

PERFORMANCE BASED DESIGN- BUILD CONTRACT

Russellville High School HVAC Renovation



Russellville Independent
School District



CMTA

A **LEGENCE** Company

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Executive Summary

Russellville Independent School District
355 S. Summer St.
Russellville, KY 42276
Attn: Mr. Kyle Estes
Re: Performance Based Design-Build Contract

Mr. Estes,

CMTA is pleased to provide you with this proposal and contract for a Performance Based Design-Build (PBDB) project for Russellville Independent School District. The project highlights for Russellville High School include:

1. Replacing end-of-life unit ventilators serving classrooms and the cafeteria with twinned console water-source heat pumps. This upgrade will not only optimize equipment runtime, but also allow for simpler maintenance procedures. (4) New dedicated outdoor air (DOAS) units will provide fresh outside air ventilation to classroom spaces and locker rooms.
2. New lighting fixtures and ceilings. Flat panel LED lights will replace existing retrofitted fixtures to provide uniform lighting levels that meet the current IES-recommended lighting level per space-type. A brand-new acoustical grid ceiling system will be installed in classrooms, corridors, admin spaces and the cafeteria, enhancing the overall learning environment with a more modern and refined atmosphere.
3. Building envelope improvements at roof-to-wall perimeter joints. Properly air-sealing the perimeter of the building will reduce building energy consumption and improve thermal barrier with outdoor conditions.
4. A state-of-the-art building automation system allowing for web-based monitoring of the new HVAC system, and integration of the existing north-wing VRF systems.
5. Life safety improvements. Corridor hallways will be restored to a 1-hour fire rating by firestopping wall-to-roof joints and sealing any penetrations in the corridor walls, to greatly reduce smoke and fire spread in the event of an emergency.

Exhibit D provides additional information on the scope of work included in the project. These upgrades are offered with a guaranteed utility and operation cost savings of \$34,489 in the first year. CMTA guarantees the savings over the 20-year term and should the project not achieve the savings identified, CMTA will reimburse Russellville Independent School District the shortfall on an annual basis per the terms of the contract.

CMTA Energy Solutions is honored for the opportunity to work with Russellville Independent School District on this exciting project. This project will improve the indoor learning environments at these facilities while reducing the energy and operational costs. We look forward to working with the administration, board, and staff. Please let me know if you have any questions.

Sincerely,



Risa Miller, PE
Project Manager



AIA® Document A141® – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the Eighteenth day of March
in the year Two Thousand Twenty-Five
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Russellville Independent School District
355 S Summer Street
Russellville, KY 42276

and the Design-Builder:
(Name, legal status, address and other information)

CMTA, Inc.
9519 Civic Way, Suite 100
Prospect, KY 40059

for the following Project:
(Name, location and detailed description)

Russellville High School HVAC Renovation PBDB
1101 West 9th Street
Russellville, KY 42276

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

Not applicable.

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

Not applicable.

§ 1.1.3 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

Project includes HVAC system upgrades in addition to thermal barrier and life safety improvements at Russellville High School. Reference Exhibit D for more information.

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:

(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™-2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

This project is to be designed and implemented with the intent of reducing utility usage by decoupling outside air. The Owner's electric consumption will be reduced through the energy conservation measures outlined in the following exhibits.

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:

(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

Not applicable.

Init.

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:
(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

Refer to the stipulated sum provisions of this contract.

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

Not applicable.

.2 Submission of Design-Builder Proposal:

Not applicable.

.3 Phased completion dates:

Not applicable.

.4 Substantial Completion date:

August 4, 2025

.5 Final Completion:

September 23, 2025

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:

(List name, legal status, address and other information.)

.1 Architect

Not applicable.

.2 Consultants

Not applicable.

.3 Contractors

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:

(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

Not applicable.

