

# Proposal

Dallas Fort Worth Irving TX Com Br  
3021 W BEND DR  
IRVING, TX 75063-3116  
Phone: 972-869-9421  
Fax: 866-656-9681

**TO:** Collin County  
4600 Community Ave.  
McKinney, TX 75071  
Mr. Rickee Harris  
Ms. Susan Hayes

**Date:** January 5, 2024  
**Project:** Collin County Courthouse  
**Proposal Ref:** TR-CCC-change order #2 (revised  
to include payment &  
performance bond costs)

Dear Mr. Harris & Ms. Hayes:

Due to certain critical issues addressed below at the Courthouse, it is necessary for us to provide you an additive change order for the installation of the secondary chilled water pumps at the Courthouse.

## Situation:

The new pumps and their inertia bases are 2-3" too tall for the current piping arrangement (no manufacturer could provide suitable pumps to match the existing dimensions.) Immediately on top of the existing pumps, on the supply side, there is triple duty valve close coupled to the top of the pump. Immediately on the return side of each pump, there is a strainer. The existing location of both piping accessories will not allow us to install the new pumps without modifying your existing piping to elevate the height of the triple duty valve and the strainer to accommodate the new pumps. Unlike the as-built documents, there are no other isolation valves on the supply side of the pumps for us to use to isolate the chilled water loop, and the triple duty valve is currently serving as the only form of isolation.

## Proposed Scope:

Therefore, we have two options:

1. Drain the chilled water system as far as the manual isolation valves which are in place to isolate the plant from the four large penthouse air handling units (we do not recommend this).
2. Perform a pipe freeze on the 14" common header downstream from the pumps.

We propose to perform either of the above options on a weekend.

The recommended method is to freeze the common 14" header downstream of the pumps. By performing this, the balance of the chilled water system will be unaffected during the shutdown. Once we have frozen the common chilled water supply line at the header, then we can drain the pipe immediately around the pumps without affecting the rest of the building. At that time, we will install (3) 8" isolation valves on the discharge lines from each pump. Once this has been completed, we will begin re-piping the chilled water piping to/from the first pump. Once the piping work on the first pump has been completed, we will commission the first pump. Once the first pump is up and running, we will

begin work on the next pump. (The balance of our work is included in the original proposal and the initial change order when we added (2) additional mobilizations.)

On the suction side of each pump each pump, we will need to add a total of (5) flanges (two at the isolation valve, two at the relocated strainer and one at the bottom of the chilled water pipe where it connects to the new chilled pump.)

On the discharge side of the pump, we will also add a total of (5) new flanges (two at the isolation valve, two at the relocated triple duty valve and one at the bottom of the chilled water pipe where it connects to the new chilled pump.)

We will also modify the suction and discharge piping to match the centerline of the new pumps.

**This proposal includes:**

- All overtime labor to perform the additional isolation work required.
- All overtime labor, nitrogen and materials to perform the pipe freeze on the main chilled water supply header and add the (3) 8" isolation valves to the discharge piping.
- All additional labor to perform the piping modifications at each of the chilled water pumps.
- All additional materials referenced above, including isolation valves, flanges, additional pipe.

**This proposal does not include:**

Furnishing and setup of spot coolers to support any server areas over the weekend when the chilled water system will be shut down (we anticipate approximately a 12-hour disruption of chilled water supply to these loads.)

We will need someone onsite representing the County on the weekend when the work is scheduled to be performed.

We propose to furnish the additional materials and perform the additional work required and described above for the net price of \$75,869.62, which includes securing a payment & performance bond for the entire project (including this change order). Taxes are not included.

Breakdown: Project Price: \$141,875.00

Change Order #1: \$10,154.20

Change Order #2: \$74,923.99

Payment & Performance \$945.63 that covers the entire project of \$226,953.19

Total Price of Project: \$ 227,898.82

Please let Sheri or I know if you have any questions or need more information.

