



TEXAS TECH UNIVERSITY SYSTEM
Facilities Planning and Construction™

REQUEST FOR PROPOSAL
COMPETITIVE SEALED PROPOSALS (CSP)
for
GENERAL CONSTRUCTION SERVICES

TTUHSC Preston Smith Library 3rd Floor Renovation

FP&C Project Number 23-05

Texas Tech University Health Sciences Center

Lubbock, Texas

DEADLINE FOR SUBMISSION OF PROPOSALS

3:00 PM CT, Wednesday, October 11, 2023

Facilities Planning and Construction
Texas Tech University System
Box 42014
Lubbock, TX 79409
Phone: (806) 742-2116

The Texas Tech University System is an Equal Opportunity Employer and encourages all Historically Underutilized Businesses to participate.

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SECTION 1. NOTICE TO PROPOSERS

1.1 Request for Proposals for Competitive Sealed Proposals for Construction Services

- 1.1.1 Pursuant to Texas Education Code §51.783, in accordance with the terms, conditions and requirements set forth in this Request for Proposal (RFP), Texas Tech University System (Texas Tech) seeks Competitive Sealed Proposals (CSP) for Construction Services from qualified Contractors (Proposers) for the Project described below and as further detailed in the attached Contract Drawings and Specifications.
- 1.1.2 This Request for Proposal (RFP) is the only step for selecting a Contractor for the Project as provided by Texas Education Code §51.783(d). This Request for Competitive Sealed Proposals provides the information necessary to prepare and submit Proposals on the Project, including the minimum scope of Construction Services required, and information to aid in preparing Proposals in response to this RFP for consideration and ranking by Texas Tech.
- 1.1.3 All inquiries regarding this Request for Competitive Sealed Proposals for General Construction Services must be in writing and directed to Texas Tech Sr. Program Director and Design Professional below. Questions directed to other agencies or Texas Tech officials will not receive consideration or a response.
- 1.1.4 Texas Tech will evaluate the inquiries and questions to determine whether a response is required. All questions, responses and additional information will be included in an Addendum which will be posted to the Texas Electronic State Business Daily (ESBD) and to the e-Builder Bid Portal, which can be accessed through ESBD website posting.
 - 1.1.4.1 It is the responsibility of all interested companies to periodically check the ESBD and/or the e-Builder Bid Portal (which can be accessed through the following ESBD website) for any posted Addenda: <http://www.txsmartbuy.com/sp>. Google Chrome is the recommended browser for accessing this website.
- 1.1.5 Proposer, Bidder, and Contractor shall mean the individual, partnership, corporation, or other entity responding to this RFP.
- 1.1.6 Following successful negotiations with Texas Tech, the selected Proposer will be expected to sign a Construction Services Agreement with the stipulated sum contract value being the final amount agreed upon in the negotiations with Texas Tech. A copy of the Construction Services Agreement is included in this RFP.
- 1.1.7 Except as provided in this RFP and as otherwise necessary for the conduct of existing Texas Tech business operations, Proposers are expressly and absolutely prohibited from engaging in communications with Texas Tech personnel who are involved in any manner in the drafting of this RFP, in the review or evaluation of the submission, in selection of a Contractor or negotiation or formalization of a General Construction Services Contract. If any Proposer engages in conduct or communications that Texas Tech determines is contrary to the prohibitions set forth in this section, Texas Tech may at its sole discretion, disqualify the Proposer and remove the Submission from consideration.
- 1.1.8 Proposer recognizes and understands that any cost incurred by the Proposer which arises from Proposer's participation in the RFP process shall be at the sole risk and responsibility of Proposer. Proposers submit Proposals at their own risk and expense.

- 1.1.9 By signing and submitting a Proposal, Proposer certifies they are a qualified Contractor, and that any attached or referenced conditions or documents are applicable to this procurement only to the extent that they do not conflict with the statutes or Administrative Code of the State of Texas, or the advertised Contract conditions, and that they do not impose additional requirements on Texas Tech. Proposer further certifies that the submission of a Proposal is Proposer’s good faith intent to contract with Texas Tech as specified herein and that such intent to contract is not contingent upon Texas Tech’s acceptance or execution of any such attached or referenced conditions, or other documents.
- 1.1.10 By signing the Proposal, the Proposer acknowledges they have reviewed the Contract Documents in entirety and have covered the costs for the entire scope of the Work.

1.2 Project Information

1.2.1 Project:

Project Name:	TTUHSC PSL 3rd Floor Renovation
Project Number:	23-05
Institution:	TTUHSC
Location:	Lubbock, Texas
Texas Tech Sr. Program Director:	Richard A. Richeda (email: rick.richeda@ttu.edu)
Estimated Construction Start:	November 22, 2023
Expected Construction Completion:	August 22, 2024
Design Professional:	Page Southerland Page, Inc. Lisa Kincaid (email: kincaid@pagethink.com) 1800 Main Street, Suite 123 Dallas, Texas 75201 (469) 621-4781

1.3 Scope of the Work

- 1.3.1 Texas Tech University System and Texas Tech University Health Sciences Center will renovate the 3rd floor of Preston Smith Library into a Center of Innovation for faculty development and student learning spaces. This alternation will provide for flexible furniture areas, up to 28-student study spaces, 5-large group study rooms, and a student coffee lounge that includes vending machines, coffee, and microwave services.
- 1.3.2 The selected Proposer will be responsible for the accomplishment and coordination of all construction activities indicated in the Contract Documents. In addition, the awarded Contractor shall be responsible for the coordination of the Work under this Contract with work by Texas Tech and other Contractors.
- 1.3.3 Proposers may obtain or access the Contract Documents (i.e., Specifications, Drawings, and Addenda) for preparing their proposals for this Project at: <http://www.txsmartbuy.com/sp>.

SECTION 2. PROPOSAL INFORMATION

2.1 Proposal Response

- 2.1.1 Proposals are due: **3:00 PM. CT, Wednesday, October 11, 2023**
- 2.1.2 HUB Subcontracting Plans (HSP) are due: **10:00 AM. CT, Thursday, October 12, 2023**
- 2.1.3 Proposals and HUB Subcontracting Plans will be received electronically by Texas Tech through the e-Builder Bid Portal. Instructions for this process will be provided as a separate document on the ESBD website RFP posting.
- 2.1.4 All communications relating to this RFP must be submitted in writing through the e-Builder Bid Portal by the date indicated in the schedule of events. Questions, responses, and Addenda issued related to this RFP, if any, will be posted to the ESBD and to the e-Builder Bid Portal. Responses issued by formal written Addenda are binding and contractual. Oral and other interpretations or clarifications will be without legal effect.
 - 2.1.4.1 NOTE: It is the responsibility of the Proposer to review the ESBD and the e-Builder Bid Portal for any Addenda posted. For any problems encountered with the e-Builder Bid Portal, contact Ms. Alexis Henry, TTUS Contract Administrator, alexis.henry@ttu.edu.
- 2.1.5 All Proposals should be clearly identified with the **Project Name and Project Number**.
- 2.1.6 Upload true (searchable) PDF Proposals, inclusive of Proposal Form and Proposer’s Execution of Offer, via the e-Builder Bid Portal.
- 2.1.7 For document upload guidelines, refer to the “Instructions on Creating a Bid Package Response” document accessible from the ESBD posting and the e-Builder Bid Portal.
- 2.1.8 Respond to: Alexis Henry
Contract Administrator
Texas Tech University System
Facilities Planning & Construction
alexis.henry@ttu.edu

2.2 Tentative Schedule:

RFP Posting	September 14, 2023
Pre-Proposal Conference and Site Visit	Monday, September 18, 2023, 2:00 PM CT
Written Inquiries Due	Tuesday, September 26, 2023, 3:00 PM CT
Addendum to Inquiries Posted	Friday, September 29, 2023, 11:00 AM CT
Proposal Submission Due	Wednesday, October 11, 2023, 3:00 PM CT
HUB Subcontracting Plan (HSP) Due	Thursday, October 12, 2023, 10:00 AM CT
Short List / Selection Contractor(s)	Wednesday, October 25, 2023, CT
Contractor Interviews	TBD (if required)
BOR Approval	Thursday, November 16, 2023
Notice to Proceed	Wednesday, November 22, 2023 (Approx.)
2.2.1	Texas Tech reserves the right to modify this schedule as required. Consult the ESBD / e-Builder Bid Portal for addenda and schedule updates.

2.3 Pre-Proposal Conference and Site Visit

2.3.1 Pre-Proposal Conference: **Monday, September 18, 2023, 2:00 PM CT**

Texas Tech University System

Administration Building

1508 Knoxville Avenue

Conference Room No 104A.

Lubbock, Texas

- 2.3.1.1 Instructions for Online Meeting: See the link below for the **23-05 TTUHSC PSL 3rd Floor Renovation** CSP General Construction Services Pre-Proposal Conference Meeting.

CSP General Construction Services Pre-Proposal Conference

Monday, September 18, 2023, 2:00 PM CT at:

Microsoft Teams Meeting

Meeting ID: 273 779 790 019

Passcode: 3b5SxS

2.3.2 Site Visit: **Monday, September 18, 2023, following the Pre-Response Conference**

- 2.3.3 Representatives of Texas Tech and the Design Professional will be present to discuss proposal procedures and requirements, Contract Documents including Specifications and Drawings, Project special conditions, and HUB good-faith requirements applicable to this Project. A Site visit, if needed, will be held at the time indicated above. Proposers will have an opportunity to ask questions regarding this RFP during the meeting and are asked to follow those questions up in writing via the e-Builder Bid Portal or by email to the Program Director.

- 2.3.4 Attendance by the appropriate personnel from each Proposer is highly recommended at the Pre-Proposal Conference and Site visit.

- 2.3.5 Visits to the Project Site shall occur at the TIME scheduled by Texas Tech. See schedule above. No other site access will occur prior to the Proposal submittal deadline unless Proposers contact the Sr. Program Director to schedule a time for a Site evaluation.

2.4 Receipt and Opening of Proposals

- 2.4.1 Competitive Sealed Proposals and HUB Subcontracting Plans (HSP) will be received until the date and time shown in Section 2 via the e-Builder Bid Portal.

- 2.4.2 Proposals submitted without a signed Proposal Form, Proposer's Execution of Offer, and HUB Subcontracting Plans (HSP) will be disqualified.

- 2.4.3 The names of the Proposers who properly submit Proposals will be made public after the HUB Subcontracting Plans (HSP) are received and confirmed by Texas Tech. Other contents of the Proposals will be afforded security sufficient to preclude disclosure of the contents of the Proposal prior to award. Virtual meeting options will not be offered. Proposers' names will be read aloud during the HSP Public Opening meeting on:

Thursday, October 12, 2023, at 10:00am CT

Texas Tech University System
Administration Building
Rio Grande Conference Room 103A
1508 Knoxville Ave
Lubbock, TX 79409

- 2.4.4 Within 45 days after the date of public bid opening, Texas Tech will rank the Proposers in the order that they provide best value for Texas Tech based on the published selection criteria and on the ranking evaluations. Texas Tech is not bound to accept the lowest price offered if that offer is not in its best interest, as determined by Texas Tech based on the factors stated in Section 5 Selection Criteria. Texas Tech reserves the right to: (a) enter into Agreements or other contractual arrangements for all or any portion of the scope of the Work set forth in this Proposal; (b) reject any and all offers and re-solicit; or (c) reject any and all offers and temporarily or permanently abandon this procurement, if deemed to be in the best interest of Texas Tech.
- 2.4.5 Texas Tech makes no representation that inconsistencies or award will be made as a result of this RFP and reserves the right to accept or reject any or all proposals, waive any formalities or minor technical inconsistencies, or delete any item or requirements from this RFP or resulting contract when deemed to be in Texas Tech's best value or interest. Representations made within the proposal will be binding on Proposers. Submissions which are qualified with conditional clauses, exceptions, exclusions, assumptions, or alterations or items not called for in this RFP, or irregularities of any kind, are subject to disqualification by Texas Tech at its option. Texas Tech will not be bound to act by any previous communication or proposal submitted by the Proposers other than this RFP and related Addenda. Texas Tech reserves the right to accept or reject all Proposals for which there are less than three (3) Proposals submitted.
- 2.4.6 Any Contractor's Proposal may be withdrawn prior to the above scheduled time for the opening of Proposal or authorized postponement thereof. No Proposer may withdraw a Proposal within sixty (60) calendar days after the actual date of the opening thereof.
- 2.4.7 Texas Tech will not acknowledge or receive Proposals, Alternates, Qualifications or HUB Subcontracting Plans that are delivered by mail or other carriers, telephone, or electronic email (email). In the event hard copy responses are received, responses will not be considered.

2.5 Competitive Sealed Proposals Preparation

- 2.5.1 General Instructions
- 2.5.1.1 Each proposal must be prepared providing a straightforward, concise description of the Proposer's ability to meet the requirements of this RFP. Emphasis shall be on quality, completeness, clarity of content, responsiveness to the requirements, and an understanding of Texas Tech's requirements.
- 2.5.1.2 Proposers should carefully review the information contained in this RFP, including the conditions at the Project Site, Contract Documents, and submit a complete response to all requirements and questions as directed. Incomplete Proposals will be considered non-responsive and subject to rejection.
- 2.5.1.3 All addenda issued by Texas Tech prior to the time that proposals are received shall be considered part of the RFP. Proposer must acknowledge all addenda in Proposal Form.
- 2.5.1.4 Proposers shall submit their Proposals and all documentation required by this RFP in one complete package with the exception of the HSP documentation which is submitted

separately. Failure to include any part of the requested information or documentation may result in the disqualification of the Proposal. Proposals will be evaluated based upon the selection criteria listed below.

- 2.5.1.5 Proposals and any other information submitted by Proposers in response to this RFP shall become the property of Texas Tech.
- 2.5.1.6 Failure to comply with the requirements contained in this RFP may result in the rejection of Proposer's proposal.
- 2.5.2 Format of Proposals
 - 2.5.2.1 Table of Contents:
 - 2.5.2.1.1 Include with the Proposal a Table of Contents that includes page number references. The Table of Contents should be in sufficient detail to facilitate easy reference of the sections of the Proposal as well as separate attachments (which should be included in the main Table of Contents). Supplemental information and attachments included by the Proposer (i.e., not required) should be clearly identified in the Table of Contents and provided as a separate section.
 - 2.5.2.2 Pagination:
 - 2.5.2.2.1 All pages of the Proposal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.). Attachments should be numbered or referenced separately.
 - 2.5.2.2.2 All page's sizes should be formatted to letter-size (8 1/2" x 11").
- 2.5.3 Each Proposal must be submitted on the required form. All blank spaces for Proposal prices must be completed in both written and numerical format and all EXHIBITS, ATTACHMENTS, or APPENDICIES must be completed and attached.
 - 2.5.3.1 Discrepancies between written and numerical format will be resolved in favor of written. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 2.5.4 Texas Tech is not responsible for equipment or software failure, internet, or website downtime, corrupt or unreadable data, or other technical issues that may cause delay or non-delivery of a Proposal of inaccessibility of the submitted data.
 - 2.5.4.1 Proposers are highly encouraged to prepare and allow for sufficient time to familiarize themselves with the electronic submission requirements and to address any technical or data issues PRIOR to the Proposal due date and time.
 - 2.5.4.2 Proposer is responsible for ensuring it has the technical capability to submit its proposal via electronic submission.
- 2.5.5 No quick-response (QR) codes will be accepted as part of the Proposal and may disqualify the Proposal.

2.6 Ownership of Proposals and Public Information

- 2.6.1 Submitted Proposals, documentation and supporting materials shall become the property of Texas Tech.

- 2.6.2 Texas Tech considers all Proposal information, documentation and supporting materials submitted in response to this Proposal request to be non-confidential and/or non-proprietary in nature, and therefore, shall be subject to the public disclosure under the Texas Public Information Act (Texas Government Code, Sec. 552.001, et seq.) after the award of the contract.

2.7 Site Investigation

- 2.7.1 It is the responsibility of each Proposer to examine the Project Site, existing improvements and adjacent property and be familiar with existing conditions before submission of a Proposal.
- 2.7.2 After investigating the Project Site and comparing Contract Documents with the existing conditions, the Proposer should immediately notify Texas Tech and the Design Professional of any conditions for which requirements are not clear or about which there is any question regarding the extent of the Work involved.
- 2.7.3 In the event the successful Proposer does not conduct a Site investigation, and should a question arise after award of the Contract as to the extent of the Work involved in any particular case, Texas Tech, after receiving recommendations from Design Professional, will make the interpretation of Contract Documents.

2.8 Separation of Charges for Materials and Labor

- 2.8.1 With regard to the status of the Proposer under the Texas Tax Code as a reseller to Texas Tech of materials to be incorporated into the Work, the contract price shall include the allocation for materials and labor.

2.9 Performance and Payment Bonds

- 2.9.1 A Payment Bond in the amount of one hundred percent (100%) of the Contract Sum will be required (if the contract amount exceeds \$25,000.00).
- 2.9.2 A Performance Bond in the amount of one hundred percent (100%) of the Contract Sum will be required if the Contract amount exceeds \$100,000.00. The associated cost of the bond shall be identified in the Proposal document.
- 2.9.3 The successful Proposer must furnish Performance and Payment Bonds, if required as stated above, in the Contract Sum. The bonds must be issued by one or more corporate sureties qualified to do business in Texas and acceptable to Texas Tech. The associated cost of the required bond(s) shall be identified in the Proposal document.

2.10 Insurance Requirements

- 2.10.1 Proposer shall provide for the insurance coverage as required by the Agreement and Uniform General Conditions and Supplementary General Conditions (UGSC).
- 2.10.2 The successful Proposer shall not commence Work under the Agreement until it has obtained all the insurance required hereunder, with Texas Tech University System as a named insured and certificates of such insurance have been filed with and approved by Texas Tech. Approval of the insurance by Texas Tech shall not relieve or decrease the liability of the Proposer.
- 2.10.3 Proposer shall be responsible for the deductible associated with all Builder's Risk claims.

2.11 Damages for Failure to Enter into Contract

- 2.11.1 The successful Proposer, upon the Proposer's failure or refusal to execute and deliver the contract and bonds required within ten (10) days after the Proposer has received notice of acceptance of this Proposal, shall forfeit to Texas Tech, as damages for such failure or refusal, the Proposal Security, as described in Section 4.7 Security Bid/Bond.

2.12 Time of Completion and Liquidated Damages

- 2.12.1 The time stipulated in the Agreement for the completion of the Work as stated by the Proposer in the Proposal is an essential element of the Agreement. It is mutually agreed that Texas Tech will suffer damages in an amount not now possible to ascertain if this Work is not completed on schedule.
- 2.12.2 Damages for Failure to Meet Substantial Completion
 - 2.12.2.1 It is agreed that Texas Tech will withhold from the successful Proposer, as liquidated damages and not as a penalty, the sum as designated in the Proposal for each calendar day that the Work remains incomplete beyond the date specified for the Substantial Completion of the Work.
- 2.12.3 Damages for Failure to Meet Final Completion
 - 2.12.3.1 The Parties recognize and acknowledge that despite access to the Project after achieving Substantial Completion, any delay in achieving Final Completion will cause inconvenience and/or disruption of use of the Project for Texas Tech.
 - 2.12.3.2 For each consecutive calendar day after the completion of thirty (30) days from the date of Substantial Completion that Final Completion is not met, taking into account any extensions of time granted by any Change Order, it is agreed that Texas Tech will withhold from the successful Proposer, as liquidated damages and not as a penalty, the sum as designated in the Proposal for each calendar day that the Work remains incomplete.