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™-2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

Kyle Estes, Superintendent, 355 South Summer Street, Russellville, KY 42276

Danny Perry, Director of Facilities, 355 South Summer Street, Russellville, KY 42276

Kyle Estes, and those given authority through written notice by the Russellville Independent School District Board of Education, are the sole representatives with the authority to execute documents with contractual obligations on behalf of the Owner.

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

Not applicable.

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

Not applicable.

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

Risa Miller

Project Manager, CMTA, Inc.

2 Maryland Farms, Suite 250

Brentwood, TN 37027

Cellphone Number: (615)580-1733

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 14.4

☒ Litigation in a court of competent jurisdiction

☐ Other: (Specify)

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 **Contract Time.** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 **Day.** The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 **Contract Sum.** The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 (Not Applicable)

§ 2.1.2 (Not Applicable)

Individual or Position

Rate

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1

(Paragraphs deleted)

(Not Applicable)

(Paragraph deleted)

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1

(Paragraphs deleted)

(Not Applicable) execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

(Paragraph deleted)

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders

of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;
- .8 Status report of Work rejected by the Owner;
- .9 Cumulative total of the Cost of the Work to date

(Paragraph deleted)

- .10 Additional information as agreed to by the Owner and Design-Builder.

(Paragraphs deleted)

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the

certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

(Paragraphs deleted)

(Not Applicable)

(Paragraphs deleted)

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work. The Design-Builder may use water, gas, and electricity from the building for Work of facility alterations, system modifications, or system replacements. Temporary wiring, piping, and hoses required to complete the Work shall be provided and paid for by the Design-Builder. The HVAC equipment is being supplied by the Owner outside of the value stated in this contract. The HVAC equipment being supplied includes all Dedicated Outside Air Systems, VRF Equipment, Air Handlers, Exhaust Fans and Make-up Air Units.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 **Concealed or Unknown Conditions.** The Design Builder is responsible for completing the project regardless of concealed or unknown conditions. No Change Orders will be allowed for concealed or unknown conditions.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

(Paragraphs deleted)

(Paragraphs deleted)

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces.

§ 5.13.1.2 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.3 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 No Change Orders will be allowed for any found conditions or other items that are found, discovered, or identified while the Design Builder is performing the Scope of Work included in the project, with the single exception of Hazardous Materials per section 10.3 of this contract. The Design Builder is responsible for providing the finished project and the associated energy and operational savings at no increase in Contract Amount. The only Change Orders that may be allowed are (1) requests from the Owner for additional scope that is clearly not included in this Contract,

such as additional equipment replacements, additional buildings, etc. and (2) for Hazardous Materials per section 10.3 of this contract.

§ 6.1.2 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.3 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and
- .3 The extent of the adjustment, if any, in the Contract Time.

(Paragraphs deleted)

§ 6.3 (Not Applicable)

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

(Paragraph deleted)

§ 7.2.7 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.8 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 (Not Applicable)

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or

entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

(Paragraph deleted)

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the

Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable,

and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of

this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 (Not Applicable)

(Paragraphs deleted)

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2** An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3** Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
- .4** The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- .1** fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- .2** repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- .3** fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .5** is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1** Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;

- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 **Time Limits on Claims.** The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request

additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

§ 14.4 Arbitration

§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a

notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 14.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations or statute of repose. For statute of limitations or statute of repose purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

§ 14.4.3 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.4.4 Consolidation or Joinder

§ 14.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 14.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those

employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™–2014, Exhibit A, Design-Build Amendment, if executed
- .3 AIA Document A141™–2014, Exhibit B, Insurance and Bonds
- .4 Exhibit C, Certificate of Liability Insurance
- .5 Exhibit D, Scope of Services and Energy Conservation Measures
- .6 Exhibit E, Energy Savings Guarantee
- .7 Exhibit F, Annual Reconciliation Statement
- .8 Exhibit G, Support Services Agreement
- .9 Exhibit H, BG-1, Method, Cost of Financing
- .10 Exhibit I, Anticipated Progress and Payment Schedule
- .11 Exhibit J, Sample AIA Application for Payment
- .12 Exhibit K, Schedule of Values
- .13 Exhibit L, Project Plans and Specifications
- .14 Exhibit M, Warranty and Title
- .15 Exhibit N, District Energy Policy
- .16 Exhibit O, District Purchase Order Summary
- .17 Exhibit P, Non Collusion Affidavit
- .18 Other:

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

OWNER (Signature)

Kyle Estes, Superintendent Russellville Independent
School District

(Printed name and title)

DESIGN-BUILDER (Signature)

Risa Miller, Project Manager CMTA, Inc.

(Printed name and title)

Additions and Deletions Report for

AIA® Document A141® – 2014

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:44:12 ET on 03/10/2025.

PAGE 1

AGREEMENT made as of the Eighteenth day of March
in the year Two Thousand Twenty-Five

...

Russellville Independent School District
355 S Summer Street
Russellville, KY 42276

...

CMTA, Inc.
9519 Civic Way, Suite 100
Prospect, KY 40059

...

Russellville High School HVAC Renovation PBDB
1101 West 9th Street
Russellville, KY 42276

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C	<u>SUSTAINABLE PROJECTS CERTIFICATE OF LIABILITY INSURANCE</u>
D	<u>SCOPE OF SERVICES AND ENERGY CONSERVATION MEASURES</u>
E	<u>ENERGY SAVINGS GUARANTEE</u>
F	<u>ANNUAL RECONCILIATION STATEMENT</u>
G	<u>SUPPORT SERVICES AGREEMENT</u>
H	<u>BG-1, METHOD, COST OF FINANCING</u>
I	<u>ANTICIPATED PROGRESS AND PAYMENT SCHEDULE</u>
J	<u>SAMPLE AIA APPLICATION FOR PAYMENT</u>
K	<u>SCHEDULE OF VALUES</u>
L	<u>PROJECT PLANS AND SPECIFICATIONS</u>
M	<u>WARRANTY AND TITLE</u>
N	<u>DISTRICT ENERGY POLICY</u>
O	<u>DIRECT PURCHASE ORDER SUMMARY</u>
P	<u>NON COLLUSION AFFIDAVIT</u>
PAGE 3	

Not applicable.

...

Not applicable.

...

Project includes HVAC system upgrades in addition to thermal barrier and life safety improvements at Russellville High School. Reference Exhibit D for more information.

...

This project is to be designed and implemented with the intent of reducing utility usage by decoupling outside air. The Owner's electric consumption will be reduced through the energy conservation measures outlined in the following exhibits.

...

Not applicable.

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Refer to the stipulated sum provisions of this contract.

...

Not applicable.

...

Not applicable.

...

Not applicable.

...

August 4, 2025

.5 ~~Other milestone dates:~~ Final Completion:

September 23, 2025

...

Not applicable.

...

Not applicable.

...

Not applicable.

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§ 1.1.12 If the Owner and Design-Builder and Contractor intend to transmit Instruments of Service or any other information or documentation in digital form, ~~or utilize building information modeling, they shall endeavor to establish written protocols governing the development, use, transmission, reliance, and exchange of digital data, including~~ they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™-2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

...

Kyle Estes, Superintendent, 355 South Summer Street, Russellville, KY 42276

Danny Perry, Director of Facilities, 355 South Summer Street, Russellville, KY 42276

Kyle Estes, and those given authority through written notice by the Russellville Independent School District Board of Education, are the sole representatives with the authority to execute documents with contractual obligations on behalf of the Owner.

...

Not applicable.

...

Not applicable.

...

Risa Miller

Project Manager, CMTA, Inc.

2 Maryland Farms, Suite 250

...

[☒] Litigation in a court of competent jurisdiction

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§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)(Not Applicable)

...

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)(Not Applicable)

...

