a new 3 phase 120/240V 320A meter base with a new 3" service riser with 4-500 MCM wire in the riser to the north of where the existing 200A meter base was.
- 3.3.4 Contractor shall install a new 3 phase 120/20V 400A fusible disconnect where the old 200A meter was installed.
- 3.3.5 Contractor shall install 3" conduit with 4-500 MCM wire and a #2 ground wire from the new meter to the source side of the new 400A disconnect.
- 3.3.6 Contractor shall install 1/0 ground wire to grounding electrode and contractor shall verify the ground is bonded with the building steel.
- 3.3.7 Contractor shall install 3" conduit with 4-500 MCM wire and a #2 ground wire from the new meter to the source side of the new 400A disconnect.
- 3.3.8 Contractor shall reinstall, if possible, the existing wire from the existing 200A single phase panel in the mechanical room to the load side of the new 400A disconnect. Contractor shall verify the single-phase panel is connected to the 120/240V single phase and not the 208V wild leg. If the existing wire cannot be used. Contractor shall install new 3-3/0 wire and a #6 ground wire to the existing panel from the load side of the new 400A disconnect.
- 3.3.9 Contractor shall install new 3 phase 200A 30 space panel outside beside the new 400A disconnect.
- 3.3.10 Contractor shall install new 3" conduit with 4-3/0 wire and a #6 ground wire from the source side of the disconnect to the source side of the new 200A 3 phase panel.



## Exhibit B

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- 3.3.11 Contractor shall install 2 new 80A 3 pole, and 2 new 40A 3 pole breakers for new AC condenser units. Contractor shall install a new 20A 1 pole breaker.
- 3.3.12 Contractor shall install new 1/2" conduit with 2-#12 wire and a #12 ground wire from the 20A 1 pole breaker in the new 200A panel to existing outdoor light panel. Contractor shall verify 20A 1 poles breaker is on a 120V leg not the 208V wild leg.
- 3.3.13 Contractor shall install new 3/4" conduit with 4-#8 wire and a #8 ground wire from the 40A 3 pole breaker in the new 200A panel to Foyer AC condenser unit's 3 phase 60A fusible disconnect at the required location for new condenser unit. Conduit shall be installed outside, along the building wall.
- 3.3.14 Contractor shall install new 1" conduit with 4-#6 wire and a #8 ground wire from the 40A 3 pole breaker in the new 200A panel to Locker room AC condenser unit's 3 phase 60A fusible disconnect at the required location for new condenser unit. Conduit shall be installed outside, along the building wall.
- 3.3.15 Contractor shall install new 1 1/4" conduits with 4-#2 wire and a #8 ground wire in each conduit from the 2-80A 3 pole breaker in the new 200A panel to each new gymnasium package unit's 3 phase non-fusible disconnect at the required location. Conduits shall be installed outside, along the building wall.