2.13 Acceptance of Alternates

- 2.13.1 Texas Tech will have the right to accept alternates in any order and/or combination, unless otherwise specifically provided in the Proposal documents, and to determine the Agreement amount on the basis of the sum of the Base Proposal and accepted Alternates.

2.14 Obligation of Proposers

- 2.14.1 At the time of the opening of Proposals, each Proposer shall be presumed to have inspected the Project Site and to have read and be thoroughly familiar with the Contract Documents related to the Work. The failure or omission of any Proposer to examine the Site, the Contract Documents, any form, instrument or referenced documents shall in no way relieve the Proposer from any obligation in respect to its Proposal.

SECTION 3. MINIMUM REQUIRED CONSTRUCTION SERVICES

The Contractor will be responsible for all General Construction Services including, but not limited to the following:

3.1 Construction Management Team

- 3.1.1 Assignment of qualified Project management professionals with the knowledge, experience, expertise, urgency and partnering mindset to deliver a successful Project. The designated Contractor team must be able to anticipate possible risks that may impact the Project's time,

quality, and budget and collaborate with Texas Tech to successfully resolve those issues to the betterment of the Project.

- 3.1.1.1 General Construction Services
 - 3.1.1.1.1 Project Management Team
 - 3.1.1.1.2 Constructability Review Assessment
 - 3.1.1.1.3 Construction Execution Plan (Schedule, Logistics & Execution Planning)
 - 3.1.1.1.4 Construction Safety and Health Plan
 - 3.1.1.1.5 Quality Controls and Quality Assurance Plan
- 3.1.2 Coordination of specialty construction consultants, delegated design companies, and outside resources.
- 3.1.3 Coordination between Texas Tech and third-party services, Design Professionals, Subcontractors, Component Institutions, and Construction Management team.
- 3.1.4 Document communication
 - 3.1.4.1 Define roles and responsibilities of the Contractor Team players,
 - 3.1.4.2 Contractor administrative procedures (Action Items Logs, delegated task assignment, reporting, design comparison logs, etc.),
 - 3.1.4.3 Meeting organization and management (agendas, meeting minutes),
 - 3.1.4.4 Construction (summaries with detailing, initial and reoccurring),
 - 3.1.4.5 Qualifications Logs (assumptions, clarifications, exceptions),
 - 3.1.4.6 Construction Schedules (present baseline schedule), and
 - 3.1.4.7 Constructability Review Assessment (scope gap logs, missing scope detailing, contradictory scope and detailing, undefined scope, additive alternates sequencing, etc.).
- 3.1.5 Third-party coordination, included but not limited to:
 - 3.1.5.1 Public Utility companies,
 - 3.1.5.2 Component Institution Facilities Teams,
 - 3.1.5.3 Governmental & Regulatory Agencies,
 - 3.1.5.4 Component Institution's third-party IT/AV group,
 - 3.1.5.5 Fire Marshal (Authority Having Jurisdiction),
 - 3.1.5.6 FM Global,
 - 3.1.5.7 Commissioning Agent,
 - 3.1.5.8 Testing, Adjusting & Balancing (TAB) Contractor,
 - 3.1.5.9 Geotechnical,
 - 3.1.5.10 Materials Testing, and

3.1.5.11 Construction Manager-Agent, if required.

3.2 Construction Services

- 3.2.1 Adhere to Project scope and quality.
- 3.2.2 Comply with TTUS FP&C Design and Construction Standards. Notify Owner when design intent deviates from prescribed guidelines.
- 3.2.3 Review and report to the Project Team regarding Site considerations and challenges.
- 3.2.4 Utilize TTUS technology platforms (e-Builder, Bluebeam, virtual web-based conferencing). Provide continuous Constructability Reviews, Means and Methods Assessments, and Construction Execution Planning cost analysis.
- 3.2.5 Provide continuous Construction Schedule updates.
- 3.2.6 Make recommendations on means, methods, and materials options to optimize the Project scope of the Work and reduce construction duration schedule.
 - 3.2.6.1 Provide timely information regarding all known and/or potential materials or market impacts that could affect schedule or cost.
- 3.2.7 The Contractor shall provide a Critical Path, longest duration construction schedule, and a detailed list of all construction, and construction management costs by CSI (specification divisions), including any fees and allowances.
- 3.2.8 The CSP should also include a list of any qualifications, assumptions and/or clarifications used in the development of the CSP as well as a log of all observed design scope lacking sufficient detail or clarity of intent.
- 3.2.9 Contractor should include:
 - 3.2.9.1 Insurance, bonds (rate percentages),
 - 3.2.9.2 Cost of construction by division,
 - 3.2.9.3 Owner stipulated Allowances (by division and/or type), and
 - 3.2.9.4 Owner stipulated Contingencies.
- 3.2.10 Provide materials and services procurement analysis for each Specification division.
- 3.2.11 Coordinate geotechnical and Owner's third-party material testing and inspection requirements.
- 3.2.12 Provide a Construction Execution Plan (CEP) for the Work with anticipated time frames that take into consideration Project specific requirements and conveys the manner in which the Contractor intends to approach completion of the construction Project scope. The CEP should include but not be limited to the following:
 - 3.2.12.1 Site conditions and constraints (staging, laydown areas, temporary facilities plan, lifting equipment placement locations, etc.),
 - 3.2.12.2 Proposed phasing and sequencing of the Work focused on minimizing disruption of Texas Tech's daily activities and capital investment rework/loss,

- 3.2.12.3 Anticipate planned shutdowns for connection to campus/public utilities (chilled water, steam, electric, domestic water, sanitary, gas, etc.),
- 3.2.12.4 Early completion of MDF/IDF for Texas Tech networking equipment installations,
- 3.2.12.5 Coordination of Texas Tech’s proprietary keyway system for keyway installations,
- 3.2.12.6 Completion of spaces as agreed with Texas Tech for partial early occupancy (if Project requires),
- 3.2.12.7 Use of swing space (if Project requires),
- 3.2.12.8 Commissioning and TAB,
- 3.2.12.9 Third-party Texas Tech FF&E and move management coordination (Contractor cooperation to have scope completed including Life Safety systems in advance to facilitate Texas Tech’s installations – use of vertical conveyance systems, stair completions, etc.),
- 3.2.12.10 Coordination of Texas Tech required training for specified building systems, and
- 3.2.12.11 Other Project specific items as the Project requires and dictates.
- 3.2.13 Develop a Submittals Schedule to sequence the Construction Execution Plan (CEP) with the Construction Schedule to ensure timely delivery of the Project. Identify long lead time materials and schedule submissions such as to not delay the CEP.
- 3.2.14 Provide full-time, on-site staff as required to plan, manage, and coordinate all on-site construction activities (this includes the monitoring of worker safety, construction quality control and the management of all self-performed and Subcontractor Work).
 - 3.2.14.1 The Contractor is responsible for inspection of all Work for compliance with the Construction Documents prior to requesting Texas Tech observations.
- 3.2.15 Provide support for Texas Tech’s on-site Program Director and/or Field Observer, including separate office space, internet access, access to a copier, and other support, if required by Texas Tech.
- 3.2.16 Conduct Project meetings as required by Texas Tech.
 - 3.2.16.1 Attend and schedule frequency of Project meetings as required to successfully coordinate the Work and construction scope.
 - 3.2.16.2 Prepare written progress reports identifying urgent construction issues, proposed actions to be taken, and deadlines established.
- 3.2.17 Prepare a detailed CPM, longest duration, construction schedule, prepare a short-term activities plan, and a completion/occupancy schedule.
 - 3.2.17.1 Update the schedules monthly.
 - 3.2.17.2 Submit an updated, detailed CPM construction schedule with each Payment Application.
 - 3.2.17.3 Track all Project delays and report monthly to Owner.
 - 3.2.17.4 Schedule shall include Texas Tech coordination activities required to achieve Substantial Completion, but not be limited to:

- 3.2.17.4.1 Substantial Completion date,
 - 3.2.17.4.2 Final Completion date,
 - 3.2.17.4.3 Life/safety systems certifications (AHJ),
 - 3.2.17.4.4 Elevator QEI (if applicable),
 - 3.2.17.4.5 TAS inspection,
 - 3.2.17.4.6 MDF / IDF early completion – to facilitate BAS LAN network switch installation,
 - 3.2.17.4.7 Building grounding system inspection,
 - 3.2.17.4.8 Emergency Genset – manufacturer start-up and load bank testing (if applicable),
 - 3.2.17.4.9 Gas-fired equipment – manufacturers start-up and boiler inspections,
 - 3.2.17.4.10 Lightning protection system – impedance testing for LPI Master Label Certification,
 - 3.2.17.4.11 Glazed systems – water penetration testing (AAMA 501.2),
 - 3.2.17.4.12 Bacteriological testing – domestic water,
 - 3.2.17.4.13 Fume hood certification (if applicable),
 - 3.2.17.4.14 Medical gases certification (if applicable),
 - 3.2.17.4.15 Operational demonstration: MEP, irrigation, audio and visual equipment, food service equipment, humidifiers, sterilizers, lab equipment, specialty equipment, others as defined under the Project,
 - 3.2.17.4.16 Accreditation body reviews (if applicable),
 - 3.2.17.4.17 Commissioning / TAB milestones / BAS / lighting control systems,
 - 3.2.17.4.18 FF&E installation,
 - 3.2.17.4.19 Texas Tech move-in,
 - 3.2.17.4.20 Public art coordination and installation,
 - 3.2.17.4.21 Texas Tech’s IT/AV installation,
 - 3.2.17.4.22 Submission of O&M’s and warranties, and
 - 3.2.17.4.23 Demonstration and training – video capture is required.
- 3.2.18 Monthly Construction Payment Applications to be submitted simultaneously to Texas Tech and Design Professional(s) for approval review and certification, respectively.
- 3.2.18.1 Final submission of Application for Payment must include any Texas Tech requested revisions, be notarized, and signed off by the Design Professional(s).
 - 3.2.18.2 The Construction Pay Application must include but not be limited to Schedule of Values, photo documentation, lien waivers, prevailing wage rates and wage survey

documentation, completed HUB Subcontracting Plan Progress Assessment Report (PAR), a current construction schedule and contingency logs.

- 3.2.18.3 At fifty percent (50%) and one hundred percent (100%) completion the application must contain an updated HUB Subcontracting Plan (HSP).
- 3.2.19 Coordinate construction access to the Project and Site.
- 3.2.20 Maintain and enforce jobsite security.
- 3.2.21 Maintain and enforce jobsite safety and health policies.
- 3.2.22 Project quality assurance and quality control (QA/QC).
 - 3.2.22.1 It is the responsibility of the Contractor to coordinate the Work amongst the trades well in advance of sequenced construction execution to avoid conflicts, delays, and costly rework.
 - 3.2.22.1.1 Designate personnel to be responsible for QA/QC.
 - 3.2.22.1.2 Confirm approved submitted materials are delivered and installed.
 - 3.2.22.1.3 Confirm material installations meet or exceed contract documents.
 - 3.2.22.1.4 Provide notifications/communications to Design Team and Texas Tech on material/installation conflicts prior to installation.
 - 3.2.22.1.5 Provide on-site inspections and assurance to Texas Tech that materials and installation meet or exceed contract documents.
 - 3.2.22.1.5.1 Include FP&C QA/QC Roles and Responsibilities Matrix duties in your QA/QC plan.
- 3.2.23 Solicit, receive, and award Best-Value subcontracts. Texas Tech reserves the right to reject Subcontractor Proposals if it is in the interest of Texas Tech to do so.
- 3.2.24 Update Texas Tech weekly on Buyout status utilizing FP&C's Buyout log.
- 3.2.25 Review testing, inspection, and commissioning reports.
 - 3.2.25.1 Resolve deficient Work with Subcontractor or self-performed Work.
 - 3.2.25.2 Document all resolutions in the Bluebeam Project.
- 3.2.26 Monitor, evaluate and administer Construction Change Requests and coordinate Texas Tech and Design Professional(s) approvals via the Construction Change Proposal process in e-Builder.
- 3.2.27 Institute and administer procedures for Shop Drawings, mockups, and sample submittals for processing.
 - 3.2.27.1 Review all Shop Drawings and submittals for Construction Documents compliance prior to submitting to the Design Professional and Texas Tech in e-Builder for review.
 - 3.2.27.2 Utilize Bluebeam Project through the delivery of general construction services.
- 3.2.28 Implement and maintain the Project Storm Water Pollution Prevention Plan (SWPPP), post required notices, submit required Notice(s) of Intent (NOI) and Notice(s) of Termination (NOT),

with copies to Texas Tech. Conduct required BMP inspections, keep required records and update the plan required by Texas Commission on Environmental Quality (TCEQ).

- 3.2.29 Conduct SWPPP BMP inspections as required, keep required records and update the plan required by Texas Commission on Environmental Quality (TCEQ).
- 3.2.30 Develop a Buyout and bid package(s) execution plan that will expedite the Buyout process, affording Texas Tech the ability to make informed decisions regarding additional and additive scope inclusion with the intent of maintaining the Project Substantial Completion date.
 - 3.2.30.1 Update the Project schedule as required to adjust Work sequencing and completion to meet the agreed upon Substantial Completion date.
- 3.2.31 Implement procedures to pay Subcontractors and suppliers, including preparing a Schedule of Values and submission of Subcontractors sworn statements and waivers of lien, and submission of HUB Subcontracting Reports.
- 3.2.32 Follow all FP&C audit procedures and requirements. This includes external third-party audit services.
- 3.2.33 Prepare projections of expenditures for the initial three (3) month period and for the Project.
 - 3.2.33.1 Update these projections each month.
 - 3.2.33.2 At the beginning of the Project provide a cash flow forecast by month for the entire duration of the Project.
- 3.2.34 Assist in the installation of Texas Tech-purchased equipment and furniture and facilitate Owner in moving in building occupants.
- 3.2.35 Assist with the Texas Tech University System Director of Public Art for coordination and installation of the public artwork.
- 3.2.36 Prior to requesting official punch from Texas Tech and Design Professional, the Contractor is to initiate an internal punch of all areas, issue that Punchlist to their trade Subcontractors, complete corrective actions necessary to resolve deficient Work and verify corrective actions have resolved the deficient Work.

3.3 Project Close Out Services

- 3.3.1 Submit to Texas Tech the plan to complete all Substantial Completion Punchlist items within thirty (30) days and all Final Completion Punchlist items within seven (7) days per UGSCs.
- 3.3.2 Prepare and submit As-Built Drawings and other information to the Design Professional for the development of Record Drawings. Upload all documents to the correct folder in e-Builder.
- 3.3.3 Prepare internal Punchlists, conduct corrective actions, perform Final Inspections, and facilitate Texas Tech's acceptance and move-in.
- 3.3.4 Provide post-Construction follow-up for the duration of the longest warranty period by a Contractor on the Project.
 - 3.3.4.1 Review and submit warranty claim of all new systems and equipment.
 - 3.3.4.2 Maintain a Texas Tech approved warranty log for the duration of the warranty period.

- 3.3.5 Prepare Operation & Maintenance (M&O), warranty manuals, and other required Close Out Documents. Upload all electronic documents into the proper folders in e-Builder prior to Substantial Completion.
- 3.3.6 Coordinate equipment start-up and training of Texas Tech personnel on new systems and equipment.
 - 3.3.6.1 Coordinate and schedule Design Professional/Subconsultants and Texas Tech's presence during equipment start-up.
 - 3.3.6.2 Video record all training sessions and upload to e-Builder along with training sign in sheets.
- 3.3.7 Review and assist in analysis of all claims.
- 3.3.8 When authorized and requested, consult, advise, and assist Texas Tech with special and/or additional services beyond the scope of the Contractor's services.
- 3.3.9 Ensure that all external third-party audit findings and recommendations have been fully resolved.

3.4 Commissioning/TAB:

- 3.4.1 Assist with the implementation and execution of a Project Commissioning/TAB Plan that includes the appropriate reviews, tests, and inspections at critical points in the design and construction process. Include the building systems Commissioning scope in the Critical Path schedule.
- 3.4.2 All Project specific building systems Commissioning and Testing, Adjusting and Balancing (TAB) activities and corrective actions must be completed for Texas Tech to recognize construction Substantial Completion.

3.5 Other Services and Requirements

- 3.5.1 American Iron and Steel
 - 3.5.1.1 To the extent an Agreement relates to a Project as defined in Texas Government Code §2252.201(5) (a project to construct, remodel, or alter a building, structure, or infrastructure; to supply material for such a project; or to finance, refinance, or provide funds for such a project), and no exemption in Texas Government Code §2252.203 applies, any iron or steel product produced through a manufacturing process and used in the project that is the subject of an Agreement must be produced in the United States (as defined in Texas Government Code §2252.201(4)).
- 3.5.2 Right to Audit
 - 3.5.2.1 At any time during the term of any Contract resulting from this solicitation and for a period of seven (7) years thereafter, Texas Tech or a duly-authorized audit representative of Texas Tech or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided under this Contract. In the event such an audit by Texas Tech reveals any errors/overpayments by Texas Tech, Contractor shall refund Texas Tech the full amount of such overpayments within thirty (30) days of such audit findings, or Texas Tech, at its option, reserves the right to deduct such amounts owing Texas Tech from any payments due Contractor.
- 3.5.3 Access to Documents

- 3.5.3.1 To the extent applicable to this procurement, in accordance with Public Law 99-499 under TEFRA, Contractor agrees to allow, during and for a period of not less than seven (7) years after the Contract term, access to this Contract and its books, documents, and records; and contracts between Contractor and its subcontractors or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, the U.S. Department of Health and Human Services, and their duly authorized representatives.
- 3.5.4 Compliance with Texas Government Code § 2274.002
 - 3.5.4.1 The Contractor verifies it 1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and 2) will not discriminate during the term of the Contract against a firearm entity or trade association.
- 3.5.5 Computer/Internet Requirements
 - 3.5.5.1 The Contractor shall provide its management personnel assigned to this Project with access to personal computers and internet on a daily basis.
- 3.5.6 Conflict of Interest
 - 3.5.6.1 The Contractor affirms that, to the best of its knowledge, no actual or potential conflict exists between the Contractor's family, business, or financial interests and the Contractor's services under this Agreement, and that it shall immediately inform Texas Tech regarding any possible conflict of interest that may arise.
 - 3.5.6.2 The Contractor further affirms that it shall not hire any officer or employee of Texas Tech to perform any service covered by this Agreement.
 - 3.5.6.3 If the Work is to be performed in connection with a Federal contract or grant, the Contractor shall not hire any employee of the United States Government to perform any service set forth in this Agreement.
- 3.5.7 Discrimination
 - 3.5.7.1 The Contractor shall not discriminate against an employee or applicant for employment with respect to hiring, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, veteran status, sex, or disability. Breach of this covenant may be considered a material breach of the Agreement.
- 3.5.8 Employment
 - 3.5.8.1 Pursuant to Texas Government Code § 669.003, the Contractor certifies that it does not employ, or has disclosed its employment of, any former executive head of a Texas State agency or entity.
- 3.5.9 Ethics Commission Reporting Requirements (Required Only If Selected)
 - 3.5.9.1 Ethics Commission Reporting Guidelines
 - 3.5.9.1.1 In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that Texas Tech may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) to

Texas Tech at the time the business entity submits the signed Agreement to the governmental entity or state agency. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

- 3.5.9.1.2 The law applies only to a Contract between Texas Tech that either:
 - 3.5.9.1.2.1 Requires an action or vote by the governing body of the entity or agency before the Contract may be signed; or
 - 3.5.9.1.2.2 Has a value of at least \$1 million.
- 3.5.9.1.3 A Contract does not require an action or vote by the governing body if:
 - 3.5.9.1.3.1 The governing body has legal authority to delegate to its staff the authority to execute the Contract;
 - 3.5.9.1.3.2 The governing body has delegated to its staff the authority to execute the Contract; and
 - 3.5.9.1.3.3 The governing body does not participate in the selection of the business entity with which the Contract is entered.
- 3.5.9.1.4 The business entity must file Form 1295 electronically with the Texas Ethics Commission using the online filing application : https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. For assistance with passwords, call (512) 463-5800.
- 3.5.9.1.5 See the attached form “Certificate of Interested Parties.” Direct questions relating to the Form 1295 process to: techbuy.purchasing@ttu.edu.