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

- .1 — Transportation and authorized out-of-town travel and subsistence;
- .2 — Dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 — Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 — Printing, reproductions, plots, standard form documents;
- .5 — Postage, handling and delivery;
- .6 — Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 — Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 — All taxes levied on professional services and on reimbursable expenses; and
- .9 — Other Project-related expenditures, if authorized in advance by the Owner.(Not Applicable)

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of — percent (—%) of the expenses incurred.

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid — (—) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.

(Insert rate of monthly or annual interest agreed upon.)

—% —(Not Applicable) execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

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- ~~.9~~ Status of Claims previously submitted in accordance with Article 14;
- ~~.10~~ Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- ~~.11~~ Current Project cash flow and forecast reports; and
- ~~.12~~ ~~.10~~ Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

- ~~.1~~ Design-Builder's work force report;
- ~~.2~~ Equipment utilization report; and
- ~~.3~~ Cost summary, comparing actual costs to updated cost estimates.

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ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- ~~.1~~ allocations of program functions, detailing each function and their square foot areas;
- ~~.2~~ a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- ~~.3~~ a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- ~~.4~~ the following:
(List additional information, if any, to be included in the Design-Builder's written report.)

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- .1 — Confirmation of the allocations of program functions;
- .2 — Site plan;
- .3 — Building plans, sections and elevations;
- .4 — Structural system;
- .5 — Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
- .6 — Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- .1 — A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- .2 — The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Sum;
- .3 — The proposed date the Design-Builder shall achieve Substantial Completion;
- .4 — An enumeration of any qualifications and exclusions, if applicable;
- .5 — A list of the Design-Builder's key personnel, Contractors and suppliers; and
- .6 — **The date on which the Design-Builder's Proposal expires. (Not Applicable)**

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

...

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

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§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work. The Design-Builder may use water, gas, and electricity from the building for Work of facility alterations, system modifications, or system replacements. Temporary wiring, piping, and hoses required to complete the Work shall be provided and paid for by the Design-Builder. The HVAC equipment is being supplied by the Owner outside of the value stated in this contract. The HVAC equipment being supplied includes all Dedicated Outside Air Systems, VRF Equipment, Air Handlers, Exhaust Fans and Make-up Air Units.

...

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14. The Design-Builder is responsible for completing the project regardless of concealed or unknown conditions. No Change Orders will be allowed for concealed or unknown conditions.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- .1** — allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2** — the Design-Builder'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. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

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§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14. forces.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

~~§ 5.13.1.3~~ The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

~~§ 5.13.1.4~~ Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract. § 5.13.1.3 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

...

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents. No Change Orders will be allowed for any found conditions or other items that are found, discovered, or identified while the Design Builder is performing the Scope of Work included in the project, with the single exception of Hazardous Materials per section 10.3 of this contract. The Design Builder is responsible for providing the finished project and the associated energy and operational savings at no increase in Contract Amount. The only Change Orders that may be allowed are (1) requests from the Owner for additional scope that is clearly not included in this Contract, such as additional equipment replacements, additional buildings, etc. and (2) for Hazardous Materials per section 10.3 of this contract.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder. Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive. A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

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~~§ 6.3 Change Directives~~

~~§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.~~

~~§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.~~

~~§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, the adjustment shall be based on one of the following methods:~~

- ~~1 — Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;~~
- ~~2 — Unit prices stated in the Design-Build Documents or subsequently agreed upon;~~
- ~~3 — Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or~~

~~.4—As provided in Section 6.3.7.~~

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

- ~~.1—Additional costs of professional services;~~
- ~~.2—Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;~~
- ~~.3—Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;~~
- ~~.4—Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;~~
- ~~.5—Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and~~
- ~~.6—Additional costs of supervision and field office personnel directly attributable to the change.~~

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

§ 6.3 (Not Applicable)

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§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8

§ 7.2.7 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

~~**§ 7.2.10** The Owner shall purchase and maintain insurance as set forth in Exhibit B.~~ **§ 7.2.8** The Owner shall purchase and maintain insurance as set forth in Exhibit B.

