

CONTRACT
NEW MIDDLE SCHOOL AT POLO CLUB
TEST AND BALANCE SERVICES
FCPS RFP# 32-21

THIS CONTRACT is entered into this 27th day of September, 2022 by and between the BOARD OF EDUCATION OF FAYETTE COUNTY, KENTUCKY, 450 Park Place, Lexington, Kentucky 40511, hereinafter referred to as the Board, and THERMAL BALANCE, INC., 109 Wind Haven Drive, Suite #101, Nicholasville, Kentucky 40356, hereinafter referred to as Second Party.

PARTIES:

The Board of Education of Fayette County, Kentucky, Division of Facility Design and Construction has established the need to hire the professional services of a test and balance firm to perform test and balance services for the new construction of the New Middle School at Polo Club.

Second Party provides test and balance services as described herein.

PURPOSE:

The purpose of this contract is to provide test and balance services for the new construction of New Middle School at Polo Club.

NOW, THEREFORE, for and in consideration of the mutual promises set out herein, it is hereby agreed by and between the parties hereto as follows:

1. The Second Party shall provide the above described services to the Division of Facility Design and Construction, as an independent contractor, under the direction of Melinda Joseph-Dezarn, AIA, Director.
2. The services will be provided as set out in FCPS RFP #32-21 and the proposal from Thermal Balance, Inc. dated August 3, 2022, attached hereto and incorporated herein by reference.
3. The Board agrees to pay the Second Party for the services provided in this contract the amount of \$45,290.00. Additional expenses to be reimbursed are \$0, with a total amount of this contract not exceeding \$45,290.00.
4. The Second Party shall provide to the Fayette County Board of Education an invoice for services rendered under this contract and any agreed upon expense at regular intervals. Original receipts will be provided for all expenses to be reimbursed. Unless otherwise stated, travel and per diem shall be reimbursed based upon the district's current travel policies.
5. The Second Party is not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

6. This contract may be re-negotiated based upon, but not limited to, increases in services to participants. Any modifications shall be agreed to in writing and signed by both parties.

7. The staff providing services to the Board herein are employees of the Second Party and shall not represent to anyone that they are employees or agents of the Board.

8. Either party shall have the right to terminate this agreement at any time upon a fourteen (14) day written notice, either personally delivered or served by some form of return receipt mail evidencing delivery, to the other party.

9. Each of the parties agrees to comply with all applicable law concerning the performance of the provisions of this contract.

10. The Second Party certifies that it shall not discriminate in any of the services performed in connection with this contract or in any program or activity it operates on the basis of race, color, national origin, religion, age, creed, political affiliation, marital status, sex, or disabling condition.

11. KRS 45A.455 PROHIBITS CONFLICTS OF INTEREST, GRATUITIES, AND KICKBACKS TO EMPLOYEES OF THE BOARD OF EDUCATION IN CONNECTION WITH CONTRACTS FOR SUPPLIES OR SERVICES WHETHER SUCH GRATUITIES OR KICKBACKS ARE DIRECT OR INDIRECT. KRS 45A.990 PROVIDES SEVERE PENALTIES FOR VIOLATIONS OF THE LAWS RELATING TO GRATUITIES OR KICKBACKS TO EMPLOYEES WHICH ARE DESIGNED TO SECURE A PUBLIC CONTRACT FOR SUPPLIES OR SERVICES.

12. Contractor understands that pursuant to KRS 160.380, any adult who is permitted access to school grounds on a regularly scheduled and continuing basis pursuant to a written agreement for the purpose of providing services directly related to a student or students as part of a school-sponsored program or activity must submit to a national and state criminal background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a clear CA/N check.

13. If any section, paragraph, or clause of this contract shall be held invalid by any court of competent jurisdiction, the invalidity of said section, paragraph, or clause shall not affect any remaining provisions herein.

14. This contract is deemed to be made under and shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

15. Venue for any legal action filed concerning this contract shall be Fayette County, Kentucky.

16. This writing reflects the entire agreement between the parties. No change or modification of this Agreement shall be valid or binding upon the parties hereto, nor shall any waiver of any terms or conditions hereof be deemed a waiver of such terms or conditions in the future, unless such change, modification or waiver shall be in writing and signed by the parties hereto.

17. This agreement will be in effect from September 27, 2022, through June 30, 2025, unless terminated by either party as defined in Paragraph 8.

IN WITNESS WHEREOF, the parties have executed this contract the day, month, and year above written.

Director's Approval

BOARD OF EDUCATION OF FAYETTE COUNTY,
KENTUCKY

Melinda Joseph-Dezarn Date
Director, Facility Design & Construction

Demetrus Liggins, PhD, Superintendent Date

THERMAL BALANCE, INC.

Date _____

Date: August 3, 2022

AABC Certification #89-06-23

TBI Quote #Q136260

This quote is to perform the test and balance services per the *AABC Standards for Field Measurement and Instrumentation, Seventh Edition, 2016*. Any deviations or clarifications are listed below. This quote is valid for 30 days from the date of issuance and shall become an attachment to any contract provided. Unless noted below this price is based on an unoccupied facility and regular working hours. Fees for individually listed services are valid only on acceptance of the TAB contract.

Project: FCPS NEW MIDDLE SCHOOL -
POLO CLUB BLVD
LEXINGTON, KY

Total: \$45,290.00

Drawings: 6/14/22

Provided Services:

- | | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> Air Balance | <input type="checkbox"/> Sound Testing | <input checked="" type="checkbox"/> Cx Team Member | <input type="checkbox"/> System Analysis |
| <input checked="" type="checkbox"/> Water Balance | <input type="checkbox"/> Vibration Testing | <input type="checkbox"/> Pretesting | |

Excluded Services:

1. Any sheaves, belts, balancing or control devices or installations thereof
2. Any lifts or scaffolding, as-builts, cleaning, lubing or uniform space temperature balancing
3. Any return trips for inoperable equipment, deficiencies, troubleshooting, report reviews, or final inspections
4. Any fees associated with subscriptions, memberships or 3rd party requirements

Remarks:

- THIS QUOTE INCLUDES 40 HOURS FOR DUCT LEAKAGE TESTING. HOURLY RATE FOR DUCT TESTING - \$90.00
- A LIFT IS ALSO INCLUDED IN THIS PROPOSAL.

Prior to any scheduling, a purchase order must be sent to contracts@thermalbalance.com.

Nicholasville, KY 859.277.6158
Paducah, KY 270.744.9723

Ashland, KY 606.325.4832
Nashville, TN 615.768.5461