3.5.10 Acceptance of Evaluation Methodology

- 3.5.10.1 By submitting a Proposal in response to this RFP, the Proposer accepts the evaluation process and acknowledges and accepts that determination of the best value Proposer will require subjective judgments by Texas Tech.
- 3.5.10.2 Texas Tech reserves the right to consider any Proposal “non-responsive” if the Base Proposal Cost is determined to be unreasonable or irresponsible in relation to the other submitted Proposals and/or Texas Tech’s estimate of the construction cost.

3.5.11 Freedom of Access and Use of Facilities

- 3.5.11.1 Contractor’s employees shall have reasonable and free access to use only those facilities of Texas Tech that are necessary to perform services under a resulting Contract and shall have no right of access to any other facilities of Texas Tech.

3.5.12 Governing Law

- 3.5.12.1 This RFP, and any resulting Contract, agreement or purchase order shall be construed and governed by the laws of the State of Texas.
- 3.5.12.2 Federal Funds: All procurements of supplies equipment, and services utilizing Federal Funds (e.g., Federal Grant or Contract) shall be made in accordance with all applicable federal rules and regulations: Federal Acquisition Regulations (FAR), Federal Office of

Management and Budget (OMB) Educational Institutions, even if part of a State or local government follow: OMB A-21 for cost principles, A-110 for administrative requirements, and A-133 for audit requirements. All procurement requirements contained in the above referenced circulars are incorporated herein by reference. By signing this solicitation document, vendor certifies that vendor is in compliance with OMB A-110 and that vendor is not on the Debarred Bidders List.

3.5.13 Health and Safety Code Chapter 161

3.5.13.1 If applicable, Contractor affirmatively states that it will comply with the requirements of Texas Health and Safety Code, § 161.0085(c).

3.5.14 No Prohibited Boycott

3.5.14.1 If applicable to this Contract, Contractor agrees not to engage in any boycott prohibited by Texas Government Code §§ 2271.002, 2274.001.

3.5.15 Non-Disclosure

3.5.15.1 Contractor and Texas Tech acknowledge that they or their employees may, in the performance of the resultant Contract, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, regardless of whether directly or indirectly affiliated with Contractor or Owner, unless (1) required by law, (2) required by order of any court or tribunal, (3) such disclosure is necessary for the assertion of a right, or defense of an assertion of a right, by one party against the other party hereto, or (4) such information has been acquired from other sources.

3.5.16 Patent and Copyright

3.5.16.1 Contractor shall pay for any royalties, license fees, copyrights or trade and service marks required to perform the services required by any resulting Contract.

3.5.17 Sales and Use Taxes

3.5.17.1 Section 151.311, Tax Code permits the purchase free of state sales and use taxes of tangible personal property to be incorporated into realty in the performance of a contract for an improvement to realty for certain exempt entities that include the Texas Tech. The section further permits the purchase tax-free of tangible personal property (other than machinery or equipment and its accessories and repair and replacement parts) for use in the performance of such a contract if the property is “necessary and essential for the performance of the contract” and “completely consumed at the job site.” In addition, the section permits the purchase tax-free of a tangible service for use in the performance of such a contract if the service is performed at the job site and if “the contract expressly requires the specific service to be provided or purchased by the person performing the contract” or “the service is integral to the performance of the contract.”

3.5.18 Certification of Franchise Tax Status

3.5.18.1 Proposers are advised that the successful Proposer will be required to submit certification of franchise tax status as required by State Law (H.B. 175, Acts 70th Leg. R.S., 1987, Ch. 283, p. 3242). The Proposer further agrees that each subcontractor and supplier under contract will also provide a certification of franchise tax status.

3.5.19 Section Headings

3.5.19.1 All section headings are for convenience of reference only and are not intended to define or limit the scope of any provisions of this RFP.

3.5.20 Sex Offender Registration

3.5.20.1 The Contractor agrees to provide the notice required by Article 3 of Texas Tech's current adopted Uniform General Conditions and Supplementary General Conditions (UGSC).

3.5.21 Software Systems Requirements

3.5.21.1 Texas Tech requires use of two (2) construction management software systems: e-Builder Enterprise and Bluebeam Revu.

3.5.21.2 The selected Contractor will be required to pay for the licenses they deem appropriate for this project.

3.5.21.2.1 Texas Tech will reimburse for up to three (3) e-Builder licenses.

3.5.21.2.2 Texas Tech will not reimburse for Bluebeam Revu licenses or any other software platforms not required under this agreement.

3.5.21.3 Project Web Requirements

3.5.21.3.1 This Project will utilize project management tools called e-Builder Enterprise and Bluebeam Revu. These applications are collaboration tools, which allow all Project team members continuous access through the internet and cloud-based platforms to important Project data as well as RTMP (real-time messaging protocol) Project status information.

3.5.21.3.2 The Contractor and Sub-Consultants shall conduct Project controls outlined by Texas Tech utilizing e-Builder Enterprise and Bluebeam Revu.

3.5.21.3.2.1 These designated applications will be provided by the Contractor to the Sub-Consultants.

3.5.21.3.2.2 No additional software will be required.

3.5.21.3.3 The Program Director will coordinate with appropriate Texas Tech personnel to assist the Contractor in training its consultants' personnel on the use of e-Builder Enterprise and Bluebeam Revu.

3.5.21.3.4 The Contractor will be responsible for uploading the most current documents into e-Builder and Bluebeam Revu Project on a daily basis, or as plans are changed.

3.5.21.3.5 Contractor and Sub-Consultants shall be responsible for visiting the e-Builder Project website on a daily basis, and as necessary to remain fully apprised of Project developments, correspondence, assigned tasks and other construction related matters.

3.5.21.3.5.1 These may include but are not limited to: Agreements, Agreement Exhibits, Agreement Amendments, Drawing

issuances, Addenda, bulletins, permits, insurance and bonds, safety program procedures, safety notices, accident reports, personnel injury reports, schedules, site logistics, progress reports, daily logs, non-conformance notices, quality control notices, Punchlists, meeting minutes, Requests for Information, submittal packages, substitution requests, Monthly Payment Request Applications, supplemental instructions, Owner Variation Directives, potential Variation Orders, Variation Order Requests, Variation Orders, and the like.

3.5.21.3.5.2 All supporting data including but not limited to Shop Drawings, product data sheets, manufacturer data sheets and instructions, method statements, safety SDS sheets, substitution requests and the like will be submitted in digital format via e-Builder Enterprise.

3.5.21.4 Electronic File Requirements:

3.5.21.4.1 In addition to the standard Close Out submittal requirements detailed elsewhere in the Agreement, the Front Ends, UGSCs, and the Construction Documents, the Contractor and Sub-Consultants shall also submit all Close Out Documents including all “As-BUILTs”, product data and Owner’s Operation and Maintenance manuals in digital format.

3.5.21.4.2 All documents (including As-Built drawings) shall be converted into PDF file format and uploaded to e-Builder Enterprise as per Texas Tech processes and operational requirements.

3.5.22 U.S. Government Contractor

3.5.22.1 Texas Tech serves from time to time as a contractor for the United States Government. Accordingly, if the Contractor provides goods or services in connection with such contracts, it shall comply with Federal laws, rules, and regulations applicable to subcontractors of government contracts.

SECTION 4. PROPOSAL REQUIREMENTS

All Proposers responding to this RFP must submit complete responses to the information requested in this section and note any exceptions to any information contained in the RFP. Texas Tech reserves the right to request additional information from responsible companies. Proposals will be evaluated based upon the selection criteria listed in this RFP. Texas Tech will select those Proposers that offer the best value, based on the selection criteria in this Request for Proposals and any interviews conducted. Limit your Proposal to a maximum of thirty-five (35) pages electronically exclusive of cover page, Table of Contents, Proposal Form, Proposer’s Execution of Offer, Project lists, and HUB information. Proposers should present the information below in the following order:

4.1 Contractor Experience

4.1.1 Information on the Contractor including a brief history of the Contractor, information about the Contractor’s Principals, the services offered, the number and type of staff members, and business volume for the past five (5) years. If the Contractor has several branch offices, also highlight the information of the office that will manage the Texas Tech Project.

- 4.1.2 Name, telephone, address, and email of the Project Principal and the individual designated to receive all Request for Proposals information, Addenda or any other official correspondence relating to the Project.
- 4.1.3 List any other companies that will be used to provide such services as estimating, Value Engineering analysis, scheduling, or computer services.
- 4.1.4 If a joint venture, list similar information for each Contractor and the rationale for the joint venture, previous similar experience as a joint venture, and a summary of the joint venture agreement indicating the roles and responsibilities of each party in the joint venture.
- 4.1.5 Briefly discuss five (5) projects that were performed by the Contractor's office managing this Project or individual team members that will be performing on this Project, that best represent the Contractor's ability to successfully manage this Project to completion, on time and within budget. As a minimum, for each project, provide a brief description, current client reference information (including names, email addresses, and current phone numbers), dates services performed, specific services the Contractor provided, size of the project, construction delivery approach, project budget at award, and project costs at completion.
- 4.1.6 Provide a list of all Higher Education projects undertaken within the last five (5) years. For each project, include the name of the project, a brief synopsis of the project, current client reference information (including names, email addresses, and current phone numbers), the dates services were provided, the type of project, the construction delivery method, the project budget, and the project costs at completion. If the Contractor has several branch offices, highlight those projects on the list managed by the office that will manage this Texas Tech Project.

4.2 Project Team Member Information

- 4.2.1 Provide a project management chart that identifies all key staff members and provide a brief description that outlines each person's individual roles and responsibilities, relevant experience, and shows how each interacts with other staff members, Texas Tech, and the Design Professional.
- 4.2.2 Submit personnel qualifications for all members of the Project Team specific to this Project, that include title, educational background, professional licenses/trade certifications, relevant construction experience, work history, length of service with the Contractor, and current client reference information (including names, email addresses, and current phone numbers). Provide a list of projects worked on and the individuals' role on the projects.
- 4.2.3 Selection of the successful Contractor will be based, in part, on specific members of your proposed team. Include a statement indicating the Contractor's commitment to maintaining the proposed staffing plan throughout the Project. Contractor must have written approval from Texas Tech to change any member of the team.
- 4.2.4 Indicate the scopes of the Work that the Contractor has the capability to self-perform, if any.

4.3 Additional Information

- 4.3.1 Describe the Contractor's QA/QC plan.
 - 4.3.1.1 List the responsible individual(s).
 - 4.3.1.2 Explain how the Contractor will coordinate the construction schedule with submittals, samples, and mock-up approvals of the Work to eliminate rework, unnecessary costs, maintain schedule, and deliver the Project in budget.

- 4.3.1.3 Provide the Contractor's processes and/or procedures to ensure QA/QC for material deliveries, material acceptance, material installation, and acceptance testing.
 - 4.3.2 Describe the Contractor's Safety and Health Program.
 - 4.3.3 Provide a record, including dates of claims and/or litigation involving Owners and/or Design Professionals for the past five (5) years.
 - 4.3.4 Provide an explanation of Contractor's experience with external third-party audit firms.
 - 4.3.4.1 Provide a list of audit firms the Contractor has dealt with or is currently dealing with.
 - 4.3.5 Furnish the Contractor's Experience Modification Ratings (EMR) for the past five (5) years.
 - 4.3.6 Provide any other information the Contractor believes will be helpful in making the selection.
- 4.4 Additional Items Not Included in the Request For Proposals**
- 4.4.1 Include a list of those items that the Contractor believes are not a part of their Proposal but might typically be assumed by Texas Tech to be included in a Project of this type.
 - 4.4.2 List any exceptions taken to the RFP.
- 4.5 Schedule**
- 4.5.1 Provide a conceptual summary CPM Schedule. Include, but not limited to, design, Buyout, submittals, construction, Commissioning/TAB.
- 4.6 Performance And Payment Bonds**
- 4.6.1 Provide performance and payment bonds.
 - 4.6.1.1 List the name of the surety.
 - 4.6.1.2 Indicate if the surety participates in bond dividends.
 - 4.6.1.3 Specify if bond dividends will be returned to Texas Tech.
 - 4.6.1.4 Note if Subcontractors will be required to purchase performance and payment bonds.
 - 4.6.1.5 Stipulate if Contractor is purchasing Subcontractor bond insurance and specify the rate.
- 4.7 Security/Bid Bond**
- 4.7.1 Provide a security/bid bond as part of this RFP submission.
 - 4.7.1.1 The Security/Bid Bond is be bound unto Texas Tech University System, its component institutions and related entities, and all persons in privity with them including officers, employees, appointees, regents, administration, faculty, agents, or representatives in the sum of five percent (5%) of the maximum possible sum of the Base Proposal cost plus the Alternates costs listed on the Proposal Form.
 - 4.7.1.2 In addition, the Contractor must provide, within ten (10) days, a Payment, and Performance Bond for the then amount of the actual executed Contract amount, naming Texas Tech University System, Texas Tech University Health Sciences Center, the Texas Tech University Board of Regents, and officers, employees, agents, or representatives thereof as the obligee.

4.8 HUB Subcontracting Plan (HSP)

- 4.8.1 It is the policy of the State of Texas and Texas Tech to encourage the use of Historically Underutilized Businesses (HUBs) in its prime Contractors, Subcontractors, and purchasing transactions. The goal of the HUB program is to promote equal access and equal opportunity in Texas Tech contracting and purchasing.
- 4.8.2 In accordance with Texas Government Code 2161.252, Texas Tech declares that this solicitation does have a probability of subcontracting opportunities.
- 4.8.3 All Proposers must prepare and submit a detailed, complete, and comprehensive HUB Subcontracting Plan (HSP) in compliance with Historically Underutilized Business section of the Request for Proposals (RFP). Failure to submit a comprehensive, acceptable HUB Subcontracting Plan will be considered a material failure to comply with the requirements of the RFQ and will result in rejection of the response. For the most current HUB Subcontracting Plan, go to: <http://comptroller.texas.gov/procurement/prog/hub/hub-subcontracting-plan/>.
 - 4.8.3.1 As part of the Proposal, a listing of all subcontractors by trade is required and shown in the HSP (see attach HUB Program), even if mentioned elsewhere in the submittal package. The selected subcontractors listed in the HSP shall match those listed and qualified in the Proposal Form.
- 4.8.4 In addition, all major Subcontractors, and suppliers (those whose Agreements are expected to exceed \$100,000) will also be required to submit a HUB Subcontracting Plan as part of the Proposal.
- 4.8.5 In accordance with 34 TAC §20.285(d)(1)(D)(iii), a Proposer may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the Proposer’s subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher.
 - 4.8.5.1 When a Proposer uses this method to demonstrate good faith effort, the Proposer must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five (5) years or less shall qualify for meeting the HUB goal.
- 4.8.6 The Contractor will maintain business records documenting compliance with its HUB Subcontracting Plan (HSP) and will submit the HUB Subcontracting Plan Prime Contractor Assessment Report (PAR) with each Application for Payment.
 - 4.8.6.1 The HUB Subcontracting Plan Prime Contractor Assessment Report submission will be required as a condition for payment.
- 4.8.7 The Contractor shall further comply with its HUB Subcontracting Plan utilization percentage proposed in its Proposal to Texas Tech’s Request for Competitive Sealed Proposal. If there are any changes to the utilization percentage during the term of the Agreement, a revised HUB Subcontracting Plan must be submitted for approval by the Contract Administrator/HUB Coordinator.
- 4.8.8 The Contractor will comply with Texas Government Code, Chapter 2161. If a determination is made that the Contractor has failed to implement the HUB Subcontracting Plan in good faith, Texas Tech, in addition to any other remedies it may have, may report nonperformance to the comptroller in accordance with 34 TAC §20.105 (relating to Debarment) and 34 TAC §20.106 (relating to Procedures for Investigations and Debarment).

- 4.8.9 In addition, if the Contractor fails to implement its HUB Subcontracting Plan in good faith, Texas Tech may revoke the Agreement for breach of Contract and make a claim against the Contractor.
- 4.8.10 Failure to submit a concise, detailed, and acceptable Hub Subcontracting Plan will be considered a material failure to comply with the requirements of the RFP and will result in rejection of the Proposal.

4.9 HUB Contracting Commitment

- 4.9.1 In addition to, and distinct from, any good faith effort required by Texas law, the General Contractor will be required to commit to performing a specific percentage of the Work using certified HUB firms.
- 4.9.2 The Contractor must state its HUB Contracting Commitment percentage in this Proposal.
 - 4.9.2.1 Indicate the Proposer's commitment to the amount of work, as a percentage of the Total Agreement Amount, performed by certified HUB firms including work your firm will self-perform if it is a certified HUB firm.
- 4.9.3 The State of Texas annual utilization goal for Building Construction procurement category is 21.1%.
 - 4.9.3.1 For the Texas statewide HUB Annual Utilization Goals, "HUB Goals", by procurement category for the state agencies and state universities, go to:
<https://comptroller.texas.gov/purchasing/vendor/hub/disparity/#goals>.