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§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders. **(Not Applicable)**

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§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

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§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted. **(Not Applicable)**

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

~~§ 13.1.3~~ If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

~~§ 13.1.4~~ Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

~~§ 13.1.5~~ The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause.

~~§ 13.1.6~~ In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

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- ~~.4~~ AIA Document A141™ 2014, Exhibit C, Sustainable Projects, if completed Exhibit C, Certificate of Liability Insurance
- ~~.5~~ AIA Document E202™ 2022, BIM Exhibit for Sharing Models with Project Participants, Where Model Versions May Not be Enumerated as a Contract Document, if completed, or the following Exhibit D, Scope of Services and Energy Conservation Measures
- ~~.6~~ Exhibit E, Energy Savings Guarantee
- ~~.7~~ Exhibit F, Annual Reconciliation Statement
- ~~.8~~ Exhibit G, Support Services Agreement
- ~~.9~~ Exhibit H, BG-1, Method, Cost of Financing
- ~~.10~~ Exhibit I, Anticipated Progress and Payment Schedule
- ~~.11~~ Exhibit J, Sample AIA Application for Payment
- ~~.12~~ Exhibit K, Schedule of Values
- ~~.13~~ Exhibit L, Project Plans and Specifications
- ~~.14~~ Exhibit M, Warranty and Title
- ~~.15~~ Exhibit N, District Energy Policy
- ~~.16~~ Exhibit O, District Purchase Order Summary
- ~~.17~~ Exhibit P, Non Collusion Affidavit
- ~~.6~~ — ~~.18~~ Other:

...

Kyle Estes, Superintendent Russellville Independent School District

Risa Miller, Project Manager CMTA, Inc.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:44:12 ET on 03/10/2025 under Order No. 4104246198 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A141™ – 2014, Standard Form of Agreement Between Owner and Design-Builder, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA® Document A141® – 2014 Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder dated the Eighteenth day of March in the year Two Thousand Twenty-Five (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:

(Name and location or address)

Russellville High School HVAC Renovation PBDB
1101 West 9th Street
Russellville, KY 42276

THE OWNER:

(Name, legal status and address)

Russellville Independent School District
355 S Summer Street
Russellville, KY 42276

THE DESIGN-BUILDER:

(Name, legal status and address)

CMTA, Inc.
9519 Civic Way, Suite 100
Prospect, KY 40059

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

A.1 CONTRACT SUM

A.2 CONTRACT TIME

A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

A.5 COST OF THE WORK

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:
(Check the appropriate box.)

[x] Stipulated Sum, in accordance with Section A.1.2 below

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

[] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

[] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 The Stipulated Sum shall be Two Million Seven Hundred One Thousand Sixty-Four Dollars and Zero Cents (\$ 2,701,064.00), subject to authorized adjustments as provided in the Design-Build Documents. Owner direct purchased equipment is not included in this amount.

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ A.1.5 Payments

§ A.1.5.1 Progress Payments

§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Not applicable.

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the first day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the second day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than thirty-one (31) days after the Owner receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 (Not Applicable)

§ A.1.5.1.5 With each Application for Payment, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten percent (10%) on the Work. Pending final determination of cost to the Owner of Changes in the Work
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent (10%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.6 of the Agreement discusses release of applicable retainage upon Substantial Completion of Work.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement.

§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows:

- .1 When Owner direct Purchase Orders are used, retainage that would otherwise be held on materials and equipment shall transfer to the Qualified Provider, and the material suppliers will be paid the full amount of their invoices. The Owner shall retain ten percent (10%) from each Application for Payment, and an amount equal to ten percent (10%) of approved Purchase Order payments, up to fifty percent (50%) completion of the Work, then, provided the Work is on schedule and satisfactory, the Owner may at their sole discretion approve a reduction in retainage to five percent (5%) of the completed work plus Owner direct Purchase Orders. No part of the five percent (5%) retainage shall be paid until after Substantial Completion of the Work. After Substantial Completion of the Work of designated portion thereof, and with consent of Surety, the Owner shall release applicable retainage except for Work that is incomplete or deficient. The minimum lump sum retainage shall be twice the estimated cost to correct deficient or incomplete work.