**This quotation is in accordance with Sourcewell contract # 070121-JHN.**

Sincerely,

Tom Recker & Sheri Jenicek  
Account Executives  
Johnson Controls, Inc.  
3021 West Bend Drive

Irving, TX 75063

**This proposal and alternates listed below are hereby accepted and Johnson Controls is authorized to proceed with work; subject, however to credit approval by Johnson Controls, Inc., Milwaukee, Wisconsin.**

**This proposal is valid until: February 3, 2024**

Collin County

Johnson Controls, Inc.

**Name:** \_\_\_\_\_

**Name:** Clifton Tollison

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

**Title:** HVAC Installation Manager

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

**Date:** January 8, 2024

**PO:** \_\_\_\_\_

\_\_\_\_\_

**CUSTOMER ACCEPTANCE:**

In accepting this Agreement, Customer agrees to the terms and conditions contained herein including those on the following page(s) of this Agreement and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that Customer may issue. Any changes requested by Customer after the execution of this Agreement shall be paid for by the Customer and such changes shall be authorized in writing. **ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS CONTAINED IN THIS AGREEMENT.**

Pricing is based upon the following billing and payment terms: Invoices will be delivered via email, payment due date of NET 30, including a deposit invoice for 30%, and invoices are to be paid via ACH/EFT bank transfer. Johnson Controls ACH bank transfer details will be forth coming upon contractual agreement.

This offer shall be void if not accepted in writing within thirty (30) days from the date first set forth above.

To ensure that JCI is compliant with your company's billing requirements, please provide the following information:

PO is required to facilitate billing:

**No:** This signed contract satisfies requirement  **Yes:** Please reference this PO Number \_\_\_\_\_

AR Invoices are accepted via e-mail:  **Yes:** E-mail address to be used: \_\_\_\_\_

**No:** Please submit invoices via mail

**No:** Please submit via \_\_\_\_\_

## TERMS AND CONDITIONS

By accepting this proposal, Purchaser agrees to be bound by the following terms and conditions:

1. **SCOPE OF WORK.** This proposal is based upon the use of straight time labor only. Plastering, patching and painting are excluded. "In-line" duct and piping devices, including, but not limited to, valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by Johnson Controls, Inc. (hereinafter referred to as JCI), shall be distributed and installed by others under JCI's supervision but at no additional cost to JCI. Purchaser agrees to provide JCI with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) without charge. JCI agrees to keep the job site clean of debris arising out of its own operations. Purchaser shall not back charge JCI for any costs or expenses without JCI's written consent unless specifically noted in the statement of the scope of work or services undertaken by JCI under this agreement, JCI's obligations under this agreement expressly exclude any work or service of any nature associated or connected with the identification, abatement, clean up, control, removal, or disposal of environment Hazards or dangerous substances, to include but not be limited to asbestos or PCSs, discovered in or on the premises. Any language or provision of the agreement elsewhere contained which may authorize or empower the Purchaser to change, modify, or alter the scope of work or services to be performed by JCI shall not operate to compel JCI to perform any work relating to Hazards without JCI's express written consent.