SECTION 5. CSP EVALUATION CRITERIA

5.1 Evaluation and Ranking Procedures

- 5.1.1 Texas Tech will select the Proposer that offers the best value based on the published selection criteria and demonstrates expertise and competency in constructing high quality facilities, meeting, or exceeding program requirements, on time and within budget.
- 5.1.2 The selection will be based on the information contained in the Proposal, responses from reference checks, personal knowledge of past performance, and the information presented during any interviews conducted as part of the selection process.
 - 5.1.2.1 Texas Tech may make such inquiries as it deems necessary to determine the ability of the Proposer to perform all the Work. The Proposers shall furnish to Texas Tech all such information and data for this purpose as Texas Tech may request. Texas Tech reserves the right to reject any Proposal if the qualifications submitted by or the inquiries prove the Proposer not qualified to properly execute the Work, the Proposer fails to satisfy Texas Tech that the Proposer is properly qualified to carry out the obligations of the contract and to complete the Work.
- 5.1.3 Specifically, the Selection Committee will review and consider the following criteria listed in order of importance (the first being the highest importance):
 - 5.1.3.1 Contractor's Base Proposal amount;
 - 5.1.3.2 The qualifications of the Contractor's proposed Project Team, including demonstrated ability to function as a member of a high-performance team, relevant project experience, references, and to successfully deliver a project on time and within budget.

- 5.1.3.3 Contractor's relevant experience as it relates to this Project and location.
- 5.1.3.4 Contractor's overall evaluation.
- 5.1.3.5 Contractor's experience at successfully delivering higher education projects.
- 5.1.3.6 Contractor's proposed team performance based on references and past experiences.
- 5.1.4 Contractor's estimated construction duration and Project schedule (include types of schedules, look aheads, updates, etc.).
 - 5.1.4.1 This should include a baseline Critical Path schedule and estimated construction duration in months to achieve Substantial Completion.
- 5.1.5 Contractor's Quality Assurance Plan.
- 5.1.6 Contractor's HUB commitment and HUB program.
 - 5.1.6.1 Contractor's HUB commitment for this Project.
 - 5.1.6.2 Contractor's HUB program.
 - 5.1.6.3 Contractor's procedure(s) to solicit certified HUB Subcontractors and suppliers.
 - 5.1.6.4 Contractor's method(s) to promote and procure HUB Subcontractors.
- 5.1.7 Contractor's Proposal content, quality, comprehensiveness and/or presentation.
- 5.1.8 If an interview is given by the Contractor, evaluate the Project team's presence, compatibility, and question and answer session with the Selection Committee.
- 5.1.9 Contractor's safety and health program.
- 5.1.10 Contractor's Records of Claims and Litigation.
- 5.1.11 Contractor's Experience Modification Rating (EMR).

5.2 Evaluation and Award Process

- 5.2.1 Proposals will be opened publicly to identify the names of the Proposers after confirmation of receipt of the required HUB Subcontracting Plan. Other contents of the Proposals will be afforded security sufficient to preclude disclosure of the contents prior to award or rejection action.
- 5.2.2 Proposals will be evaluated by Texas Tech.
- 5.2.3 Within forty-five (45) calendar days after opening the Proposals, Texas Tech will evaluate and rank each Proposal with respect to the published selection criteria described under Section 5.1.
- 5.2.4 Texas Tech may make an award on the basis of the initially submitted Proposal. At its sole discretion, Texas Tech may interview any Proposer and discuss cost, schedule, and/or all other elements of the Proposal.
- 5.2.5 If Texas Tech determines that it is unable to reach a satisfactory agreement with the first ranked Proposer, Texas Tech will terminate negotiations with that Proposer. Texas Tech will then proceed with negotiations with each successive Proposer as they appear in the order of ranking until an agreement is reached, or until Texas Tech has rejected all Proposals. After termination of discussions with any Proposer, Texas Tech will not resume discussions with that Proposer.

- 5.2.6 Immediately following Texas Tech's award of an Agreement or rejection of all Proposals, the Proposers will be notified via email by the Sr. Program Director.
- 5.2.7 Texas Tech reserves the right to accept or reject any or all alternates or to accept any combination of alternates considered advantageous to Texas Tech.
- 5.2.8 The award or rejection action regarding this Proposal is at the sole discretion of Texas Tech and Texas Tech makes no warranty regarding this Proposal that an Agreement will be awarded to any Proposer.
- 5.2.9 Texas Tech agrees that if the Agreement is awarded, it will be awarded to the Contractor offering the best value to Texas Tech, based upon the published selection criteria and upon its ranking evaluation. Texas Tech is not bound to accept the lowest priced Proposal if that Proposal is judged not to be the best value for Texas Tech, as determined by Texas Tech

5.3 Procurement Process

- 5.3.1 This RFP complies with all state rules and Texas Tech University System policies. Address any questions and/or concerns about the process or awards made from it to:

Mr. Billy Breedlove
Vice Chancellor
Facilities Planning and Construction
Texas Tech University System
Phone: (806) 742-2116

SECTION 6. PROPOSER'S EXECUTION OF OFFER

TTUHSC PSL 3rd Floor Renovation #23-05 Texas Tech University System

- 6.1 THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED, AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE PROPOSAL WILL SUBJECT THE SUBMITTAL TO DISQUALIFICATION.
- 6.2 SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED PROPOSAL OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS, WHICH MAY RESULT FROM THE SUBMISSION OF PROPOSER'S PROPOSAL, AND THE PROPOSER MAY BE REMOVED FROM ALL PROPOSER LISTS AT TEXAS TECH. A FALSE CERTIFICATION SHALL BE DEEMED A MATERIAL BREACH OF CONTRACT AND, AT TEXAS TECH'S OPTION, MAY RESULT IN TERMINATION OF ANY RESULTING CONTRACT OR PURCHASE ORDER.
- 6.3 By signature hereon, Proposer acknowledges and agrees that (1) this Request for Competitive Sealed Proposal for construction services is a solicitation for proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this Request for Competitive Sealed Proposal will not create a contract between Texas Tech and Proposer; (3) Texas Tech has made no representation or warranty, written or oral, that one or more contracts with Texas Tech will be awarded under this Request for Competitive Sealed Proposal; and (4) Proposer shall bear, as its sole risk and responsibility, any cost which arises from Proposer's preparation of a Proposal to this Request for Competitive Sealed Proposal.
- 6.4 By signature hereon, Proposer offers and agrees to furnish to Texas Tech the products and/or services more particularly described in its Proposal, at the at the prices quoted in the Proposal, and to comply with all terms, conditions and requirements set forth in the Request for Competitive Sealed Proposal documents and contained herein.
- 6.5 By signature hereon, Proposer affirms that the Proposer has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.
- 6.6 By signature hereon, a corporate Proposer certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, Texas Tax Code, or that the corporate Proposer is exempt from the payment of such taxes, or that the corporate Proposer is an out-of-state corporation that is not subject to the Texas Franchise Tax, whichever is applicable.
- 6.7 By signature hereon, the Proposer hereby certifies that neither the Proposer nor the firm, corporation, partnership, or institution represented by the Proposer, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of the State of Texas, codified in Section 15.01, et. seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.
- 6.8 By signature hereon, Proposer represents and warrants that:
- 6.8.1 Proposer is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions, and requirements of the Request for Competitive Sealed Proposal;
- 6.8.2 Proposer has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the terms, conditions, and requirements of the Request for Competitive Sealed Proposal;

- 6.8.3 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances;
- 6.8.4 Proposer understands (1) the requirements and specifications set forth in this Request for Competitive Sealed Proposal and (2) the terms and conditions set forth in the Contract Documents under which Proposer will be required to operate;
- 6.8.5 Proposer, if selected by Texas Tech, will maintain insurance as required by the Contract Documents;
- 6.8.6 All statements, information and representations prepared and submitted in response to this Request for Competitive Sealed Proposal are current, complete, true, and accurate. Proposer acknowledges that Texas Tech will rely on such statements, information, and representations in selecting the Successful Proposer. If selected by Texas Tech as the Successful Proposer, Proposer will notify Texas Tech immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
- 6.9 By signature hereon, Proposer certifies that the individual signing this document and the documents made part of the Request for Competitive Sealed Proposal is authorized to sign such documents on behalf of the company and to bind the company under any agreements or other contractual arrangements, which may result from the submission of Proposer's proposal.
- 6.10 By signature hereon, Proposer certifies that if a Texas address is shown as the address of the Proposer, Proposer qualifies as a Texas Resident Proposer as defined in 34 TAC 20.32(68).
- 6.11 By signature hereon, Proposer certifies as follows:
 - 6.11.1 "Under Section 231.006 (Ineligibility to Receive State Grants or Loans or Receive Payment on State Contracts), Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."
 - 6.11.2 "Under Section 2155.004, Texas Government Code, the vendor or applicant certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."
 - 6.11.3 Under Section 2254.004, Texas Government Code, Proposer affirms that no compensation has been received for participation in the preparation of the specifications for this Request for Competitive Sealed Proposal.
- 6.12 By signature hereon, Proposer certifies that no relationship, whether by relative, business associate, capital funding agreement or by any other such kinship exist between Proposer and an employee of any Texas Tech component, or Proposer has not been an employee of any Texas Tech component within the immediate twelve (12) months prior to Request For Competitive Sealed Proposal response. All such disclosures will be subject to administrative review and approval prior to Texas Tech entering into any contract with Proposer.
- 6.13 Proposer represents and warrants that all articles and services quoted in response to this Request For Competitive Sealed Proposal meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and its regulations in effect or proposed as of the date of this solicitation.

- 6.14 By signature hereon, Proposer signifies his compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 6.15 By signature hereon, Proposer agrees to defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Proposer or any agent, employee, subcontractor, or supplier of Proposer in the execution or performance of any agreements or other contractual arrangements which may result from the submission of Proposer’s proposal.
- 6.16 By signature hereon, Proposer agrees that any payments that may become due under any agreements or other contractual arrangements which may result from the submission of Proposer’s proposal will be applied towards any debt including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.
- 6.17 By signature hereon, Proposer certifies that no member of the Board of Regents of Texas Tech or the Executive Officers of Texas Tech or its component institutions, has a financial interest, directly or indirectly, in the transaction that is the subject of the contract.
- 6.18 Proposers should give Payee ID Number, full firm name, and address of Proposer below in the space provided. The Payee ID Number is the taxpayer number assigned and used by the Texas Comptroller of Public Accounts. If this number is not known, complete the Federal Employer's Identification Number.

Complete the following:

Payee ID No. _____	If a Corporation
State of Incorporation: _____	
FEI No. _____	Charter No. _____

Please identify by name each person who owns at least twenty five percent (25%) of Proposer’s business entity:

_____	_____
Name	Name

_____	_____
Name	Name

Submitted by:

_____	_____
(Authorized Signature)	(Printed Name/Title)

_____	_____
(Date)	(Telephone Number)

_____	_____
(Street Address)	(City, State, Zip Code)

(Email Address)	

SECTION 7. PROPOSAL FORM

**TTUHSC PSL 3rd Floor Renovation #23-05
Texas Tech University System**

Submission Date: October 11, 2023, by 3:00 PM

PROPOSAL submitted by:

Full Legal Name of Firm Responding: _____

Proposer Website address (if available): _____

Contact Email Address: _____

Street Address: _____

Mailing Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Having carefully examined the ALL details of this Request for Competitive Sealed Proposals including but not limited to the Uniform General Conditions and Supplementary General Conditions (UGSC), Additional General Conditions, Texas Tech’s Special Conditions, the Drawings and Specifications and all Addenda issued, as prepared by the Design Professional on this Project, as well as the Project premises and all the conditions affecting the work, the undersigned proposes to furnish all labor, materials, and equipment necessary to complete the entire work in accordance with the Contract Documents for the following sum. Dollar amounts for Base Proposal and all Alternates (if any) shall be shown in both written and numerical formats. In case of discrepancy between the written amount and the numerical amount, the written amount shall govern.

7.1 Base Proposal (Exclusive of alternate proposals.)

_____ and _____/100 Dollars
(Written Amount)

\$ _____
(Numerical)

7.2 Amounts Included in Base Proposal

7.2.1 The Proposer provides the following additional information. These amounts are included in the Base Proposal amount:

The Total Contract Sum includes the following amounts:

- 1) Owner Contingency Allowance included in Contract Sum: \$ 100,000.00
- 2) Dollar value of materials to be incorporated into the Work: \$ _____
- 3) Dollar value of labor and materials not incorporated in the Work: \$ _____

7.2.2 This separation of the Total Contract Sum into materials and labor is required in order for the successful Proposer to be able to purchase free of State sales tax the materials to be incorporated

into the Work. The successful Proposer will be required to submit similar information for any Alternates accepted by Texas Tech.

7.2.3 Provide a complete breakdown of the cost of the Work by CSI section.

7.3 Alternate Proposal Item(s)

7.3.1 The following prices are for Alternate Proposal item(s), as clearly and separately identified on the Drawings and/or in the Specifications. The Proposer shall clearly indicate if this price is to be added or deducted from the Base Proposal by writing “Add” or “Deduct” before the written price. The Proposer agrees to hold this price for a period of not less than ninety (90) days from the date of Agreement award. Do not include this time period in the construction duration included in this Proposal.

7.3.2 Alternate No. 1 (Increasing # of Study Rooms)

_____ Dollars
(Written Amount)

\$ _____
(Numerical)

The above Alternate Proposal price is divided into:

- 1) Dollar value of materials to be incorporated into the Work: \$ _____
- 2) Dollar value of labor and materials not incorporated in the Work: \$ _____

7.4 Unit Prices For General Construction

7.4.1 The undersigned further agrees that in case additional Work or material is authorized from what is shown in the Contract Documents as originally awarded, the following items of unit prices will be used in adjusting the Contract Sum. The unit prices include overhead profit, miscellaneous devices, appurtenances, and similar items incidental to or required for a complete installation whether or not mentioned as part of the Unit Price, etc. Unit prices to be used for adjusting the Contract Sum for more Work or less Work or material will be one hundred percent (100%) of these amounts.

7.4.2 If, after the Contract Sum is established and the Agreement signed, Texas Tech chooses to change the scope of the Work in an area described by the Unit Prices, the Unit Prices proposed on the Proposal Form will prevail in establishing change order pricing. Said Amendment to the Agreement will be processed in the same manner as described elsewhere in this RFP. Payment to the Contractor cannot be guaranteed for any Work performed outside the Agreement which has not been formally added by an executed Agreement Amendment.

7.4.3 Unit Prices:

- 7.4.3.1 Accent Paint, PNT-01 – “Dunn Edwards, Misty SW6232 Color Match
- 7.4.3.2 Accent Plastic Laminate, PLM-2 – “Wilsonart, Icecap Velvet, Ultra Matte
- 7.4.3.3 Field Carpet, CPT-1 – “Shaw, Back Weave Tile, Silver

7.4.4 Allowance:

7.4.4.1 Fabric Wrapped Panel, WCV-01 **TTUHSC stipulates NTE (\$36/yd)**

7.5 Duration of Construction

7.5.1 The Proposer agrees to complete all Work shown in the Contract Documents for the Base Proposal within _____ consecutive calendar days from the date of Notice to Proceed.

7.6 Addenda

7.6.1 Receipt is hereby acknowledged of the following Addenda to this RFP. (Initial, if applicable.)

No. 1: _____ No. 2: _____ No. 3: _____ No. 4: _____ No. 5: _____ No. 6: _____

Dated: _____ Dated: _____ Dated: _____ Dated: _____ Dated: _____ Dated: _____

7.7 Experience Modification Ratio

7.7.1 The Proposer certifies that its current insurance Experience Modification Ratio is _____.

7.8 Hub Contracting Commitment

7.8.1 In addition to, and distinct from, any good faith effort required by Texas law, the Contractor commits to use certified HUB firms to perform Work valued at a minimum of _____% of the Total Contract Sum.

7.9 Liquidated Damages

7.9.1 Substantial Completion

7.9.1.1 For each consecutive calendar day after the date at which the Parties have contracted for Substantial Completion that Substantial Completion is not accomplished, taking into consideration any extensions of time granted by any Change Order, the Contractor shall pay to Texas Tech, within ten (10) days following written demand, the amount of:

One Thousand and xx/100 Dollars (\$1,000.00) per unit for up to

Thirty (30) units total for each calendar day

not as a penalty but as Liquidated Damages representing the Parties' estimate at the time of Agreement execution of the damages that Texas Tech will sustain as a result of its inability to fully utilize the facilities due to late Substantial Completion of the Project and once paid shall represent Texas Tech's sole and exclusive remedy for late completion except as stated in Section 2 (additional expenses incurred due to late completion but not directly related to Texas Tech's inability to fully utilize the facilities).

7.9.1.2 Texas Tech may also recover Liquidated Damages from any money due or that becomes due to the Contractor.

7.9.2 Final Completion

7.9.2.1 The Parties recognize and acknowledge that despite access to the Project after achieving Substantial Completion, any delay in achieving Final Completion will cause inconvenience and/or disruption of use of the Project for Texas Tech.

7.9.2.2 For each consecutive calendar day after the completion of thirty (30) days from the date of Substantial Completion that Final Completion is not met, taking into account any

extensions of time granted by any Change Order, Contractor shall pay or withhold to Texas Tech, within ten (10) days following written demand, the amount of:

Five Hundred and xx/100 Dollars (\$500.00) per calendar day

not as a penalty but as Liquidated Damages representing the Parties' estimate at the time of Agreement execution of the damages that Texas Tech will sustain as a result of its inability to fully utilize the facilities due to late Final Completion of the Project and once paid shall represent Texas Tech's sole and exclusive remedy for late completion except as stated in Section 2 (additional expenses incurred due to late completion but not directly related to Texas Tech's inability to fully utilize the facilities).

7.9.2.3 Texas Tech may also recover Liquidated Damages from any money due or that becomes due to the Contractor.

7.10 Submittal of Completed Contract Documents

7.10.1 The undersigned agrees, if awarded the Contract, to execute the Contract, Performance and Payment Bonds, Certificate of Insurance, and Certification of Franchise Tax Payment within TEN (10) CALENDAR DAYS after receipt of the contract and to commence Work on the commencement date stated by the Owner in a Notice to Proceed.

7.11 Proposal Letter of Bonding Capacity

7.11.1 Proposals totaling \$25,000.00 or more must include a letter from an approved Bonding Company indicating that the Proposer has bonding capacity equal to or exceeding the Maximum Possible Award (including consideration of additive alternates) of the Proposal submitted. The awarded Proposer shall promptly supply a Payment Bond as well as a Performance Bond if the Maximum Possible Award is over \$100,000.00 in the full amount of the awarded contract. The letter from the Bonding Company shall be submitted with the Proposal Form as stated in the RFP.

7.12 Determination Of Proposer's State Of Residence (Not required for a contract involving Federal Funds)

7.12.1 Each Proposer is required to complete this part of the Proposal. Failure to complete this part will constitute an incomplete Proposal, which may be rejected.

7.12.2 A "nonresident bidder" as defined hereafter will be awarded a contract only in compliance with Texas Government Code Section 2252.002 as quoted below:

7.12.2.1 "A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the following:

- (1) the state in which the nonresident's principal place of business is located; or
- (2) a state in which the nonresident is a resident manufacturer."

7.12.3 A "nonresident bidder" (Texas Government Code 2252.001) refers to a person or entity that is not a resident of the State of Texas.