(Paragraphs deleted)

§ A.1.5.3 (Not Applicable)

§ A.1.5.4 (Not Applicable)

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

§ A.1.5.5.2 If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final

Certificate for Payment, or notify the Design-Builder in writing of the reasons for withholding a certificate as provided in Section 9.5.1 of the Agreement.

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than () days from the date of this Amendment, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Refer to Section 1.1.7.4 of this Contract.

Portion of Work

All Work

Substantial Completion Date

8/4/2025

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Not applicable.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Exhibit D	Scope of Services and ECM	3/18/2025	
Exhibit E	Energy Savings Guarantee	3/18/2025	
Exhibit F	Annual Reconciliation Statement	3/18/2025	
Exhibit G	Support Services Agreement	3/18/2025	
Exhibit H	BG-1 Form and Method and Cost of Financing	3/18/2025	
Exhibit I	Anticipated Progress and Payment Schedule	3/18/2025	
Exhibit J	Sample AIA Application for Payment	3/18/2025	
Exhibit K	Schedule of Values	3/18/2025	
Exhibit L	Project Plans and Specifications	3/18/2025	
Exhibit M	Warranty and Title	3/18/2025	
Exhibit N	District Energy Policy	3/18/2025	
Exhibit O	Owner Direct Purchase Summary	3/18/2025	
Exhibit P	Non-Collusion Affidavit	3/18/2025	

§ A.3.1.2 The Specifications:

(Either list the specifications here or refer to an exhibit attached to this Amendment.)

Refer to Exhibit L

Section	Title	Date	Pages
Refer to Exhibit L			

§ A.3.1.3 The Drawings:
(Either list the drawings here or refer to an exhibit attached to this Amendment.)

Refer to Exhibit L

Number	Title	Date
Refer to Exhibit L		

§ A.3.1.4
(Paragraphs deleted)
Allowances and Contingencies: (None)

§ A.3.1.5 Design-Builder's assumptions and clarifications:

(Paragraphs deleted) Refer to Exhibit D – Scope of Services & Energy Conservation Measures

§ A.3.1.6 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

Not Applicable

(Paragraphs deleted)

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:
(Identify name, title and contact information.)

.1 Project Manager

Risa Miller, PE – risa.miller@cmta.com

.2 Construction Manager

Luke Gardner – luke.gardner@cmta.com

.3 Principal-In-Charge

Roger Maybrier, PE, CxT – rmaybrier@cmta.com

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
(List name, discipline, address and other information.)

Comfort & Process Solutions – Mechanical
Pogue Electric – Electrical Power & Lighting
Automated Building Concepts – Controls
A & K Construction – General Trades
Palmetto Air Balance – TAB
Above All Acoustics - Ceilings

ARTICLE A.5 COST OF THE WORK

§ A.5.1 Cost To Be Reimbursed as Part of the Contract (Not Applicable)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract

(Paragraphs deleted)

(Not Applicable)

§ A.5.3 Discounts, Rebates, and Refunds

§ A.5.3.1 Rebates resulting from work in this Contract shall be paid to the Owner. Tax credits or deductions resulting from this Contract that the Owner is not eligible to receive due to tax-exempt status will be passed on to the project designers and/or engineers as allowed by all applicable federal laws.

(Paragraph deleted)

§ A.5.4 Other Agreements

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

§ A.5.5 Accounting Records

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

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

OWNER *(Signature)*

Kyle Estes, Superintendent Russellville Independent
School District

(Printed name and title)

DESIGN-BUILDER *(Signature)*

Risa Miller, Project Manager CMTA, Inc.

