

TITLE: Approve Vendor Recommendation for
Awarding the EPCNT Contract with an Approved
Vendor Utilizing ESC Region XI TETPC for Virtual
Information Center

DATE: March 29, 2011

CONTRACT RECOMMENDATION

BACKGROUND:

We request that the MISD Board of Trustees approve the recommendation as made by the Purchasing Department, in conjunction with the Technology Development Department, for utilizing an EPCNT agreement with ESC Region XI Texas Educational Technology "Group" Purchasing Consortium (TETPC) approved vendor, Unified ConneXions, for Virtual Information Center. MISD is a member of Educational Purchasing Cooperative of North Texas. EPCNT is based on the authority contained in the Inter-local Cooperation Act, Texas Government Code Section 791 et seq. and in Subchapter F, of Chapter 271 of the Texas Local Government Code. The provisions of Chapter 791 of the Texas Government Code and the provisions of Subchapter F, of Chapter 271 of the Texas Local Government Code are incorporated in this Master Agreement.

CONSIDERATIONS:

Attached is the negotiated contract with Unified ConneXions for the installation of the Virtual Information Center, or VIC. VIC offers the District the opportunity to collect and report real-time data about which applications are in use on each MISD computer. VIC displays this information using a dashboard that can be accessed using a browser. The acquisition of VIC offers the District two opportunities for cost savings during the 2011-2012 school year:

The District will be able to identify which computer-based resources are most frequently used in Mansfield ISD. This information can be used to establish priorities for making decisions about cost reductions.

The District may be able to transfer existing software licenses from computers on which the software is no longer used to computers for which licenses are required instead of purchasing additional licenses.

The annual cost for VIC is \$36,000.00, which includes software licenses, support, and consulting services.

The term of this contract and the performance of the services by the consultant under this agreement shall be for a period of three (3) years with a renewal for two (2) years with the initial term beginning on April 1, 2011 and ending on March 31, 2014.

RECOMMENDATION:

The Purchasing Department, in conjunction with the Technology Development Department, recommends that the contract for Virtual Information Center be approved and signed by the Superintendent.



Proposal: Technology Program Monitoring and Consulting Services to Mansfield Independent School District

February 20, 2011

Unified ConneXions is a Texas Education Technology Purchasing Consortium vendor through Education Service Center Region XI, Fort Worth, Texas.

This contract is entered into between Mansfield Independent School District, hereinafter referred to as "the District" and Unified ConneXions, Inc., hereinafter referred to as "the Consultant." District and the consultant agree to follow the terms of the Texas Education Technology Purchasing Consortium Inter-local Agreement.

OBLIGATIONS OF THE CONSULTANT

Consultant agrees to the following Scope of Work:

Scope of Work: Technology Monitoring and Maximization of Critical Indicators

Unified ConneXions will monitor the following indicators and provide consulting advice on maximizing these indicators:

1. *Availability of Critical Systems*
 - a. Percentage Uptime-- Internet
 - b. Percentage Uptime -- Wide Area Network
 - c. Percentage Uptime--Exchange Server (email)
 - d. Percentage Uptime—Student and Business Information Systems
 - e. Other critical systems as defined by District designee
2. *Response Time for Technical Support Issues*
 - a. Response Time for Staff and Contractors to support tickets

OBLIGATIONS OF Mansfield ISD

District agrees to provide the necessary assistance to the consultant and compensate accordingly.

Payment Terms: The contract price of \$3,000 per month plus reasonable expenses shall be payable monthly on the 1st day of the month after services commence. All outstanding balances more than ten days past due shall bear interest at the rate of ten percent (10%) per annum until paid. The Institute shall be entitled to recover all costs and attorney's fees incurred if collection is undertaken. Out of Scope work will be billed at \$125 per hour. All out of scope work will be approved by District Designee.

Contract Term: "The term of this contract and the performance of the services by consultant under this Agreement shall be for a period of three (3) years with a renewal for two (2) years with the initial term beginning on April 1, 2011, and ending on March 31, 2014, unless terminated earlier in accordance with this contract.