7.12.4 A "resident Proposer" (Texas Government Code 2252.001) refers to a person whose principal place of business is in the State of Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in the State of Texas.

7.12.5 Each Proposer shall complete the information below on this part of this Proposal the Proposer's address of principal place of business and the name and address of the Proposer's ultimate parent company or majority owner, if applicable, and shall include with this Proposal a copy of the current statutes, providing such statutes exist, of the Proposer's State of residence, if other than Texas, with all data necessary for Texas Tech to determine the Proposer's state of residence and to calculate the Proposer's "nonresident bidder differential".

7.12.6 Proposer's name and address:

7.12.7 Ultimate parent company or majority owner's name and address:

7.12.8 Copies of nonresident State Statutes and other material attached:

Yes _____ No _____

The Proposer must complete, sign, and return this Proposal Form as part of their submittal response. The Proposer’s company official(s) who are authorized to commit to such a submittal must sign submittals. Failure to sign and return this form will subject the submittal to disqualification.

Offer executed on behalf of Proposer

(Seal: If Proposal by a Corporation)

By: _____
Signature

Printed Full Name and Title

Full Name of President of Corporation or
Owner/Sole Proprietor of Non-Corporation

Full Name of Corporate Secretary

Complete applicable information:

A Corporation, chartered in the State of _____, authorized to do business in the State of Texas.

A partnership, composed of _____, and _____.

An individual, operating under the name of: _____.

A Limited Liability Company, composed of: _____.

A Joint Venture, operating under the name of: _____ and _____.

SECTION 8. ADDITIONAL REQUIRED INFORMATION

Additional information required in the RFP shall be provided with the Proposal (reference Section 4 Proposal Requirements). All information should be clearly marked with the firm's name, Project title and Project Number and formatted as stated in Section 2. Submit this information at the time and place indicated in Section 2 Proposal Information as modified by any Addenda issued.

Agreement Number: [Enter number]

Texas Tech University System

Construction Services Agreement

BETWEEN

The Board of Regents of The Texas Tech University System
City of Lubbock, Lubbock County, Texas, 79409
("Texas Tech")

Acting herein by and through the Chancellor
of the
Texas Tech University System
or his designated representative

And

[Firm Name]
[A (Type of Entity and State)]
[Address]
[City, State Zip Code]
(The "Contractor")

Regarding

[Project Name]
FP&C Project Number [XX-XX]
[Institution]
[City], Texas
(The "Project")

This Agreement becomes effective on the date of the last signature on the Agreement.

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SAMPLE

Background

Texas Tech intends to retain a Contractor to provide Construction Services, and the Contractor commits to provide the services pursuant to the terms of this Agreement.

In choosing to retain the Contractor under this Agreement, Texas Tech is materially relying on the Contractor's representations as a licensed Contractor fully qualified to perform construction services to furnish all of the materials, equipment, tools and labor as necessary and reasonable to complete the work at the Project as depicted in the Contract Documents).

For adequate consideration accepted, the Parties agree as follows:

Article 1. Definitions

- 1.1 *Supplementary Definitions.* Capitalized terms are as defined in the current adopted Uniform General Conditions and Supplemental General Conditions (UGSC), except for the following (references in this Agreement to the current adopted Uniform General Conditions and Supplemental General Conditions).
- 1.2 *Agreement.* Means the contract between Texas Tech and the Contractor that is part of the Contract Documents.
- 1.3 *Contract.* Means the entire Agreement between Owner and the Contractor, including all Contract Documents.
- 1.4 *Contract Documents.* Mean those documents identified as a component of the Agreement (Contract) between Owner and Contractor. These may include, but are not limited to, Drawings; Specifications; General, Supplementary General, and Special Conditions; and all pre-bid and/or pre-proposal addenda.
- 1.5 *General Conditions Work.* Work performed by On-Site management and administrative personnel and all related insurance, bonds, equipment, utilities, and incidental work, including cleaning, materials handling, and minor field labor and materials.
- 1.6 *Insurance Coverage Requirement.* All requirements for insurance coverage to be furnished by the Contractor as set forth in Article 11 of this Agreement and Article 5 of the UGSC and the Special Conditions, if any, with the requirements in the Special Conditions controlling in the event of any conflict with the other requirements.
- 1.7 *Parties.* Collectively, Texas Tech and the Contractor are the "Parties;" individually, each is a "Party."
- 1.8 *Project Team.* The Texas Tech client, Facilities Planning and Construction (FP&C), external third-party auditor(s), and other representatives, Texas Tech's Construction Manager-Agent (if applicable), Contractor, Design Professional(s), any separate representatives employed by Texas Tech, and other consultants employed for the purpose of programming, design, and construction of the Project. The Project Team may vary at different phases of the Project. The Project Team will be approved by Texas Tech and may be modified in writing from time to time by Texas Tech.
- 1.9 *Related Party.* A subsidiary, parent company, or other affiliate of the Contractor.
- 1.10 *Value Engineering (VE).* A systematic method to improve the "best value" of design, goods or products, processes, and services by using an examination of function. Value, as defined, is the ratio of function to cost.

- 1.11 *Work*. The provision of all construction services, labor, materials, supplies, and equipment that are required of Contractor to complete the Project in strict accordance with the requirements the Contract Documents. Work includes, but is not limited to, all scope defined in the Contract Documents, additional Work required by Change Orders, and any other Work reasonably inferable from this Agreement. The term “reasonably inferable” takes into consideration the understanding of the Parties that some details necessary for completion of the Work may not be shown on the Drawings or included in the Specifications, but they are a requirement of the Work if they are a usual and customary component of the Work or otherwise necessary for complete installation and operation of the Work.

Article 2. Scope of the Work

- 2.1 The Contractor shall perform all Work required by the Contract Documents and as defined under this Agreement and the Texas Tech current adopted Uniform General Conditions and Supplementary General Conditions for Construction Contracts referred to herein as the Uniform General and Supplementary Conditions (UGSC) which are incorporated by this reference. The Contractor is responsible for and should be aware of all terms and conditions of the Uniform General and Supplementary Conditions. To the extent any term in this Agreement conflicts with the Uniform General Conditions and the Supplementary General Conditions, the terms of this Agreement prevail.
- 2.2 Texas Tech intends to [enter brief PROJECT DESCRIPTION, including all major elements of the Work]. Attachment A, incorporated by reference herein, lists the Construction Specifications and Drawings that describe the Project scope of the Work.
- 2.3 Furthermore, Texas Tech accepts the following Alternate(s) from the Contractor’s Request for Competitive Sealed Proposal and includes these Alternates in the scope of the Work:
[Select None or Add Alternate Number, Description – Alternate Amount]
- 2.4 Allowance(s) means a fixed sum for a specific portion of the Work used when the exact character or quality of an element of the Work is not known. The Contractor shall include in the Contract Sum all Allowances stated in the Contract Documents. Unless otherwise provided in the Contract Documents (1) Allowances shall cover the cost to the Contractor of materials and equipment delivered at the Site and all required taxes, less applicable trade discounts; (2) Contractor’s costs for unloading and handling at the Site, labor, installation costs, overhead, profit and other expenses contemplated for stated Allowance amounts shall be included in the Contract Sum but not in the Allowances; and (3) whenever costs are more than or less than Allowances, the Contract Sum shall be adjusted accordingly by Change Order. Any unused Allowance will be required to be moved to Owner’s Contingency.
- 2.5 Owner’s Contingency means an amount, if any, that is included in the Base Proposal for authorizing additional Work in connection with the Project. The use thereof requires the written approval or directive of the ODR by Change Order or Change Directive. Any unused amount from the Owner’s Contingency will be returned to the Owner.
- 2.6 The Contractor has overall responsibility for and shall provide and furnish the labor, materials, equipment, services, and supervision to perform and complete all the Work, or any phase of the Work, in accordance with the Texas Tech’s requirements and the terms of the Contract Documents.
- 2.7 The Contractor’s services under this Agreement shall be performed in a manner consistent with the degree and skill ordinarily exercised by licensed Contractors practicing under the same or similar conditions.

- 2.8 Any ambiguities in the Proposal not otherwise resolved by mutual written agreement of the Parties will be resolved in favor of Texas Tech, and to the extent any terms in the Proposal conflict with this Agreement, the terms of the Agreement prevail.

Article 3. Designation of Contractor and Responsibilities

- 3.1 Texas Tech appoints, designates, and authorizes the Contractor and the Contractor accepts the appointment as Contractor in connection with the scope of the Work and services and any additional work set forth and described in this Agreement and the Contract Documents.
- 3.2 Texas Tech and the Contractor agree and acknowledge that Texas Tech is entering into this Agreement in reliance on the Contractor's special and unique expertise with respect to the performance of its obligations, and the Contractor's special and unique abilities with respect to construction services.
- 3.2.1 The Contractor shall use its resources and expertise to perform the Work, and to further the interests of Texas Tech in accordance with Texas Tech's requirements and procedures.
- 3.2.2 The Contractor shall perform the Work in accordance with the highest standards of the Contractor's profession or business and in compliance with all Applicable Laws, Texas Tech's Regents' Rules and Operating Policies, and Texas Tech Design and Construction Standards.
- 3.2.3 The Contractor warrants, represents, covenants, and agrees that there are no obligations, commitments, or impediments of any kind that will limit or prevent its performance of the Work.
- 3.3 The Contractor warrants, represents, covenants, and agrees that all of the services to be performed by the Contractor under or pursuant to this Agreement will be of the standard and quality typically provided among similar businesses and organizations of superior knowledge and skill engaged in providing similar.
- 3.4 Contractor agrees that Owner's observation, review, or approval of Contractor's work or services will not diminish Contractor's duties, responsibilities, or liabilities under this Agreement, it being understood that the Owner is ultimately relying upon the Contractor's skill and knowledge in performing the work and services hereunder.
- 3.5 All persons connected with the Contractor directly in charge of the Work under this Agreement must be duly registered and/or licensed under the laws, rules and regulations of any authority having jurisdiction.
- 3.6 The Contractor agrees to expeditiously notify Texas Tech in writing regarding the Drawings, Specifications, plans, sketches, instructions, information, requirements, procedures, and/or other instruments of service describing the Work supplied to the Contractor by Texas Tech or any other party that it regards, in its opinion, as unsuitable, improper, inconsistent or inaccurate in connection with the purposes for which such document or data is furnished.
- 3.6.1 Nothing shall excuse or relieve the Contractor's responsibilities or obligations in a case where such document or data is furnished unless the Contractor advises Texas Tech in writing that in its opinion such document or data and any requests made for action are unsuitable, improper, inconsistent, or inaccurate and Texas Tech confirms in writing that it wishes the Contractor to proceed in accordance with the document or data.
- 3.7 The Contractor agrees and covenants to perform and fulfill all duties and responsibilities under this Agreement with due diligence, in the most expeditious and economical manner feasible, consistent with the interests of Texas Tech.

- 3.8 The Contractor shall, at its own cost, correct defects in the Work as soon as the Contractor becomes aware of such defects or is notified of such defects.
- 3.8.1 Should the Contractor refuse or neglect to correct such defects within a reasonable time after receiving notice requesting such remedial work, then Texas Tech shall be entitled to correct such defective services to meet Texas Tech's requirements at the expense of the Contractor.
- 3.8.2 This commitment by the Contractor is in addition to, and not in substitution for, any other remedy for defective services that Texas Tech may have at law or in equity.
- 3.8.3 The Contractor's obligations with respect to construction services (as defined in Article 4 of this Agreement) are set forth in the UGSC and the Contract Documents.
- 3.9 The Contractor represents it is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, that it has all necessary organizational power and has received all necessary approvals to execute and deliver the Work under this Agreement, and the individual(s) executing the Agreement on behalf of the Contractor has been duly authorized to act for and bind the Contractor.
- 3.10 The Contractor represents and warrants that it will advise Texas Tech of anything of any nature discovered or any drawings, inspections, plans, sketches, etc. and other data supplied by Owner under this Agreement that is unsuitable, improper, or inaccurate for the purposes for the Work.
- 3.11 The Contractor represents that neither the execution and delivery of this Agreement by the Contractor nor the performance of its obligations under the Agreement will result in the violation of any provision of its organizational documents, or any agreement by which the Contractor is bound, or, to the best of the Contractor's knowledge and belief, will conflict with this Agreement or/and any order or decree of any court or governmental instrumentality relating to the Contractor.
- 3.12 Except for the obligation of Texas Tech to pay the Contractor the agreed upon Contract Sum Amount pursuant to the terms of this Agreement, Texas Tech shall have no liability to the Contractor or to anyone claiming through or under the Contractor by reason of the execution of this Agreement or performance of this Agreement.
- 3.12.1 Despite any obligation or liability of Texas Tech to the Contractor, no present or future partner or affiliate of Texas Tech or any agent, officer, director, employee, or Regent of Texas Tech, Texas Tech University System, or of the components comprising Texas Tech University System, or anyone claiming through or under Texas Tech has or shall have any personal liability to the Contractor or to anyone claiming through or under the Contractor by reason of the execution or performance of this Agreement.
- 3.13 Contractor shall designate in writing a representative who is responsible for the day-to-day management of the construction services to be performed by the Contractor pursuant to this Agreement.
- 3.13.1 The designated representative shall be Texas Tech's primary contact during the Work and shall be available as required for the benefit of the Project and Texas Tech.
- 3.13.2 The designated representative shall be authorized to act on behalf of and bind the Contractor in all matters related to the Work including, but not limited to, execution of Construction Change Requests, Construction Change Proposals, Agreement Amendments, and Applications for Payment as well as approved Change Directives.
- 3.14 Attachment D identifies the Contractor's Project personnel. The personnel identified in Attachment D may not be changed except with Texas Tech's prior written approval.

3.15 Subcontracts

- 3.15.1 The Contractor shall notify Texas Tech in advance in writing of the identities of all Subcontractors with which it intends to subcontract.
- 3.15.2 The Contractor shall not subcontract with any Subcontractor to which Texas Tech has a reasonable objection or does not provide the best value.
 - 3.15.2.1 Such notice shall be given sufficiently in advance to permit Texas Tech adequate time for review without delay to the Project and allowing time for the Contractor to make substitute selections, but in no event shall such notice be given less than ten (10) consecutive days before the intended Subcontract date.
- 3.15.3 When the Contractor's Subcontractors for constructing the Work have been identified, they may not be changed without Texas Tech's prior written approval.
- 3.15.4 Texas Tech shall not be liable for the Contractor's Subcontract costs incurred prior to Texas Tech's issuance of a written Notice to Proceed for such Work.
- 3.15.5 Prior to entering into any agreement with a potential Subcontractor, the Contractor must disclose in writing to Texas Tech whether the desired Subcontractor that is related to, affiliated with, partially or wholly owns, or is partially or wholly owned by the Contractor.
 - 3.15.5.1 As described above, the Contractor shall not contract with any Subcontractor, whether initially, or as a substitute against whom Texas Tech has a reasonable objection, including if the Contractor is related to, affiliated with, partially or wholly owns, or is partially or wholly owned by the potential Subcontractors.
 - 3.15.5.2 The Contractor's agreement with its subcontractors cannot supersede this Agreement.
- 3.15.6 For purposes of reviewing cost proposals for changes in the Work, claims, and Subcontracts to be performed on a time and materials or cost-plus basis, Texas Tech may request the Contractor to require all of its Subcontractors to submit, in a form acceptable to Texas Tech, a detailed breakdown of all costs components which comprise the applicable Subcontractor personnel and required materials to do the Work.
 - 3.15.6.1 As part of Texas Tech's review and approval, the Subcontractor shall provide information reasonably and timely if and when requested by Texas Tech to substantiate the Subcontractor labor rates.
 - 3.15.6.2 All Subcontractor labor rates may be subject to external third-party audit review and shall be subject to the approval by Texas Tech in writing. Such Subcontractor labor rates shall include only the actual wages and salaries and labor burden as described in Article 2 of the UGSC and in Division 01 of the Project Specifications.

3.16 Sex Offender Registration

- 3.16.1 The Contractor agrees to provide the notice required by Article 3 Texas Tech's current adopted Uniform General Conditions and Supplementary General Conditions to all of its employees and Subcontractors who may work on any campus of Texas Tech University System.

Article 4. Construction Services

- 4.1 The Work shall be deemed to commence upon or after the date specified in a Notice to Proceed issued by Texas Tech and substantially completed within **Written Number (Figures)** consecutive calendar days after the date of the Notice to Proceed. The Contractor shall complete all remaining Work required by the Contract Documents, including correction of deficiencies, within thirty (30) days after the date of Substantial Completion to achieve Final Completion.
- 4.2 In implementation of the responsibilities and duties of the Contractor, the Contractor shall provide the following services:
- 4.2.1 Project Control
- 4.2.1.1 The Contractor shall construct the Work in strict accordance with the Contract Documents within the time required by the Construction Project Schedule approved by Texas Tech and as required by the UGSC, and the other Contract Documents, including but not limited to Division 00 and 01 of the Project Specifications.
- 4.2.1.1.1 The Contractor shall award and enter into all Subcontracts necessary and appropriate to provide all labor and materials for the construction of the Project.
- 4.2.1.1.2 Texas Tech reserves the right to perform Work related to the Project and to award separate Contracts for Work related to the Project. In such cases, the Contractor will cooperate with Texas Tech's Contractors.
- 4.2.1.2 Coordinate the Work well in advance of scheduled execution and monitor all Subcontractor's performance of the Work as required to maintain quality requirements acceptable to Texas Tech.
- 4.2.1.3 Attend all project progress meetings and fully advise the Project Team at such meetings as to Project status, including, but not limited to, review of Project Schedule, Project delays, budget, scope, submittals, Requests for Information (RFI), Additional Supplementary Information (ASI), Construction Change Requests (CCR), Construction Change Proposals (CCP), Pay Applications, and suggestions for Project and/or process improvement.
- 4.2.1.4 Schedule, direct, and attend regular meetings and document meeting minutes as requested or required by Texas Tech with other members of the Project Team during the construction of the Project to discuss jointly such matters as procedures, progress, issues, and scheduling.
- 4.2.1.4.1 Prior to each meeting, the Contractor shall prepare and distribute to the other Project Team members a written agenda for the meeting.
- 4.2.1.4.2 Prepare and distribute at each Project Team meeting an Actions Items Log within forty-eight (48) hours setting forth the list of critical activities that require immediate action and the date(s) by when the activity must be completed, and record and distribute the minutes of each meeting indicating attendees, decisions reached, and items pending.
- 4.2.1.5 As provided in Attachment D, maintain competent, full-time staff to coordinate and provide general direction and coordination of the Work and progress of the Subcontractors on the Project.