**\*Payments will be made in accordance with VTCA Section 2251.021 Time for Payment by Government Entity.**

2. **INVOICING & PAYMENTS.** ~~JCI may invoice Purchaser monthly for all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Purchaser shall pay ten percent (10%) of the contract price is for engineering, drafting and other mobilization costs incurred prior to installation. This 10% shall be included in JCI's initial invoice. All payments are due net thirty (30) days from the date of invoice. Invoices shall be paid by Purchaser via electronic delivery via EFT/ACH. Waivers of lien will be furnished upon request as the work progresses to the extent payments are received. Invoicing disputes must be identified in writing within 21 days of the date of invoice. Payments of any disputed amounts are due and payable upon resolution. All other undisputed amounts remain due within 30 days from the date of invoice.~~ In the event of Purchaser's default, the balance of any outstanding amounts will be immediately due and payable. Payment is a condition precedent to JCI's obligation to perform under the agreement. Purchaser acknowledges and agrees that timely payments of the full amounts listed on invoices is an essential term of this Agreement and that failure to make payment in full when due is a material breach of this Agreement. Purchaser further acknowledges that if there is any amount outstanding on an invoice, it is material to JCI will give JCI, without prejudice to any other right or remedy, the right to, without notice: (i) suspend, discontinue or terminate performing any services and/or withhold further deliveries of equipment and other materials, terminate or suspend any unpaid software licenses, and/or suspend JCI's obligations under or terminate this Agreement; and (ii) charge Purchaser interest on the amounts unpaid at a rate equal to the lesser of one and one half (1.5) percent per month or the maximum rate permitted under applicable law, until payment is made in full. JCI's election to continue providing future services does not, in any way diminish JCI's right to terminate or suspend services or exercise any or all rights or remedies under this Agreement. JCI shall not be liable for any damages, claims, expenses, or liabilities arising from or relating to suspension of services for non-payment. In the event that there are exigent circumstances requiring services or the JCI otherwise performs services at the premises following suspension, those services shall be governed by the terms of this Agreement unless a separate contract is executed. If Purchaser disputes any late payment notice or JCI's efforts to collect payment, Purchaser shall immediately notify JCI in writing and explain the basis of the dispute.

JCI may increase prices upon notice to the Purchaser to reflect increases in material and labor costs. Prices for products covered by this proposal may be adjusted by JCI, upon notice to Purchaser at any time prior to shipment and regardless of Purchaser's acceptance of JCI's proposal or quotation, to reflect any increase in JCI's cost of raw materials (e.g., steel, aluminum) inability to secure Products, changes or increases in law, labor, taxes, duties, tariffs or quotas, acts of government, any similar charges, or to cover any extra, unforeseen and unusual cost elements

3. **DEPOSIT.** ~~Purchaser agrees to pay a deposit equal to 30% of the project sell price (pre-tax) prior to JCI providing any labor or materials on the project. JCI will generate an invoice for the 30% deposit within three business days after JCI's receipt of a written agreement or order from Purchaser. JCI will not commence work until receipt of the deposit.~~

4. **MATERIALS.** If the materials or equipment included in this proposal become temporarily or permanently unavailable for reasons beyond the control and without the fault of JCI, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent thereof, and in the case of permanent unavailability, JCI shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of the materials or equipment permanently unavailable and the cost of a reasonably available substitute therefore.

4. **WARRANTY.** JCI warrants that the equipment manufactured by it shall be free from defects in material and workmanship arising from normal usage for a period of ninety (90) days from delivery of said equipment, or if installed by JCI, for a period of ninety (90) days from installation. JCI warrants that for equipment furnished and/or installed but not manufactured by JCI, JCI will extend the same warranty terms and conditions which JCI receives from the manufacturer of said equipment. For equipment installed by JCI, if Purchaser provides written notice to JCI of any such defect within thirty (30) days after the appearance or discovery of such defect, JCI shall, at its option, repair or replace the defective equipment. For equipment not installed by JCI, if Purchaser returns the defective equipment to JCI within thirty (30) days after appearance or discovery of such defect, JCI shall, at its option, repair or replace the defective equipment and return said equipment to Purchaser. All transportation charges incurred in connection with the warranty for equipment not installed by JCI shall be borne by Purchaser. These warranties do not extend to any equipment which has been repaired by others, abused, altered or misused, or which has not been properly and reasonably maintained. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE<sup>6</sup>. **LIABILITY.** To the maximum extent permitted by law, in no event shall JCI and its affiliates and their respective personnel, suppliers and vendors ("JCI

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Parties”) be liable to Purchaser or any third party under any cause of action or theory of liability even if advised of the possibility of such damages, for any: (a) special, incidental, indirect, punitive or consequential damages; (b) loss of business, use, profits, revenues, customer opportunities, anticipated savings or goodwill; (c) business interruption; or (d) data loss or other losses arising from viruses, ransomware, cyber-attacks or failures or interruptions to network systems arising in any manner from the equipment or material furnished or the work performed pursuant to this agreement. In any case, the entire aggregate liability of the JCI Parties under this agreement for all damages, losses, causes of action, whether in contract, tort (including negligence), or otherwise, shall be limited to the amount actually received by JCI for the performance of its obligations hereunder.