(Printed name and title)



Init.

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User Notes:

(829501258)

Additions and Deletions Report for AIA® Document A141® – 2014 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:44:04 ET on 03/10/2025.

PAGE 1

This Amendment is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-BUILDER dated the Eighteenth day of March in the year Two Thousand Twenty-Five (the "Agreement")

...

Russellville High School HVAC Renovation PBDB
1101 West 9th Street
Russellville, KY 42276

...

Russellville Independent School District
355 S Summer Street
Russellville, KY 42276

...

CMTA, Inc.
9519 Civic Way, Suite 100
Prospect, KY 40059

...

[x] Stipulated Sum, in accordance with Section A.1.2 below

PAGE 2

§ A.1.2.1 The Stipulated Sum shall be (\$—), Two Million Seven Hundred One Thousand Sixty-Four Dollars and Zero Cents (\$ 2,701,064.00), subject to authorized adjustments as provided in the Design-Build Documents. Owner direct purchased equipment is not included in this amount.

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

§ A.1.2.3 Unit prices, if any:
(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit (\$0.00)
§ A.1.3 Cost of the Work Plus Design-Builder's Fee		
§ A.1.3.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.		
§ A.1.3.2 The Design-Builder's Fee: <i>(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)</i>		
§ A.1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price		
§ A.1.4.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.		
§ A.1.4.2 The Design-Builder's Fee: <i>(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method for adjustment to the Fee for changes in the Work.)</i>		
§ A.1.4.3 Guaranteed Maximum Price		
§ A.1.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed (\$—), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner. <i>(Insert specific provisions if the Design-Builder is to participate in any savings.)</i>		
§ A.1.4.3.2 Itemized Statement of the Guaranteed Maximum Price Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price. <i>(Provide information below or reference an attachment.)</i>		
§ A.1.4.3.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner: <i>(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in the Cost of the Work and Guaranteed Maximum Price for each and the deadline by which the alternate must be accepted.)</i>		
§ A.1.4.3.4 Unit Prices, if any: <i>(Identify item, state the unit price, and state any applicable quantity limitations.)</i>		

Item	Units and Limitations	Price per Unit (\$0.00)
§ A.1.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:		

...

Not applicable.

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the first day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the second day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than ~~(—)thirty-one (31)~~ days after the Owner receives the Application for Payment.

...

§ A.1.5.1.4 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment. ~~(Not Applicable)~~

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, ~~Payment~~, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

PAGE 3

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ~~percent (—%)~~ ten percent (10%) on the Work. Pending final determination of cost to the Owner of Changes in the Work, ~~amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement; Work~~
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ~~percent (—%)~~ ten percent (10%);

...

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.)

- .1 When Owner direct Purchase Orders are used, retainage that would otherwise be held on materials and equipment shall transfer to the Qualified Provider, and the material suppliers will be paid the full amount of their invoices. The Owner shall retain ten percent (10%) from each Application for Payment, and an amount equal to ten percent (10%) of approved Purchase Order payments, up to fifty percent (50%) completion of the Work, then, provided the Work is on schedule and satisfactory, the Owner may at their sole discretion approve a reduction in retainage to five percent (5%) of the completed work plus Owner direct Purchase Orders. No part of the five percent (5%) retainage shall be paid until after Substantial Completion of the Work. After Substantial Completion of the Work of designated portion thereof, and with consent of Surety, the Owner shall release applicable retainage except for Work that is incomplete or deficient. The minimum lump sum retainage shall be twice the estimated cost to correct deficient or incomplete work.

§ A.1.5.3 Progress Payments—Cost of the Work Plus a Fee

§ A.1.5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the

end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.