- 4.2.1.6 As provided in Attachment D, establish On-Site and off-site organization of personnel and clearly defined lines of authority to accomplish overall execution of the Project.
- 4.2.1.7 In consultation with Texas Tech, establish procedures for coordination among the Project Team, Subcontractors, separate Construction Managers, Design Professionals, Owner's Third Party, and other consultants with respect to all aspects of the construction of the Project, and implement such procedures.
- 4.2.1.8 The Contractor shall supervise and direct the Work and shall be solely responsible for construction means, methods, techniques, sequences, schedules, and procedures for the Work.
- 4.2.1.9 As provided in the UGSC, the Contractor shall assume full responsibility for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and all other facilities and services necessary for the proper execution and completion of the Work in strict accordance with the requirements of the Contract Documents.
 - 4.2.1.9.1 The Contractor shall make all required payments to Subcontractors, vendors, employees, suppliers, service providers, and others retained by the Contractor to successfully complete the Work.
- 4.2.1.10 Obtain building permits and special permits for permanent improvements as required by Applicable Law or the Contract Documents. Assist Texas Tech or the Design Professional in obtaining all approvals required from authorities having jurisdiction over the Project.
- 4.2.1.11 The Contractor shall be responsible for managing Project Quality Assurance and Quality Control (QA/QC) of the Work of its Subcontractors.
 - 4.2.1.11.1 This includes proper and precise workmanship when installing and integrating all materials, equipment, and building systems into the Project per the Contract Documents.
 - 4.2.1.11.2 The Contractor shall act appropriately, with due diligence, to correct deficient Work as identified by Texas Tech such as to eliminate impacts to the Project Schedule.
- 4.2.1.12 Inspect the Work of Subcontractors to confirm quality assurance and conformance with the Contract Documents.
- 4.2.2 Critical Path Scheduling
 - 4.2.2.1 Perform Project Scheduling using software listed in Article 9 of the UGSCs.
 - 4.2.2.1.1 Provide regular monitoring, updating, and distribution of Project Schedules as construction progresses, including, without limitation, the master Project schedule, detailed construction schedule, tracking of Project delays, submittals schedule, inspection schedules, and occupancy schedules.
 - 4.2.2.1.2 Identify actual variances between scheduled and probable completion dates, review the schedules for Work not started or incomplete and recommend to Texas Tech adjustments in the

schedules to conform with the probable completion dates and provide summary reports to Texas Tech of each schedule update and document all changes in construction schedules.

- 4.2.2.1.3 Incorporate activities of the Subcontractors and other parties affecting the progress of the Work, including, without limitation, activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, data, samples, and delivery of long lead time items.
- 4.2.2.1.4 Include Texas Tech’s occupancy requirements and occupancy priorities.
- 4.2.2.1.5 Evaluate Subcontractor’s personnel and equipment, and availability of supplies and materials, with respect to each Subcontractor’s ability to meet the Project Schedule.
- 4.2.2.2 Submit an updated construction Project Schedule monthly with each construction Application for Payment.
- 4.2.3 Cost Control
 - 4.2.3.1 Maintain cost accounting records in good form on expenditures and materials, or for any other expenditures requiring accounting records, and afford Texas Tech full access to these records, in accordance with Article 15, and preserve them for a period of seven (7) years after Final Payment is made by Texas Tech to the Contractor.
 - 4.2.3.2 Prepare, administer, and provide to Texas Tech, Subcontractors’ Schedule of Values, Subcontractors’ sworn statements and Waivers of Lien as required (such requirement includes, but is not limited to, submission of Subcontractors’ partial lien waivers within all monthly Applications for Payment).
 - 4.2.3.2.1 In addition, provide contract and disbursement summaries inclusive of, but not limited to: Landscape Enhancements logs, Construction Change Request (CCR) logs, Construction Change Proposal (CCP) logs, and Change Directive listings, Change Orders and Change Directives, and budget cost summary reports as required by Texas Tech. All required invoice items are found in e-Builder at [insert link](#).
 - 4.2.3.2.2 Schedule of Values shall include specific line items for Change Orders, Change Directives, and the transfers of contingencies.
- 4.2.4 Change Orders
 - 4.2.4.1 The Contractor shall utilize the Construction Change Proposal (CCP) process in eBuilder as developed by Texas Tech for the preparation, review and processing of proposed Change Orders, Construction Change Proposals resulting from Construction Change Requests, and Change Directives, in accordance with Article 11 of the UGSC and Division 00 and 01 of the Project Specifications.
 - 4.2.4.1.1 Those provisions of the UGSC are amended with regard to pricing Change Orders and Construction Change Proposals, including

- Contractor Fees for such changes to the extent in conflict with Article 5.
- 4.2.4.1.2 Lump sum and lot pricing for Change Orders and Construction Change Proposals are not permitted, but instead a detailed breakout of all cost and labor shall be required, except as expressly approved in writing by Texas Tech in advance.
 - 4.2.4.1.3 Any Change Orders or Construction Change Proposals not containing sufficient, itemized detail as determined by Texas Tech in support of all pricing changes may be rejected by Texas Tech at its sole discretion.
- 4.2.4.2 The Contractor shall start any request to spend Contractor's Contingency (CM) in e-Builder as a CCP process. This request shall route through e-Builder and once approved by Owner in writing, the Contractor will be authorized to use the CM Contingency.
 - 4.2.4.3 The Contractor prepares a CCP quoting a price for the extra work. Texas Tech must agree on the scope, price, and schedule. The CCP must be approved in eBuilder for the work to be authorized. No CCP will be approved that causes a contingency amount to be overdrawn.
 - 4.2.4.4 All Construction Change Proposals are subject to Tier 2 audit verification.
- 4.2.5 Wage Rates
- 4.2.5.1 Maintain strict enforcement of State of Texas prevailing wage laws in accordance with the UGSC.
 - 4.2.5.2 Cooperate with Texas Tech in monitoring the submission to Texas Tech of payroll records by the various Subcontractors when requested.
 - 4.2.5.3 The Parties agree that prevailing wage rates adopted by Texas Tech will apply unless Texas Tech notifies Contractor otherwise in writing.
 - 4.2.5.4 Contractor agrees to provide prevailing wage survey forms, in accordance with the Contract Documents, not less than at least once for each worker during the duration of the project as part of the construction invoice process—including prevailing wage and fringe benefit rates for the purpose of Texas Tech to collect relevant data and use the surveys in continued prevailing wage rate determinations.
- 4.2.6 Commissioning, Testing, Adjusting and Balance (Cx/TAB), Inspections, and Testing
- 4.2.6.1 The Contractor shall actively participate and fully cooperate in the International Energy Conservation Code required Commissioning, Testing, Adjusting and Balancing process including, but not limited to, the extents required per applicable State and Federal building codes.
 - 4.2.6.1.1 The Contractor shall schedule, track and complete building systems installations and timely submit all required documentation to assist the Commissioning Agent in execution of their work based on the Commissioning Plan mutually agreed to by Texas Tech, the Contractor, and the Commissioning Agent.

- 4.2.6.1.2 The Contractor shall incorporate the Commissioning Agent’s planned completion milestones into the Project construction schedule, continually update those dates to align with projected building systems installation completion and keep Texas Tech and Commissioning Agent apprised of construction schedule changes impacting the Commissioning Agent’s ability to perform their work.
- 4.2.6.2 The Contractor recognizes that failure to provide the required, stipulated documentation at the specified intervals will delay the Commissioning Agent in execution of their work, which, in turn, will delay the Contractor in achieving Substantial Completion. As such, the Contractor agrees to the following:
 - 4.2.6.2.1 Pre-Functional (System Readiness) checklists shall be completed and turned into the Owner and Owner’s Commissioning Agent to meet Project schedule.
 - 4.2.6.2.2 Testing, Adjustment and Balance (TAB) shall be complete before commencement of Functional Performance Testing.
 - 4.2.6.2.3 Functional Performance Test (FPT) reports, inclusive of Manufacturer’s start-up reports, shall be completed and turned into the Owner and Owner’s Commissioning Agent.
 - 4.2.6.2.4 Corrective Action Report (CAR) and all identified deficiencies must be corrected by the Contractor and their Subcontractors such as to not delay Substantial Completion.
 - 4.2.6.2.5 All final Commissioning (Cx) documentation and Owner’ training shall be completed and submitted prior to Substantial Completion.
- 4.2.6.3 In the event any test or inspection performed by the Commissioning Agent results in a failure to comply with design intent requirements, or otherwise requires retesting or reinspection, the Contractor shall be responsible for all costs of retesting and/or reinspection associated with validating performance requirements are in compliance with the design intent.
- 4.2.6.4 Similarly, in the event materials tested results in a failure, or otherwise requires retesting or reinspection, the Contractor shall be responsible for all costs associated with retesting and/or reinspection.
- 4.2.7 Storm Water Pollution Prevention Program (SWPPP)
 - 4.2.7.1 Implement and maintain the Project SWPPP, submit required Notice(s) of Intent (NOI) and Notice(s) of Termination (NOT), with copies to Texas Tech.
 - 4.2.7.1.1 Conduct Best Management Practices (BMP) required inspections, keep required records and update the plan as necessary as required by the UGSC.
 - 4.2.7.1.2 SWPPP costs are to be reported as a separate line item in the Application for Payment Schedule of Values, for the purpose of tracking associated costs and reporting to Texas Commission on Environmental Quality (TCEQ).

- 4.2.8 Documents, Shop Drawings, and Submissions
- 4.2.8.1 The Design Professional shall interpret the design intent of the construction Contract Documents, subject to the terms and conditions of the agreement between the Design Professional and Texas Tech, provided, however, the Contractor shall request such interpretations from the Design Professional, with Texas Tech's consent, from time to time in order to facilitate the Contractor's accomplishment of its duties under this Agreement.
- 4.2.8.2 In collaboration with the other members of the Project Team, the Contractor shall establish and implement procedures for expediting the processing and Design Professionals' approval of Shop Drawings and other submissions, and in accordance with Division 01 of the Project Specifications, as applicable; receive from the Subcontractors and review all Shop Drawings and other submissions for conformance with the Contract Documents; and coordinate Shop Drawings and other submissions with the Contract Documents and other related documents prior to transmitting them to other members of the Project Team.
- 4.2.8.3 The Contractor shall record the progress of the Project, submit written progress reports to Texas Tech and the other members of the Project Team, including information on the Subcontractor's Work and the percentage of completion, and keep a daily log of Project construction activities available to the other members of the Project Team in accordance with the UGSC, and each member of the Contractor's Site personnel whose job function involves or includes observation of Project construction shall maintain a daily log of construction activities and observations.
- 4.2.8.4 The Contractor shall maintain at the Project Site and make available to Texas Tech daily logs, visitor logs, SWPPP records, updated records of Subcontracts, drawings, product samples, purchases, materials, equipment, Maintenance and Operating manuals and instructions, material safety data sheets, and other construction related documents, including all changes and revisions, a directory of personnel, Project correspondence, inspection procedures (as prepared by others), testing laboratory procedures (as prepared by others), , time extensions, progress payment data, final acceptance procedures, instructions from Texas Tech; and shall obtain data from Subcontractors and maintain a current set of As-Built Drawings and Project manual.
- 4.2.8.5 Coordinate and facilitate the collection of constructed conditions data to formulate the creation of As-Built Drawings, and the procurement of warranties and guarantees.
- 4.2.8.6 Provide Texas Tech with complete, unaltered copies of all Subcontracts and Subcontract-Amendments, if requested.
- 4.2.9 Safety and Health
- 4.2.9.1 The Contractor is responsible for Project safety and health, including all safety precautions and programs in connection with execution of the Work as stated in Article 7 of UGSC.
- 4.2.9.2 The Contractor shall review the safety and health programs developed by each of the Subcontractors and ensure compliance with all applicable requirements of the Occupational Safety and Health Act of 1970, as amended, or modified,

and all other Applicable Laws, and with any Texas Tech-controlled insurance programs.

4.2.9.2.1 The Contractor shall ensure compliance by the Subcontractors with their contractual safety and health requirements.

4.2.9.2.2 The existence of any Texas Tech-controlled insurance programs shall not operate to diminish or eliminate in any way the Contractor’s responsibilities under this paragraph.

4.2.9.3 Texas Tech retains the right, but not the duty, to inspect the Project and adjacent areas impacted by the construction for safety compliance.

4.2.9.4 All safety incidents or near misses must be reported to Texas Tech.

4.2.9.5 Texas Tech may require the Contractor to immediately correct any safety and health issues observed by Texas Tech that are related to the Work and communicated to Contractor either orally or in writing.

4.2.9.5.1 By retaining this right to inspect, Texas Tech does not accept any responsibility to verify that the safety issues were corrected.

4.2.9.5.2 Notwithstanding the foregoing, as between Texas Tech and the Contractor, it is the Contractor’s sole obligation to ensure the Project and adjacent areas remain safe and secure.

4.2.9.5.3 The Contractor’s failure or refusal to correct any safety issue is a material breach of this Agreement.

4.2.10 Project Close Out

4.2.10.1 The Contractor shall conform with Texas Tech’s requirements as stated in Article 12 of the UGSC for satisfactory Project Close Out inclusive of, but not limited to, the completion of all necessary corrective actions to resolve Punchlists and regulatory non-compliance to Texas Tech’s satisfaction, submission of all required documentation at Substantial Completion, and the proactive scheduling, coordination and training (audio/video documentation) of all specified Owner training with vendors and manufacturers prior to Substantial Completion so that the Project can be successfully relinquished to the component Institution, fully functional and operational, for its intended use and purpose as required by the Contract.

Article 5. Compensation and Payments

5.1 In full consideration of the Contractor’s performance of the Work and services under this Agreement, Texas Tech will pay to the Contractor, subject to additions and deductions provided herein, the sum of **Written Amount and no/100 Dollars \$Figure** in periodic progress payments as herein provided.

5.2 The Contract Sum includes the following amounts:

- 1) Owner Contingency Allowance included in Contract Sum: \$ **Amount**
- 2) Dollar value of materials to be incorporated into the Work: \$ **Amount**
- 3) Dollar value of labor and materials not incorporated in the Work: \$ **Amount**

5.3 This separation of the Contract Sum into materials and labor values indicated above is required in order for the Contractor to be able to purchase free of State sales tax the materials to be incorporated into the Work. Texas Tech qualifies for exemption from state and local sales and use taxes pursuant to the provisions of the Texas Limited Sales, Excise and Use Tax Act. The Contractor may claim exemption from payment of applicable state taxes by complying with the procedures prescribed by the State of Texas Comptroller of Public Accounts.

5.4 Alternates, if applicable

5.4.1 Texas Tech may, at its sole discretion, within one hundred and eighty (180) days from the execution date on page one (1) of this Agreement, award the following Alternates at the amounts indicated. The numbering of the Alternates corresponds to their original numbering in the Contractor’s completed competitive sealed proposal form. These amounts are not included in the Contract Sum.

Alternate #	Description	\$ Amount
Alternate #	Description	\$ Amount
Alternate #	Description	\$ Amount

5.5 In the event that a change to the scope of the Work becomes necessary, the following unit prices will apply:

Description	\$ Amount
Description	\$ Amount

5.6 On a monthly basis and subject to the payment procedures described in Article 10 of the UGSC and in Division 00 and 01 of the Project Specifications, the Contractor shall submit an Application for Payment. Supporting documentation should include without limitation: current Schedule of Values, supporting Subcontractor invoices and sworn statements and waivers of lien for all amounts paid to Contractor for materials, labor, equipment, and other costs, and copies of third-party invoices, receipts, and other third-party supporting documents, and any and all other evidence that Texas Tech or the Design Professional shall deem necessary to support the amount requested.

5.6.1.1 Each Schedule of Values submitted shall maintain the originally established value for each work classification line item or Subcontractor and shall contain any revisions to costs or cost estimates for each such classification or Subcontractor.

5.6.1.1.1 The format and tracking method of the original Schedule of Values and of all updates thereto shall be subject to the approval of Texas Tech and the Design Professional.

5.6.1.2 Payments to Subcontractors included in an Application for Payment shall not exceed the percentage of Work allowable to that Subcontractor for each respective Schedule of Values classification that has been actually completed.

5.7 Based on the Application for Payment, Texas Tech shall make a periodic progress payment to the Contractor for the cost of labor, materials, and equipment incurred by the Contractor in relation to the Work during the previous month, except that the percentage of the total amount paid shall not exceed the percentage amount of the Work that has been completed as determined in the reasonable judgment of Texas Tech and the Design Professional. Upon verification of costs incurred and percentage of Work completed, Texas Tech will make payment to the Contractor within thirty (30) working days or will notify the Contractor of any objection to the invoiced amount.

- 5.8 Texas Tech shall have the right to withhold from payments due the Contractor such sums as are necessary to protect Texas Tech against any loss or damage that may result from negligence by the Contractor or failure of the Contractor to perform the Contractor's obligations under this Agreement to the satisfaction of Texas Tech and as set forth in UGSC.
- 5.8.1 The amount Texas Tech may withhold under this provision may encompass any actual damages incurred by Texas Tech, including but not limited to the costs of damages, defects, supplementing the Work of the Contractor, additional inspection fees, management fees, administration costs, maintenance costs, material testing fees, commissioning fees, professional services fees and Design Professional and Construction Manager-Agent fees.
- 5.9 The final request for payment shall not be made until the Contractor delivers to Texas Tech a complete release of all liens arising out of this Agreement, conditioned only upon receipt of the amount requested for Final Payment, and an affidavit that, so far as the Contractor has knowledge or information, the release includes and covers all materials and services over which the Contractor has control for which a lien could be filed and a digital copy of the consent of surety .
- 5.9.1 If any lien is asserted against Texas Tech after all payments are made, the Contractor shall refund to Texas Tech all moneys Texas Tech may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees, and Texas Tech shall have all remedies at law and in equity.
- 5.10 In addition to the procedures contained in the UGSC, Texas Tech shall have no obligation to make Final Payment until a final accounting of the Work has been submitted by the Contractor and has been verified by Texas Tech or its representatives in accordance with the Contract Documents.
- 5.10.1 The aggregate total of payments to the Contractor shall not exceed the total of the actual Work as verified by Texas Tech or its representative from the Contractor's final accounting as certified for payment in accordance with the Agreement.
- 5.10.2 If payments made to the Contractor exceed that which is due and owing pursuant to Article 5 of this Agreement, then the Contractor shall within fifteen (15) calendar days refund such excess to Texas Tech.
- 5.11 Nothing in this Agreement shall require Texas Tech to pay the Contractor an aggregate amount exceeding the Agreement or to make payment if in Texas Tech's belief the cost to complete the Work would exceed the Agreement amount less previous payments to the Contractor.
- 5.12 Texas Tech shall not be obligated to make any payment (whether a progress payment or Final Payment) to the Contractor hereunder, and Texas Tech may deduct and/or withhold from any monies due to Contractor, if any one or more of the following conditions exist:
- 5.12.1 The Contractor is in material breach or default under this Agreement;
- 5.12.2 Any part of such payment is attributable to services that are not performed in accordance with this Agreement; provided, however, such payment shall be made as to the part thereof attributable to services that were performed in accordance with this Agreement;
- 5.12.3 The Contractor has failed to make payments promptly to Subcontractors, consultants or other third parties used in connection with the services for which Texas Tech has made payment to the Contractor;
- 5.12.4 If Texas Tech, in its good faith judgment, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the services and Work in accordance with this Agreement, no additional payments will be due the Contractor unless and until the Contractor, at the Contractor's sole cost, performs a sufficient portion of the

remaining services and Work so that such portion of the compensation then remaining unpaid is determined by Texas Tech to be sufficient to so complete the remaining Work; and/or

- 5.12.5 To the extent Liquidated Damages or actual damages are imposed by Texas Tech for failure of Contractor to complete the Work within the Contract Time.
- 5.13 No partial payment made under this Agreement is or may be construed to be, final acceptance or approval of that part of the services and Work to which such partial payment relates, or a release of the Contractor of any of the Contractor's obligations under this Agreement or liabilities with respect to such services.
- 5.14 The Contractor shall promptly pay all bills for labor and material performed and furnished by Subcontractors or others hired by the Contractor in connection with the performance of the services.
- 5.15 Texas Tech shall have the right to verify and audit in accordance with the Contract Documents the details set forth in Contractor's billings, certificates, accountings, cost data, and statements, either before or after payment therefore, by: (1) inspecting the books and records of Contractor during normal business hours; (2) examining any reports with respect to this Project; (3) interviewing Contractor's business employees; (4) visiting the Project site; and (5) other reasonable action.
- 5.16 The acceptance by the Contractor or the Contractor's successors of Final Payment under this Agreement shall constitute a full and complete release of Texas Tech from any and all claims, demands, and causes of action whatsoever that the Contractor or the Contractor's successors have or may have against Texas Tech under the provisions of this Agreement except those previously made in writing and identified by the Contractor as unsettled at the time of the final request for payment.
- 5.17 Texas Tech shall be billed in accordance with Chapter 2251 of the Texas Government Code and interest, if any, on past due payments shall accrue and be paid in accordance with Chapter 2251 of the Texas Government Code.
- 5.18 All invoices submitted for payment must include a HUB Progress Assessment Report (PAR). The PAR must reflect all current payments to HUB Subcontractors in compliance with the HUB Subcontracting Plan which gets reported back to the State of Texas.