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7. TAXES/TARIFFS. The price of this proposal does not include duties, sales, use, excise, or other similar taxes, unless required by federal, state or local law. In addition to the stated price, Purchaser shall pay all taxes not legally required to be paid by JCI or, alternatively, shall provide JCI with acceptable tax exemption certificates. JCI shall provide Purchaser with any tax payment certificate upon request and after completion and acceptance of the work. Pricing for products and parts covered by this proposal does not include any amounts for changes in tariffs or other similar charges imposed and/or enacted by a government. At any time prior to shipment, JCI shall be entitled to an increase in time and money for any costs that it incurs directly or indirectly that arise out of or relate to changes in tariffs or similar charges due to such changes. \*Collin County is by statute exempt from the State Sales Tax and Federal Excise Tax.

8. DELAYS. JCI shall not be liable for any delay in the performance of the work resulting from or attributed to acts or circumstances beyond JCI’s control, including, but not limited to, acts of God, fire, riots, labor disputes, conditions of the premises, acts or omissions of the Purchaser, Owner or other Contractors or delays caused by suppliers or subcontractors of JCI, etc.

9. COMPLIANCE WITH LAWS. JCI shall comply with all applicable federal, state and local laws and regulations and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits of a permanent nature shall be procured and paid for by the Purchaser.

10. SCHEDULE. JCI and Purchaser shall mutually agree upon a schedule for completion of the work. In the event Purchaser desires to change or accelerate the schedule or the schedule is otherwise accelerated, delayed, or impacted for reasons beyond the control of JCI, JCI shall be entitled to a change order equitably adjusting the compensation of JCI to account for the increased costs associated with such schedule changes.

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~~11. DISPUTES. All disputes involving more than \$15,000 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. The prevailing party shall recover all legal costs and attorney’s fees incurred as a result. Nothing here shall limit any rights under construction lien laws.~~

12. INSURANCE. Insurance coverage in excess of JCI’s standard limits will be furnished when requested and required. No credit will be given or premium paid by JCI for insurance afforded by others.

13. INDEMNITY. The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorneys’ fees, which may arise in connection with the execution of the work herein specified and which are caused, in whole or in part, by the negligent act or omission of the Indemnifying Party.

14. OCCUPATIONAL SAFETY AND HEALTH. The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act relating in any way to the project or project site.

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~~15. LEGAL FEES. Purchaser agrees to pay and reimburse JCI for any and all reasonable legal fees which are incurred by JCI in the collection of amounts due and payable under this Agreement.~~

16. ONE-YEAR CLAIMS LIMITATION. No claim or cause of action, whether known or unknown, shall be brought against JCI more than one year after the claim first arose. Except as provided for herein, JCI’s claims must also be brought within one year. Claims not subject to the one-year limitation include claims for unpaid: (a) contract amounts, (b) change order amounts (approved or requested) and (c) delays and/or work inefficiencies.

17. PURCHASER RESPONSIBILITIES. Purchaser is solely responsible for the establishment, operation, maintenance, access, security and other aspects of its computer network (“Network”) and shall supply JCI secure Network access for providing its services. Products networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Purchaser and/or end user against unauthorized access. Purchaser is responsible to take appropriate measures, including performing back-ups, to protect information, including without limit data, software, or files (collectively “Data”) prior to receiving the service or products.