Place of performance and Venue: The obligations and undertakings of the parties shall be performed in Tarrant County. Venue for any proceedings relating to this agreement shall be in Tarrant County, Texas.

Indemnity: TO THE FULLEST EXTENT PERMITTED BY LAW, CONSULTANT, ITS OFFICERS, DIRECTORS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES AND/OR TRUSTEES (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION, AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS MANSFIELD INDEPENDENT SCHOOL DISTRICT AND ITS OFFICERS, BOARD MEMBERS, REPRESENTATIVES, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "DISTRICT" FOR PURPOSES OF THIS SECTION FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES, INJURIES (INCLUDING DEATH) LIABILITIES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COSTS OF DEFENSE) ARISING DIRECTLY OR INDIRECTLY OUT OF THE OPERATION OR PERFORMANCE OF CONTRACTOR UNDER THIS AGREEMENT. THE DISTRICT WILL NOT ACCEPT LIABILITY FOR INJURIES THAT ARE THE RESULT OF THE NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION OF CONTRACTOR. CONTRACTOR AGREES TO ACCEPT LIABILITY FOR INJURIES TO ITSELF OR OTHERS CAUSED BY ITS OWN NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION. THIS INDEMNIFICATION PROVISION IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST DISTRICT BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.

IN ITS SOLE DISCRETION, DISTRICT SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY DISTRICT, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY DISTRICT IN WRITING. DISTRICT RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, DISTRICT IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY DISTRICT IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND DISTRICT OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY DISTRICT PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN DISTRICT-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF DISTRICT'S WRITTEN NOTICE THAT DISTRICT IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS contract. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, DISTRICT SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY DISTRICT.

THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

Consideration: This contract contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties hereto.

Full cooperation: Mansfield Independent School District recognizes that to achieve optimal results it will be necessary for the full cooperation and participation of the employees of Mansfield Independent School District with the Unified ConneXions. Mansfield Independent School District will take all reasonable steps to ensure that its employees give their full cooperation to the implementation of any actions that Unified ConneXions is directed by Mansfield Independent School District to perform.

Insurance: The consultant shall procure and keep in full force and effect throughout the term of this contract all insurance policies with coverage amounts and in the form as required by Mansfield ISD.

Counterparts: This contract may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes

Entirety of Agreement: This contract contains the entire agreement of the parties with respect to the matters contained herein. All provisions of this contract shall be strictly complied with and conformed to by the consultant, and no amendment to the contract shall be made except upon the written agreement of the parties, which shall not be construed to release either party from any obligation of the contract except as specifically provided for in such amendment.

Binding Effect: This contract shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this contract.

Authority to Execute: The individuals executing this contract on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this contract to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this contract in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this contract and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

Assignment: This contract may not be assigned.

Sovereign Immunity: The parties agree that the District has not waived its sovereign immunity by entering into and performing its obligations under this contract.

Notice: Any notice provided or permitted to be given under this contract must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or delivering the same in person to such party via a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same, to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to consultant, to:

Unified ConneXions
Joe O' Daniel
P.O Box 457
Waxahachie, TX 75168

If to District, to:

Mansfield Independent School District
Dr. Doug Brubaker
Assistant Superintendent
Technology and Information Services
1522 North Walnut Creek
Mansfield, TX 76063

Severability: In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Representations: Each signatory represents this contract has been read by the party for which this contract is executed and that such party has had an opportunity to confer with its counsel.

Miscellaneous Drafting Provisions: This contract shall be deemed drafted equally by all parties hereto. The language of all parts of this contract shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this contract are for the convenience of the parties and are not intended to be used in construing this document.

Termination: This contract can be terminated by either party with 120 days written notice.

CONTRACTED AND AGREED:

Unified Connexions Inc.

_____ Date _____

Mansfield ISD

_____ Date _____

Printed name and Title