

**AGREEMENT BETWEEN OWNER
AND COMMISSIONING AUTHORITY**

This Agreement is made: September 24, 2024

Between the Owner:

Fayette County Board of Education
c/o Melinda Joseph-Dezarn, AIA, Director
Facility Design & Construction
450 Park Place
Lexington, KY 40509

And the Commissioning Authority:

CMTA, Inc.
10411 Meeting Street
Prospect, KY 40059

For the following Project:

New Rise STEM Academy for Girls
2160 Versailles Road
Lexington, KY 40504

The Owner and Commissioning Authority agree as follows:

ARTICLE 1 – SCOPE OF WORK

I. List of Systems to be commissioned

See attached Commissioning Authority's Response to RFP #44-24 dated July 12, 2024, attached to this contract and incorporated herein by reference.

II. Construction Phase Responsibilities

Commissioning Authority shall perform the following responsibilities during the construction of this project:

1. Organize and lead the commissioning team
2. Review shop drawings for components of commissioned systems for compliance with the Owner's project requirements and basis of design. Return comments to the design team.
3. Modify and update the commissioning plan as required based on submittals for shop drawings, equipment, controls, etc.
4. Schedule and lead commissioning meetings to be held during regular construction progress meetings
5. Maintain a tracking system for resolution items including documents and photographs as required
6. Coordinate all activities with the project schedule throughout the construction phase to ensure that commissioning activities are properly coordinated; provide feedback to the designer as required
7. Perform on-site observations during construction and record observations with documents and photographs as required
8. Monitor and verify correct component and equipment installation and document all observations with reports and photographs as required.
9. Witness HVAC equipment and system start-ups and ensure complete documentation. System start-ups are to include all dedicated outdoor air systems (DOAS) and the first two heat pumps to be started to establish the procedure for the remaining heat pumps. Heat pumps shall be of different sizes.
10. Witness domestic hot water equipment and system start-ups and ensure complete documentation.
11. Witness lighting controls and start-ups and ensure complete documentation.
12. Develop all System Verification Checklists for all equipment being commissioned.
13. Verify that Owner training for operating personnel has been satisfactorily completed.

14. Whole building air-tightness testing (WBAT) with infrared thermography services.

III. Construction Acceptance Phase Responsibilities

Commissioning Authority shall perform the following responsibilities during the construction acceptance phase of this project:

1. Review and inspect on a sample basis the testing, adjusting and balancing work that has been carried out by another agency with respect to air and hydronics. Testing and Balancing will be performed by a TAB contractor hired directly by the Owner. TAB report shall be reviewed by CxA.
2. Conduct functional performance testing of all sub-systems, systems, and interaction between systems, leading to acceptance of the completed work. Document results of all tests witnessed.

IV. Post-Acceptance Phase Responsibilities

Commissioning Authority shall perform the following responsibilities during the construction acceptance phase of this project:

1. Conduct functional performance testing of all sub-systems, systems, and interactions between systems that could not be carried out prior to acceptance due to unsuitable weather conditions or other.
2. Prepare and submit a final commissioning report
3. Provide follow-up for quality of performance during the guarantee period
4. Develop a systems manual which provides future operating staff the information needed to understand and optimally operate the commissioned systems.

ARTICLE 2 - TRANSFER OF COPYRIGHT

The Commissioning Authority acknowledges and agrees that documents or works prepared by, or hereafter to be prepared by, the Commissioning Authority, in whole or in part, in connection with the project, are intended to be the sole property of the Owner. The Commissioning Authority hereby expressly transfers to the Owner the exclusive right to any copyright interest in the documents.

ARTICLE 3 - TERMINATION, SUSPENSION OR ABANDONMENT

In the event of the Owner termination, suspension or abandonment of the project, the Commissioning Authority shall be equitably compensated by the owner for services performed to the date of termination, suspension or abandonment.

Either the Commissioning Authority or the Owner may terminate this Agreement with or without cause after giving no less than seven (7) days written notice to the other party.

In the event of termination, suspension, abandonment or completion of the project, the Consultant shall deliver to the Owner within seven (7) days Documents, whether complete or incomplete, not previously delivered to the Owner during the course of the project. The Owner, as the holder of the exclusive right to any and copyright interest in the Documents, as provided in Article 2, shall have the right to use and reuse any and Documents for any purpose in connection with the project, including, but not limited to, its completion using entities other than the Commissioning Authority, at the Owner's sole discretion and at no additional cost to the Owner.