18. FORCE MAJEURE. JCI shall not be liable, nor in breach or default of its obligations under this Agreement, for delays, interruption, failure to render services, or any other failure by JCI to perform an obligation under this Agreement, where such delay, interruption or failure is caused, in whole or in part, directly or indirectly, by a Force Majeure Event. A “Force Majeure Event” is a condition or event that is beyond the reasonable control of JCI, whether foreseeable or unforeseeable, including, without limitation, acts of God, severe weather (including but not limited to hurricanes, tornados, severe snowstorms or severe rainstorms), wildfires, floods, earthquakes, seismic disturbances, or other natural disasters, acts or omissions of any governmental authority (including change of any applicable law or regulation), epidemics, pandemics, disease, viruses, quarantines, or other public health risks and/or responses thereto, condemnation, strikes, lock-outs, labor disputes, an increase of 5% or more in tariffs or other excise taxes for materials to be used on the project, fires, explosions or other casualties, thefts, vandalism, civil disturbances, insurrection, mob violence, riots, war or other armed conflict (or the serious threat of same), acts of terrorism, electrical power outages, interruptions or degradations in telecommunications, computer, network, or electronic communications systems, data breach, cyber-attacks, ransomware, unavailability or shortage of parts, materials, supplies, or transportation, or any other cause or casualty beyond the reasonable control of JCI. If JCI’s performance of the work is delayed, impacted, or prevented by a Force Majeure Event or its continued effects, JCI shall be excused from performance under the Agreement. Without limiting the generality of the foregoing,

if JCI is delayed in achieving one or more of the scheduled milestones set forth in the Agreement due to a Force Majeure Event, JCI will be entitled to extend the relevant completion date by the amount of time that JCI was delayed as a result of the Force Majeure Event, plus such additional time as may be reasonably necessary to overcome the effect of the delay. To the extent that the Force Majeure Event directly or indirectly increases JCI's cost to perform the services, Customer is obligated to reimburse JCI for such increased costs, including, without limitation, costs incurred by JCI for additional labor, inventory storage, expedited shipping fees, trailer and equipment rental fees, subcontractor fees or other costs and expenses incurred by JCI in connection with the Force Majeure Event.

19. SOFTWARE AND DIGITAL SERVICES. Use, implementation, and deployment of the software and hosted software products ("Software") offered under these terms shall be subject to, and governed by, JCI's standard terms for such Software and Software related professional services in effect from time to time at <https://www.johnsoncontrols.com/techterms> (collectively, the "Software Terms"). Applicable Software Terms are incorporated herein by this reference. Other than the right to use the Software as set forth in the Software Terms, JCI and its licensors reserve all right, title, and interest (including all intellectual property rights) in and to the Software and improvements to the Software. The Software that is licensed hereunder is licensed subject to the Software Terms and not sold. If there is a conflict between the other terms herein and the Software Terms, the Software Terms shall take precedence and govern with respect to rights and responsibilities relating to the Software, its implementation and deployment and any improvements thereto.

20. PRIVACY.

(a) *JCI as Processor*: Where JCI factually acts as Processor of Personal Data on behalf of Purchaser (as such terms are defined in the DPA) the terms at [www.johnsoncontrols.com/dpa](http://www.johnsoncontrols.com/dpa) shall apply.

(b) *JCI as Controller*: JCI will collect, process and transfer certain personal data of Purchaser and its personnel related to the business relationship between it and Purchaser (for example names, email addresses, telephone numbers) as controller and in accordance with JCI's Privacy Notice at <https://www.johnsoncontrols.com/privacy>. Purchaser acknowledges JCI's Privacy Notice and strictly to the extent consent is mandatorily required under applicable law, Purchaser consents to such collection, processing and transfer. To the extent consent to such collection, processing and transfer by JCI is mandatorily required from Purchaser's personnel under applicable law, Purchaser warrants and represents that it has obtained such consent.

21. ENTIRE AGREEMENT. This proposal, upon acceptance, shall constitute the entire agreement between the parties and supersedes any prior representations or understandings.

22. CHANGES. No change or modification of any of the terms and conditions stated herein shall be binding upon Johnson unless accepted by Johnson in writing.

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23. Expenses for Enforcement - In the event either party hereto is required to employ an attorney to enforce the provisions of this agreement or required to commence legal proceedings to enforce the provisions hereof, the prevailing party shall be entitled to recover from the other, reasonable attorney's fees and court costs incurred in connection with such enforcement including collection.

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24. Venue - This agreement will be governed and construed according to the laws of the State of Texas. This agreement is performable in Collin County, TX.