Article 6. Liquidated Damages

- 6.1 Damages for Failure to Meet Substantial Completion
- 6.1.1 For each consecutive calendar day after the contracted date of Substantial Completion set forth in Article 4, plus any extensions of time granted by Amendment, that the Work is not substantially completed, an amount as set forth in Attachment C will be deducted from the money due or that becomes due the Contractor, not as a penalty but as liquidated damages, representing the Parties' estimate at the time of Agreement execution of the damages that Texas Tech will sustain related to Texas Tech's inability to fully utilize the facilities due to delayed Substantial Completion.
- 6.1.2 If the money due or that becomes due to the Contractor is less than the amount of Liquidated Damages, the Contractor is liable for the excess of Liquidated Damages over the amount ultimately due to the Contractor, and the Contractor shall pay that amount within ten (10) days following written demand.
- 6.1.3 The Parties stipulate and agree that the actual damages sustained by Texas Tech related to Texas Tech's inability to fully utilize the facilities due to late Substantial Completion of the Project will be uncertain and difficult to ascertain, that calculating Texas Tech's actual damages would be impractical, unduly burdensome, and cause unnecessary delay, and that

the amount of liquidated damages established in the Contract Documents is a reasonable estimate of such actual damages.

- 6.1.4 Liquidated Damages do not cover, and Contractor is liable for, any additional Project costs Texas Tech incurs as a result of late Substantial Completion, including the costs of supplementing the Work of the Contractor, additional inspection and testing, management, administration, maintenance, and Design Professional and Construction Manager-Agent fees.
- 6.1.5 Payment of the Liquidated Damages does not preclude recovery by Texas Tech of other damages or losses under other provisions of the Agreement, except for claims related to Texas Tech's inability to fully utilize the facilities due to late Substantial Completion of the Project. Texas Tech's right to receive Liquidated Damages for this purpose will not affect Texas Tech's right to terminate the Agreement as provided in the UGSC or elsewhere in the Contract Documents, nor shall termination of the Agreement release the Contractor from the obligation to pay the liquidated damages.

6.2 Damages for Failure to Meet Final Completion

- 6.2.1 For each consecutive calendar day after the completion of thirty (30) days from the date of Substantial Completion that Final Completion is not met, plus any extensions of time granted by Amendment, an amount as set forth in Attachment C will be deducted from the money due or that becomes due the Contractor, not as a penalty but as liquidated damages, representing the Parties' estimate at the time of Agreement execution of the damages that Texas Tech will sustain related to Texas Tech's inability to fully utilize the facilities due to delayed Final Completion.
- 6.2.2 If the money due or that becomes due to the Contractor is less than the amount of Liquidated Damages, the Contractor is liable for the excess of Liquidated Damages over the amount ultimately due to the Contractor, and the Contractor shall pay that amount within ten (10) days following written demand.
- 6.2.3 The Parties stipulate and agree that the actual damages sustained by Texas Tech related to Texas Tech's inability to fully utilize the facilities due to late Final Completion of the Project will be uncertain and difficult to ascertain, that calculating Texas Tech's actual damages would be impractical, unduly burdensome, and cause unnecessary delay, and that the amount of liquidated damages established in the Contract Documents is a reasonable estimate of such actual damages.

Article 7. HUB Contracting Commitment

- 7.1 In addition to, and distinct from, any good faith effort required by Applicable Laws, the Contractor commits to use certified HUB Contractors to perform work valued at a minimum of **written amount percent (XX.XX%)** of the Cost of the Work as stated in the Contractor's Proposal.

Article 8. HUB Subcontracting Plan

- 8.1 The Contractor shall comply with the HUB Subcontracting Plan (HSP) submitted with its Proposal. Failure to comply with the HSP may constitute a material breach of this Agreement, as determined at Texas Tech's sole discretion.
- 8.2 If at any time during the term of this Agreement, the Contractor desires to make changes to the approved HSP, the Contractor shall comply with the good faith effort requirements to solicit HUB Subcontractors as demonstrated in the original HSP, submit a revised HSP for that portion of Work, and obtain Texas Tech's prior written approval.

- 8.3 If Texas Tech expands the original scope of Work through a Construction Change Request (CCP), Change Directive, or other Amendment to the Contract, or a Contract renewal that expands the scope of Work, and the Contractor determines additional subcontracting opportunities exist, the Contractor shall comply with the good faith effort requirements to solicit HUB Subcontractors as demonstrated in the original HSP, submit a revised HSP for that portion of the Work, and obtain Texas Tech's prior written approval.
- 8.4 The Contractor shall submit updated HUB Subcontracting Plans (HSP) with submission of Applications for Payment at fifty percent (50%) and one hundred percent (100%) construction completion.
 - 8.4.1 Applications for Payment submitted at fifty percent (50%) and one hundred percent (100%) construction completion without an updated HSP will be returned to the Contractor unpaid.
- 8.5 The Contractor will maintain business records documenting compliance with its HSP and will submit the HSP Progress Assessment Report (PAR) with each Application for Payment. The HSP Progress Assessment Report submission will be required as a condition for payment.

Article 9. Texas Tech's Responsibilities

- 9.1 Texas Tech will cooperate in providing information to the other members of the Project Team regarding its requirements for the Project.
- 9.2 Texas Tech will provide testing and inspection services to the extent required by Texas Education Code § 51.783 as amended or modified.
- 9.3 Texas Tech will provide TAB and commissioning services to the extent required by Texas Education Code § 51.783 as amended or modified.

Article 10. Indemnity and Hold Harmless

- 10.1 Contractor covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, Texas Tech and the elected and appointed officials, employees, officers, directors, volunteers, and representatives of Texas Tech, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death or property damage, made upon Texas Tech directly or indirectly arising out of, resulting from or related to Contractor's activities under this Agreement, including any acts or omissions of Contractor, or any agent, officer, director, representative, employee, consultant or the Subcontractor of Contractor, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Agreement.
- 10.2 The indemnity provided for in this Article does not apply to any liability resulting from the negligence of the Texas Tech, its officers or employees, separate contractors or assigned contractors, in instances where such negligence causes personal injury, death or property damage.
- 10.3 IN THE EVENT CONTRACTOR AND TEXAS TECH ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. WITHOUT LIMITING THE INDEMNITY REQUIRED ABOVE, THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS TEXAS TECH AND ITS REGENTS, OFFICERS, AGENTS, EMPLOYEES, AND REPRESENTATIVES FROM LIABILITY OF ANY NATURE OR KIND, INCLUDING COST AND EXPENSE, FOR OR ON

ACCOUNT OF INFRINGEMENT OR USE OF ANY PATENTED OR OTHERWISE PROTECTED INVENTION, PROCESS, DOCUMENT, OR ARTICLE IN THE PERFORMANCE OF THIS CONTRACT, INCLUDING ITS USE BY TEXAS TECH.

- 10.4 The indemnity **provisions set forth in this Section shall survive** the expiration or earlier termination of this Agreement and any other services to be provided pursuant to this Agreement.

Article 11. Bonds and Insurance

11.1 Bonds

11.1.1 Performance and Payment Bonds

- 11.1.1.1 When the Contract Sum is established, the Contractor shall provide to Texas Tech, at the Contractor's expense and prior to commencing the Project, for one hundred percent (100%) of the Contract Sum that comply with the requirements of Texas Government Code Chapter 2253. If the Agreement is modified by an approved Change Order that increases the Agreement Sum, the amount of the Payment and Performance Bonds must be increased accordingly and the revised Bonds must be sent to the Contract Manager.

11.1.2 Subcontractor Bonds

- 11.1.2.1 Subcontractor bonding is required for subcontracts in excess of five hundred thousand dollars (\$500,000), or as otherwise approved in advance by Texas Tech in writing.
- 11.1.2.2 Failure to provide required Subcontractor bonding may constitute a material breach of this Agreement, as determined in Texas Tech's sole discretion.
- 11.1.2.3 Subcontractor surety bonds are required unless Texas Tech, in its sole discretion, provides prior written approval for Contractor to self-bond any Subcontractor or to use a subguard-type program in lieu of Subcontractor surety bonds.
- 11.1.2.4 All Subcontractor bonds shall name Texas Tech and the Contractor as obliges and shall comply with the applicable provisions of the Contract Documents, including but not limited to, Article 5 of the UGSC.

11.1.3 Subcontractor Default Insurance (SDI) Program

- 11.1.3.1 The Contractor may use Subcontractor Default Insurance program (SDI) in lieu of Performance and Payment Bonds only with Texas Tech's prior written approval, which approval is at Texas Tech's sole discretion.
- 11.1.3.2 If Texas Tech approves the use of SDI in lieu of Subcontractor bonds, the Contractor shall purchase from and thereafter maintain with a company or companies acceptable to Texas Tech and lawfully authorized to do business in the jurisdiction in which the project is located, SDI covering the payment and performance obligations of all enrolled Subcontractors.
- 11.1.3.3 The Contractor is responsible for all deductibles required or otherwise associated with obtaining and securing SDI and shall not pass this cost onto Texas Tech. The SDI shall:

- 11.1.3.3.1 Include a financial interest endorsement in form and substance satisfactory to Texas Tech naming Texas Tech and any other party identified by Texas Tech as beneficiaries thereunder;
- 11.1.3.3.2 Be assignable to Texas Tech at Texas Tech's request in the event that the Contractor's services are terminated;
- 11.1.3.3.3 Insure that each covered Subcontractor will perform each and every part of its Subcontract(s), cover all guarantees called for and insure prompt payment to all persons furnishing material or labor requirement in prosecution of the work under its Subcontract(s);
- 11.1.3.3.4 Permit additions or deductions from the Work in any amount without diminishing or affecting coverage;
- 11.1.3.3.5 Require no notice of alterations, additions, or omissions to be given to the insurer; and
- 11.1.3.3.6 Permit Texas Tech to occupy the Project at any time without diminishing or affecting coverage.
- 11.1.3.4 Certificates of insurance for SDI with the aforementioned financial interest endorsement shall be issued to Texas Tech and such other parties as Texas Tech may request.
- 11.1.3.5 In the event of a default on the part of a Subcontractor, the Contractor shall, without cost to Texas Tech, promptly exercise all of the rights under the SDI program and pay all costs arising from such default.
- 11.1.3.6 The Contractor, at its discretion, may elect to exclude certain Subcontractors from the policy, however, in such instances, the identified Subcontractors will be required to provide Payment and Performance Bonds separately, if requested by Texas Tech.
- 11.1.3.7 The Contractor shall promptly provide a list of those Subcontractors enrolled in the SDI program as well as a list of Subcontractors that are not enrolled in the SDI program, upon written request by Texas Tech.
- 11.1.4 Self-Bonding
 - 11.1.4.1 Self-insurance for bonding coverages is not permitted.
- 11.2 Insurance
 - 11.2.1 Refer to UGSC Article 5 for insurance requirements for this Agreement.
 - 11.2.2 The Contractor may not begin any Work under the Agreement unless it has complied with all Insurance Coverage Requirements.
 - 11.2.3 All insurance shall be procured through insurance carriers that are licensed to do business in the State of Texas, and all coverages placed are subject to Texas Tech's approval as to form and content, as well as carrier. All required coverages shall be obtained and paid for by the Contractor and its subcontractors at no additional cost to Texas Tech.
 - 11.2.4 It is understood and agreed that the insurance required by this Agreement is in the public interest and Texas Tech does not assume any liability for acts or omissions of the

Contractor, any Subcontractor, or their respective employees or agents in the performance of this Agreement.

11.2.5 Coverages and Coverage Limits

11.2.5.1 Insurance coverages and the respective minimum insurance limits required to be maintained by the Contractor are as stated in Article 5 of the UGSC and the Special Conditions, if any, with the requirements in the Special Conditions controlling in the event of any conflict with the other requirements.

11.2.5.2 All policies of insurance required in order to meet the Insurance Coverage Requirements, except a Workers' Compensation policy and Professional Liability insurance, shall name Texas Tech, the Contractor, and any other parties identified in writing by Texas Tech as additional insureds.

11.2.6 The Contractor shall not cause or allow any of its insurance furnished to meet the Insurance Coverage Requirements to be canceled nor permit any insurance to lapse during the term of the Agreement or as required in the Agreement. Upon receipt of any notice of cancellation or alterations, the Contractor and Subcontractors shall, within ten (10) days thereafter, procure other policies of insurance that are acceptable to Texas Tech and similar in all respects to the policy or policies about to be canceled or altered.

11.2.7 Texas Tech reserves the right to review the Insurance Coverage Requirements during the effective period of the Agreement and to make reasonable adjustments to the insurance coverage and their limits when deemed necessary and prudent by Texas Tech.

11.2.8 Texas Tech will be entitled, upon request, and without expense, to receive copies of the policies and all endorsements thereto and may make any reasonable requests for deletion, or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by Applicable Laws that are binding upon either of the Parties or the underwriter of any of such policies. Actual losses not covered by insurance furnished to meet the Insurance Coverage Requirements shall be paid by the Contractor.

Article 12. Audits and Records

12.1 Texas Tech and the State Auditor's Office in accordance with the Contract Documents may inspect, verify, and audit all information created or maintained by the Contractor or its Subcontractors, agents, and consultants relating to the Project, including but not limited to information relating to the Contractor's costs, payments, billings, certificates, accountings, and statements as well as any other correspondence, books, records, documents, and electronic data, of any kind, relating to the Project, at any time, whether before or after payment therefore, by:

12.1.1 Inspecting the books and records of the Contractor during normal business hours;

12.1.2 Examining any reports with respect to this Project;

12.1.3 Interviewing the Contractor's business employees, Subcontractors, agents, and consultants;

12.1.4 Visiting the Project Site; and

12.1.5 Other reasonable actions.

12.2 Such information shall be available and open to review, inspection, and audit by Texas Tech or its representatives at any place(s) where such information is kept or at Texas Tech's place of business, if requested by Texas Tech.

- 12.3 Required financial and other records, including supporting documentation, shall be provided electronically to Texas Tech or its designated representative(s) or to the State Auditor's Office within five (5) business days of a request for records and at no expense to Texas Tech.
- 12.4 Final payment and retainage under this Agreement will not be made until any audit under this Section has been completed and all issues resolved.
- 12.5 The Contractor and its Subcontractors, agents, and consultants shall keep all such records until the Final Completion of construction and then for a minimum of forty-eight (48) months after the later of the date that Final Payment has been made or the Work is complete unless Texas Tech otherwise instructs the Contractor in writing.
- 12.6 The Contractor shall keep all accounting records for a period of seven (7) years after final payment is made by Texas Tech to the Contractor.
- 12.7 The Contractor shall provide in all of its agreements and Subcontracts a written statement indicating that Texas Tech and the State Auditor's Office are entitled to audit and inspect all such information under the conditions set forth in this Agreement.
- 12.8 Texas Tech is not obligated to make the Final Payment, including release of retainage, until the Contractor or its Subcontractors, agents and consultants have complied with the audit rights set out in this Agreement, including providing documents and information requested for audit purposes, and the amounts payable have been verified by Texas Tech's representatives.
- 12.9 Texas Tech reserves the right to perform audits (including any and all methods and tasks described in this Section) under this Agreement (including audits of the Contractor's related agreements and Subcontracts) 1) in the interim, at any time during the Work; and 2) after the Work is complete, at any time during the period records are required to be maintained under this Agreement.
- 12.10 If an audit is in progress as of the date of expiration of the time period during which records are required to be maintained under this Agreement, Texas Tech is granted a reasonable amount of time to complete the audit, and the records shall be preserved and made available to Texas Tech until the audit is complete.

Article 13. Termination

- 13.1 In addition to the termination provisions set forth in the UGSC, if the Contractor is in default or breach under this Contract and does not cure such default or breach within fourteen (14) consecutive days after written notice from Texas Tech specifying the nature of the default, Texas Tech may terminate this Agreement.
- 13.2 Texas Tech may terminate this Agreement upon thirty (30) days written notice to Contractor.
- 13.3 If the Contract is terminated under Article 13, then the Contractor shall be compensated for the services that it has completed in accordance with this Agreement prior to the date of termination.
- 13.4 A termination under this Agreement above does not relieve the Contractor or any of its employees or agents of liability for violations of this Agreement, including liability for any act or omission, or negligence of the Contractor.
- 13.5 As of the date of termination of this Agreement, the Contractor shall furnish to Texas Tech all statements, accounts, reports, and other materials as are required by this Agreement, or as have been prepared by the Contractor in connection with the Contractor's responsibilities under this Agreement.

- 13.5.1 Texas Tech shall have the right to use the ideas and designs therein contained for the completion of the services described by this Agreement, and for completion of the Project, or otherwise.
- 13.5.2 All Drawings, Specifications, renderings, and models, etc., prepared by the Design Professional are the property of Texas Tech or Design Professional, as set forth in the terms and conditions of the Agreement between Texas Tech and the Design Professional.
- 13.5.3 The Design Professional's instruments of services are not to be used by any person or entity other than Texas Tech unless expressly authorized by Texas Tech.