ARTICLE 4 - MISCELLANEOUS PROVISIONS

This agreement shall be governed by the law of the Commonwealth of Kentucky.

The Owner and Commissioning Authority respectively bind themselves, their partners, successors, assigns and legal representatives to this Agreement. Neither party to this Agreement shall assign the Contract as a whole without prior written consent of the other.

The Commissioning Authority, its agents, employees, or consultants shall not harass or discriminate against any person regarding employment because of race, sex, religion, creed, color, genetic information, national or ethnic origin, political affiliation, age or disabling condition, gender identity, or sexual orientation.

During the Commissioning the Consultant will provide certain insurance coverage. These include in part: amounts satisfactory to the Owner, Comprehensive General Liability, Auto Liability, and Worker's Compensation.

General Liability -- \$1,000,000
Auto Liability -- \$300,000 / \$1,000,000; Personal Injury / \$500,000 / \$1,000,000 Property Damage
Workers Comp -- \$100,000
Professional Liability / E & O -- \$1,000,000

Owner shall be named as an additional insured on policies of insurance. Insurance policies shall incorporate provisions requiring insurance carriers to notify Owner thirty days (30) prior to canceling, non-renewal, or material modification of the policies. The certificate of insurance to be supplied MUST also name "The Owner Name, its officers, agents and employees" as an additional insured for the general liability and auto liability coverages.

ARTICLE 5 – COMPENSATION AND PAYMENTS

For Commissioning Services and any other services defined in this Agreement as Commissioning Services, Basic Compensation shall be as follows: A fixed fee. Any additional fees for substantial changes of scope must be negotiated and an addendum added to this contract, or with prior agreement of the parties the fee may be established as "NOT TO EXCEED" amount.

MEP Cx Fee: \$ 92,400.00
WBAT Fee: \$ 32,450.00
TOTAL FEE: \$124,850.00

ARTICLE 6 - OTHER PROVISIONS

(Insert description of other services and modifications to the terms of this Agreement here or as an attachment.)

Commissioning Authority's Response to RFP #44-24 dated July 12, 2024

This Agreement entered into as of the day and year first written above.



Melinda Joseph-Dezarn
Director, Facility Design & Construction
Principal/Director's Approval



Date

Dr. Demetrus Liggins, Superintendent or Designee
BOARD OF EDUCATION OF FAYETTE COUNTY,
KENTUCKY

Date

LEGAL IN: _____
CAB. IN: _____

Chris Reeves, Principal
CMTA, INC.

Date

July 12, 2024

**Re: MEP Commissioning Services
Rise STEM Academy for Girls
Lexington, Kentucky
CMTA Project No.: CFSA24**

Dear Ms. Joseph-Dezarn,

CMTA is pleased to submit this proposal for providing Commissioning (Cx) Services for the **FCPS Rise STEM Academy for Girls** project in Lexington, Kentucky. This proposal includes comprehensive commissioning (Cx) process activities for mechanical, electrical, and plumbing systems and assemblies for this facility.

Properly tuning the building systems are critical components to ensuring the building is operating in compliance with construction documents and design intention. We are excited to partner with you to offer this service. Please refer to the scope of services below for our detailed involvement.

I. Commissioning Scope

MEP Commissioning

Complete the following commissioning process (CxP) activities for mechanical, electrical, plumbing systems and assemblies in accordance with ASHRAE Guideline 0 and ASHRAE Guideline 1.1 for HVAC&R systems, as they relate to energy, water, indoor environmental quality, and durability. We propose to perform the following tasks:

1. Review the OPR, BOD, and project design.
2. Develop and implement a Cx plan.
3. Host regular Commissioning Meetings to coincide with Owner Progress Meetings
4. Review contractor submittals.
5. Development of pre-functional checklists and functional test sequences.
6. Conduct functional testing of the base building systems and equipment.
 - a. The controls contractor shall manipulate the building controls system under the direction of the Owner & CxA to collect data and to demonstrate functionality of the systems per the designed functional test sequences.
7. Development and maintenance of a Commissioning Issues and Benefits Log (Deficiency List).
8. Verify operator and occupant training delivery and effectiveness.
9. Development of a Commissioning Report.
10. Review building operations 10 months after substantial completion or during seasonal testing window.

Whole Building Air-Tightness Testing (WBAT) & Thermography (Performance Testing Activity):

For newly constructed buildings, we recommend the commissioning agent perform Whole Building Envelope Airtightness Testing services. This is an HVAC and energy performance optimization service. If air leakage is found, which is likely, those leaks have a direct impact on energy efficiency, temperature and humidity control, and occupant comfort. If we find leaks that would result in moisture infiltration, and mold was to grow, it could have a big impact on occupant care and health. Please refer to the Add Service scope of services below for a more detailed explanation.

Whole Building Envelope Airtightness Testing – Building Pressure Testing per ASTM E779/E1827 Testing Methods Guideline. Testing to be provided by CMTA, scheduled and coordinated with owner and sub-contractors. CMTA will also utilize a thermal imaging camera to document thermal anomalies that are distinguishable during testing. CMTA shall provide a Building Envelope Commissioning Agent that owns and operates the required Orifice Blower Door Equipment.

II. Systems to be Commissioned:

High Performance Integration and Verification Commissioning - Approach

We propose that for the newly constructed STEM Academy facility (~ 120,000 sf) the systems to be commissioned include, but are not limited to the following:

HVAC System

1. Outside Air Unit(s) - DOAS
2. Air Terminal Units (VAV's)
3. Water to Water Heat Pump(s)
4. Water Source Heat Pumps
5. Geothermal Loop & Associated components
 - a. Hydronic Pumps, VFD's, Valves, sensors, etc.
6. Exhaust/Ventilation Fans
7. Electric Unit Heaters
8. Ductless Split Systems
9. Kitchen Hood and MUA System
10. Test & Balance Witness and Review
11. Fire Alarm system Integration to HVAC systems
12. DDC Controls
 - a. DDC System Integration & Point Compliance
 - b. DDC System GUI Compliance

Plumbing

1. Domestic Hot Water System
 - a. Water Heaters & associated pumps, components.

Electrical

1. Lighting Controls – Interior/Exterior/Site
2. Emergency and Standby Power Systems
 - a. Generator & ATS Equipment
 - b. Storm Shelter Emergency Operation
3. Power Monitoring & Metering System

Building Envelope Performance Testing

1. Whole Building Air-Tightness Testing (WBAT) with Infrared Thermography services.

III. Exclusions

The following items/systems have been excluded from this proposal: (Note - A revised proposal to include these services is available upon request)

1. Security/Access Control Systems
2. Telecommunications/LV Systems
3. Building Enclosure Commissioning

IV. Proposed Fee:

Given the systems described above and the complexity in scheduling and testing these systems, CMTA shall perform the above scope of work for the fee breakdown listed below:

<u>Fee Breakout Description</u>		Fee Breakout
MEP Cx – (Base Bid) (Performance Integration and Verification MEP Commissioning)		\$ 92,400.00
WBAT (Whole Bld. Air Tightness Testing w/ Thermography)		
This price includes pressurization testing & Thermography Services to coincide with construction phasing and a final report submission.		\$ 32,450.00
<i>Project Expenses</i>		Included in Fees above

Expenses for trips to the site are included in the fee. We will work with you to schedule and prioritize work in an effort to maximize results. This fee takes into consideration that efficient travel in conjunction with trend verification will be utilized for system and performance optimization.

Functional Performance Testing Requirements:

1. The above lump sum fee includes one initial functional performance test for each system noted to be commissioned above.
2. If the Contractor has deficiencies that cannot be corrected at the time of functional testing, that part of the sequence will be retested at a later date at no additional charge. If the deficiency does not pass during the first retest and the retest requires an additional trip to the site, the Contractor will be billed for the commissioning personnel’s return trip for each subsequent retest at a rate of \$1,200 per trip. The owner group will not be billed in this

circumstance. This does not consider a return trip for a second Building pressure test mobilization.

Please contact us if you have any questions or would like to make any modifications to this proposal. Again, thank you for the opportunity.

Sincerely,



Brent Leinenbach
Commissioning Accounts Manager
bleinenbach@cmta.com, 502-216-3668

Owner Representative

Date