Article 14. Notices

- 14.1 All notices, consents, approvals, demands, requests, or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or by nationally recognized courier service, or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:
 - 14.1.1 If to the Contractor:
[Individual's Name]
[Company Name]
[Address]
[City, State Zip]
[Phone No.: (000)000-0000]
[Email address]
 - 14.1.2 If to Texas Tech:
Billy Breedlove
Vice Chancellor for Facilities Planning & Construction
System Administration Building
1508 Knoxville Avenue, Suite 103
Lubbock, TX 79409
Box 42014
Lubbock, Texas 79409-2014
Phone: (806) 742-2116
 - 14.1.3 With an Additional Copy of any notice of termination or notice required by Article 15, concerning dispute resolution to:
Vice Chancellor and General Counsel
Texas Tech University System
System Administration Building
1508 Knoxville Avenue, Suite 301
Lubbock, Texas 79409
Box 42021
Lubbock, Texas 79409-2021
Phone No.: (806) 742-2155
Fax No.: (806) 742-2330
- 14.2 If the notice is mailed, it shall be deemed delivered within forty-eight (48) hours after the postmark date.
- 14.3 Either Party may change its designations by written notice to the other.

Article 15. Miscellaneous Provisions

- 15.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original.
- 15.2 The Work shall be performed by the Contractor in such a manner and at such a time so as to minimize interference with or interruption of the operations of Texas Tech.
- 15.2.1 Without limiting the foregoing, Contractor shall comply with all requirements regarding campus access and rules and procedures for vendors and contractors performing work on the property of Texas Tech component institutions. Institutional Operating Policies can be found at: <https://www.texastech.edu/policies.php>, which includes, but is not limited the following Operating Policies and Procedures for:
- 15.2.1.1 Use of University Grounds, Facilities and Amplification Equipment
- 15.2.1.2 Traffic and Parking
- 15.2.1.3 Smoke-Free and Tobacco-Free Environment
- 15.2.1.4 Animals in Buildings
- 15.2.1.5 Institutional Police
- 15.3 This Agreement and the Parties' performance under this Agreement must comply with and is subject to State and Federal laws, and Texas Tech's institutional policies and procedures, including its Regents' Rules, Operating Policies, and Facilities Planning and Construction Operating Procedures for Contracting, as those laws, policies, and procedures may be amended from time to time. Breach of this provision may, at Texas Tech's sole discretion, be considered a material breach of this Agreement.
- 15.4 American Iron and Steel
- 15.4.1 To the extent a Contract relates to a project as defined in Texas Government Code §2252.201(5) (a project to construct, remodel, or alter a building, structure, or infrastructure; to supply material for such a project; or to finance, refinance, or provide funds for such a project), and no exemption in Texas Government Code §2252.203 applies, any iron or steel product produced through a manufacturing process and used in the project that is the subject of Contract must be produced in the United States (as defined in Texas Government Code §2252.201(4)).
- 15.5 Appointment
- 15.5.1 Texas Tech hereby expressly reserves the right from time to time to designate, by notice to the Contractor, one or more representatives to act partially or wholly for Texas Tech in connection with the performance of Texas Tech's obligations under this Agreement. The Contractor shall act only upon instructions from such representatives unless otherwise specifically notified to the contrary.
- 15.6 Assignment
- 15.6.1 This Agreement is a personal service contract for the services of the Contractor, and the Contractor's interest in this Agreement, duties and/or fees due may not be assigned or delegated to a third party.

- 15.6.2 The benefits and burdens of this Agreement are, however, assignable by Texas Tech to a component or affiliate of the Texas Tech University System or a branch or agency of the State of Texas.
- 15.7 Available Funds
- 15.7.1 Texas Tech shall have the right to cancel this Agreement at the end of the then current fiscal period if funds are not allotted for the next fiscal year to continue this Agreement.
- 15.7.2 Texas Tech may affect such cancellation by giving the Contractor written notice of its intention to cancel not less than thirty (30) days prior to the end of the then current fiscal period, stating its reasons for cancellation.
- 15.7.3 Upon cancellation of this Agreement, Texas Tech shall not be responsible for the payment of any services received which occur after the end of the current fiscal period.
- 15.8 Binding Effect/Authorization
- 15.8.1 This Agreement is binding on and inures to the benefit of the Parties and their respective permitted assigns and successors. The Parties each represent and warrant that they have the full right and legal authority to enter into this Agreement and to grant the rights and perform the obligations in this Agreement and that no third-party consent or approval is required.
- 15.9 Certifications
- 15.9.1 The Contractor and the undersigned Contractor's representative represent and warrant that the Contractor is a validly existing entity, in good standing under Applicable Law, and that each person signing on behalf of the Contractor has received all necessary approvals to enter into and execute this Agreement.
- 15.9.2 The Contractor certifies this Agreement is not prohibited under Texas Government Code §2261.252(b) and agrees that if the Contractor's certification is or becomes untrue, this Agreement is void, and the Contractor will not seek and waives its right to seek any legal or equitable remedy for past or future performance under this Agreement, including damages, whether under breach of contract, unjust enrichment, or any other legal theory; specific performance; and injunctive relief.
- 15.9.3 Under Section 231.006, Texas Family Code, the Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Agreement may be terminated, and payment may be withheld if this certification is inaccurate.
- 15.9.4 Under Section 2155.0061, Texas Government Code, the Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified Agreement and acknowledges that this Agreement may be terminated, and payment withheld if this certification is inaccurate.
- 15.10 Compliance with Texas Government Code § 2274.002
- 15.10.1 Contractor verifies it 1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and 2) will not discriminate during the term of the Agreement against a firearm entity or trade association.
- 15.11 Conflict Between Contract Documents

- 15.11.1 If, and to the extent of, any inconsistency, ambiguity, or discrepancy in the Contract Documents, precedence shall be given to the Contract Documents in the following order of priority:
 - 15.11.1.1 Written Amendments to this Agreement entered into in accordance with the requirements hereof after execution of this Agreement;
 - 15.11.1.2 This Agreement, including the attachments attached hereto and incorporated fully herein;
 - 15.11.1.3 The UGSC
 - 15.11.1.4 The final issue for Construction Drawings and Specifications incorporated into the Contract Documents;
 - 15.11.1.5 The Drawings and Specifications incorporated into the Contract Documents, with those bearing the latest sealed date taking precedence; and
 - 15.11.1.6 Any proposals submitted by the Contractor in the procurement for the Project and other documents identified in the Agreement as Contract Documents which have not been incorporated into the Agreement.
- 15.11.2 Without limiting the foregoing, the terms of the Agreement and the UGSC shall control over any terms in the Drawings, Specifications, or any Attachment attached to this Agreement inconsistent therewith.
- 15.12 Conflict of Interest
 - 15.12.1 The Contractor affirms that, to the best of its knowledge, no actual or potential conflict exists between the Contractor's family, business, or financial interests and its services required under this Agreement and that it shall immediately inform Texas Tech regarding any possible conflict of interest that may arise.
 - 15.12.1.1 The Contractor further affirms that it shall not hire any officer or employee of Texas Tech to perform any service covered by this Agreement.
 - 15.12.1.2 If the Work is to be performed in connection with a Federal contract or grant, the Contractor shall not hire any employee of the United States Government to perform any service covered by this Agreement.
- 15.13 Discrimination
 - 15.13.1 The Contractor shall not discriminate against an employee or applicant for employment with respect to hiring, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, veteran status, sex, or disability. Breach of this provision may, at Texas Tech's sole discretion, be considered a material breach of this Agreement.
- 15.14 Dispute Resolution
 - 15.14.1 Except to the extent Texas Civil Practice and Remedies Code Chapter 114 applies, the dispute resolution process provided for in Texas Government Code Chapter 2260 shall be used by Texas Tech and the Contractor in an attempt to resolve any unresolved claim for breach of contract arising under this Agreement and made by the Contractor.
 - 15.14.2 Refer to Article 15 of Texas Tech's current adopted Uniform General Conditions and Supplementary General Conditions for dispute resolution provisions.

15.15 Enforcement

- 15.15.1 It is acknowledged and agreed that the Contractor's services to Texas Tech are unique, which gives the Contractor a distinct value to Texas Tech which for the loss to Texas Tech may not be reasonably or adequately compensated in damages; accordingly, the Contractor acknowledges and agrees that a breach by the Contractor of the provisions hereof will cause Texas Tech irreparable injury and damage.
- 15.15.2 The Contractor, therefore, expressly agrees that Texas Tech shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.

15.16 Entire Agreement and Modifications

- 15.16.1 The Contract Documents supersede all prior negotiations, representations, agreements, and contracts, written or oral, between the Contractor and Texas Tech and constitute the entire Agreement between the Parties with respect to the subject matter.
- 15.16.2 This Agreement and each of its provisions are binding upon the Parties and may not be waived, modified, amended, or altered except by an Amendment signed by Texas Tech and the Contractor.

15.17 Force Majeure

- 15.17.1 "Event of Force Majeure" means an event beyond the control of the Contractor or Texas Tech which prevents or makes a Party's compliance with any of its obligations under this Agreement illegal or impracticable, including but not limited to: act of God (including, without limitation, fire, explosion, earthquake, tornado, drought, and flood); war, act or threats of terrorism, hostilities (whether or not war be declared), invasion, act of enemies, mobilization, requisition, or embargo; rebellion, insurrection, military or usurped power, or civil war; contamination or destruction from any nuclear, chemical, or biological event; riot, commotion, strikes, go slows, lock outs, or disorder; epidemic, pandemic, viral outbreak, or health crisis; or directive of governmental authority.
- 15.17.2 No Party will be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented or made illegal or impracticable by an Event of Force Majeure that arises during the term (or after execution of the Agreement but prior to the beginning of the term).
- 15.17.3 A Party asserting an Event of Force Majeure hereunder ("Affected Party") will give reasonable notice to the other Party of an Event of Force Majeure upon it being foreseen by, or becoming known, to Affected Party.
- 15.17.4 In the event of an Event of Force Majeure, Affected Party will endeavor to continue to perform its obligations under the Agreement only so far as reasonably practicable.
- 15.17.5 This provision does not apply to delay in the Contract Time Requirements and extensions to which the Contractor may be entitled pursuant to Article 9 of the UGSC or as otherwise provided in the Special Conditions.

15.18 Governance

- 15.18.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and shall be considered performable in Lubbock County, Texas.

15.19 Health and Safety Code Chapter 161

- 15.19.1 If applicable, the Contractor affirmatively states that it will comply with the requirements of Texas Health and Safety Code, § 161.0085(c).
- 15.20 Incorporated by Reference
 - 15.20.1 All attachments and all other documents are incorporated by reference for all purposes.
- 15.21 Independent Contractor
 - 15.21.1 The Contractor is an independent contractor licensed to perform work in the State of Texas and shall maintain complete control of the Contractor's personnel, consultants, and operations. As such, the Contractor shall pay all salaries, wages, expenses, social security taxes, federal and state unemployment taxes, and any similar taxes, including franchise taxes, relating to the performance of this Agreement.
 - 15.21.2 The Contractor, its employees, agents, and consultants shall not represent themselves or act as Texas Tech's employees or agents, enter into any agreements or incur any obligations on Texas Tech's behalf, nor commit Texas Tech in any manner.
 - 15.21.3 Nothing contained in this Agreement is deemed to create a partnership, joint venture, employment, or agency agreement between Texas Tech and the Contractor.
- 15.22 No Prohibited Boycott
 - 15.22.1 If applicable to this Agreement, Contractor agrees not to engage in any boycott prohibited by Texas Government §§ 2271.002, 2274.001.
- 15.23 Public Information
 - 15.23.1 Contractor agrees that it shall not publicize this potential Contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings, including but not limited to social media, of the Texas Tech's employees or use Texas Tech's name in connection with any sales promotion or publicity event without prior written approval.
- 15.24 Software Systems Requirements
 - 15.24.1 Texas Tech utilizes two (2) software platforms called e-Builder Enterprise and Bluebeam to develop Project record and expedited Project processes during construction.
 - 15.24.1.1 These applications are a collaboration tool, which will allow all Project team members continuous access through the internet to important Project data as well as up to the minute decision and approval status information.
 - 15.24.1.2 No additional software will be required.
 - 15.24.2 The Contractor must use these systems in the daily management of this Project.
 - 15.24.3 The Contractor must pay for the number of licenses it deems appropriate for this project.
 - 15.24.3.1 Texas Tech will reimburse for up to three (3) e-Builder licenses.
 - 15.24.3.2 Texas Tech will not reimburse for Bluebeam Revu licenses or any other software platforms not required under this agreement.
 - 15.24.4 Project Requirements
 - 15.24.4.1

15.24.4.2 Contractor and its consultants shall conduct Project controls outlined by Texas Tech utilizing e-Builder Enterprise and Bluebeam Studio Project.

15.24.4.2.1 These designated applications will be provided by Contractor to consultants.

15.24.4.3 The Program Director will coordinate with appropriate Texas Tech personnel to assist the Contractor in training its consultants' personnel on the use of e-Builder Enterprise and Bluebeam.

15.24.4.4 The Contractor and its Subcontractors must visit the e-Builder website on a daily basis, and as necessary to remain fully apprised of Project developments, correspondence, assigned tasks and other matters that transpire on the site.

15.24.4.4.1 These may include but are not limited to: Agreements, Agreement exhibits, Agreement Amendments, Drawing issuances, Addenda, permits, insurance and bonds, safety program procedures, safety notices, accident reports, personnel injury reports, schedules, Site logistics, field reports, daily logs, non-conformance notices, quality control notices, Punchlists, meeting minutes, Requests For Information, submittal packages, substitution requests, monthly payment request applications, supplemental instructions, owner variation directives, potential variation orders, variation order requests, variation orders, and the like.

15.24.4.4.2 All supporting data including but not limited to Applications for Payment, Shop Drawings, submittals, safety SDS sheets, Substitution Requests, and the like must be submitted in digital format via e-Builder Enterprise.

15.24.5 Electronic File Requirements

15.24.5.1 In addition to the standard Close Out submittal requirements detailed elsewhere in the Contract Documents, Contractor and its consultants shall submit all Close Out Documents including all As-Built Drawings, catalog cuts, and Operation and Maintenance manuals in digital format.

15.24.5.2 All documents (including As-Built Drawings) shall be converted to true PDF file format and uploaded to e-Builder Enterprise. Image-only (scanned) PDFs are not acceptable.

15.25 Survival

15.25.1 The terms and provisions of Article 10 "Indemnity," Article 11 "Bonds and Insurance," Article 12 "Audits and Records," Article 15 "Assignment" and Article 15 "Dispute Resolution," shall survive termination of this Agreement.

15.26 Texas Public Information Act

15.26.1 Contractor acknowledges its understanding that Texas Tech is a public institution of higher education in the State of Texas and is subject to requests for information under the Texas Public Information Act (Texas Government Code, Chapter 552).

15.26.2 Under this Act, there are exceptions to requests for disclosure, which include but are not limited to, information confidential by Applicable Law and certain commercial information and trade secrets.

- 15.26.3 The Texas Attorney General’s office makes the final determination whether or not requested information is to be disclosed on a case-by-case basis after reviewing the materials and assertions against disclosure.
- 15.26.4 If proprietary information is requested, the Act requires Texas Tech to provide written notice to the Party whose proprietary information may be subject to the request and that Party may also submit information to the Texas Attorney General to establish that disclosure of the information would cause substantial competitive harm.
- 15.27 Third Party
- 15.27.1 Nothing in this Agreement shall create a contractual relationship between a third party and either Texas Tech or the Contractor.
- 15.28 U.S. Government Contractor
- 15.28.1 Texas Tech serves from time to time as a contractor for the United States Government. Accordingly, if the Contractor provides goods or services in connection with such contracts, it shall comply with Applicable Laws governing or relating to Subcontractors of government contracts.
- 15.29 Validity/Enforceability
- 15.29.1 In case any provision, for any reason, is held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid or unenforceable provision had not been included.
- 15.30 Waivers
- 15.30.1 No delay or omission by either of the Parties in exercising any right or power accruing upon the non-compliance or failure of performance by the other Party of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver of the provision(s).
- 15.30.2 A waiver by either of the Parties of any Agreement term to be performed by the other Party shall not be construed to be a waiver of any subsequent breach or of any other Agreement term.

Article 16. Other Conditions or Services

- 16.1 Texas Tech hereby authorizes the Chancellor of the Texas Tech University System, or his designated representative, to execute any Amendments or modifications to this Agreement.
- 16.2 Texas Tech will also designate a Sr. Program Director who will be Texas Tech’s sole point of contact for all matters of Contract Administration including, but not limited to, interpretation of documents, defining the scope of the Work, approving Work schedules, and approving Agreement payments.
- 16.2.1 Sr. Program Director for the Project is:
- [Sr. Program Director’s Name]
[Title]
Facilities Planning and Construction
Texas Tech University System
System Administration Building
1508 Knoxville Avenue, Suite 103
Lubbock, TX 79409

Box 42014
Lubbock, TX 79409-2014
(806) 742-2116
Email: [PD email address]

16.2.2 Construction Manager-Agent, if applicable, for the Project is:

[Construction Manager-Agent Name]
Address
City, State
Phone Number
Email: [CMA email address]

16.2.3 Design Professional for the Project is:

[DP Name]
Address
City, State
Phone Number
Email: [PD email address]

16.2.4 The Contractor shall take direction only from Sr. Program Director or ODR.

16.2.5 Action taken in response to direction received from other sources will be corrected at the Contractor's own expense.

16.3 These designations shall remain in full force and effect until and unless the Contractor is otherwise notified in writing by Texas Tech.

OWNER:
TEXAS TECH UNIVERSITY SYSTEM

CONTRACTOR:
[COMPANY NAME]

By: _____
[Tedd L. Mitchell, M.D., Chancellor]
Or [_____
[Billy Breedlove, Vice Chancellor]

By: _____
[Individual's Name, Title]

Date: _____

Date: _____

REVIEWED FOR FISCAL IMPLICATIONS

By: _____
James Mauldin, Chief Financial Officer

Date: _____

Attachments Incorporated in the Contract:

- Attachment A – Specifications, Drawings, Addenda
- Attachment B – Special Conditions
- Attachment C – Contractor's Proposal Form dated [Month, Day, Year]

Attachment D – Contractor’s Project Personnel
Attachment E – HUB Subcontracting Plan

Other Contract Documents incorporated by reference, as if repeated verbatim, in the Contract:

Contractor’s Statement of Qualifications dated [Month, Day, Year]

Texas Tech University System Uniform General Conditions and Supplementary General Conditions for Construction
Contracts (rev. 11/30/22)

SAMPLE

Attachment A
Specifications, Drawings, Addenda

The following documents constitute the Scope of Work for this Project:

1. Specifications
 - a. Volume 1
 - b. Volume 2
2. Drawings
 - a. Landscape
 - b. Civil
 - c. Architectural
 - d. Structural
 - e. Mechanical
 - f. Electrical
3. Addenda
 - a.

Attachment B

Special Conditions

The following terms and conditions shall supplement the terms and conditions set forth in the Agreement and the UGSC, but the terms and conditions below shall control over any inconsistent terms and conditions in the UGSC.

None.