§ A.1.5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- ~~.1 Take the Cost of the Work as described in Article A.5 of this Amendment;~~
- ~~.2 Add the Design-Builder's Fee, less retainage of — percent (— %). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section A.1.5.3.2.1 at the rate stated in Section A.1.3.2; or if the Design-Builder's Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract retainage of — percent (— %) from that portion of the Work that the Design-Builder self-performs;~~
- ~~.4 Subtract the aggregate of previous payments made by the Owner;~~
- ~~.5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement.~~

§ A.1.5.3.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.4 Progress Payments—Cost of the Work Plus a Fee with a Guaranteed Maximum Price

§ A.1.5.4.1 Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ A.1.5.4.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- ~~.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement.~~
- ~~.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;~~
- ~~.3 Add the Design-Builder's Fee, less retainage of — percent (— %). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.4 Subtract retainage of — percent (— %) from that portion of the Work that the Design-Builder self-performs;~~
- ~~.5 Subtract the aggregate of previous payments made by the Owner;~~
- ~~.6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement.~~

~~§ A.1.5.4.3~~ The Owner and Design Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors; and the Design Builder shall execute agreements in accordance with those terms.

§ A.1.5.3 (Not Applicable)

§ A.1.5.4 (Not Applicable)

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Refer to Section 1.1.7.4 of this Contract.

...

All Work

8/4/2025

...

Not applicable.

...

<u>Exhibit D</u>	<u>Scope of Services and</u>	<u>3/18/2025</u>
	<u>ECM</u>	
<u>Exhibit E</u>	<u>Energy Savings</u>	<u>3/18/2025</u>
	<u>Guarantee</u>	
<u>Exhibit F</u>	<u>Annual Reconciliation</u>	<u>3/18/2025</u>
	<u>Statement</u>	
<u>Exhibit G</u>	<u>Support Services</u>	<u>3/18/2025</u>
	<u>Agreement</u>	
<u>Exhibit H</u>	<u>BG-1 Form and Method</u>	<u>3/18/2025</u>
	<u>and Cost of Financing</u>	
<u>Exhibit I</u>	<u>Anticipated Progress</u>	<u>3/18/2025</u>
	<u>and Payment Schedule</u>	
<u>Exhibit J</u>	<u>Sample AIA Application</u>	<u>3/18/2025</u>
	<u>for Payment</u>	
<u>Exhibit K</u>	<u>Schedule of Values</u>	<u>3/18/2025</u>
<u>Exhibit L</u>	<u>Project Plans and</u>	<u>3/18/2025</u>
	<u>Specifications</u>	
<u>Exhibit M</u>	<u>Warranty and Title</u>	<u>3/18/2025</u>
<u>Exhibit N</u>	<u>District Energy Policy</u>	<u>3/18/2025</u>
<u>Exhibit O</u>	<u>Owner Direct Purchase</u>	<u>3/18/2025</u>
	<u>Summary</u>	
<u>Exhibit P</u>	<u>Non-Collusion Affidavit</u>	<u>3/18/2025</u>

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Refer to Exhibit L

...

Refer to Exhibit L

...

Refer to Exhibit L

...

Refer to Exhibit L

§ A.3.1.4 The Sustainability Plan, if any:

(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title

Date

Pages

Other identifying information:

Allowances and Contingencies: (None)

§ A.3.1.5 ~~Allowances and Contingencies:~~ Design-Builder's assumptions and clarifications:

(Identify any agreed upon allowances and contingencies, including a statement of their basis.)

.1 ~~Allowances~~

.2 ~~Contingencies~~

Refer to Exhibit D – Scope of Services & Energy Conservation Measures

§ A.3.1.6 ~~Design-Builder's assumptions and clarifications:~~ To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

Not Applicable

§ A.3.1.7 ~~Deviations from the Owner's Criteria as adjusted by a Modification:~~

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

...

.1 Superintendent-Project Manager

Risa Miller, PE – risa.miller@cmta.com

.2 Project-Construction Manager

Luke Gardner – luke.gardner@cmta.com

.3 OthersPrincipal-In-Charge

Roger Maybrier, PE, CxT – rmaybrier@cmta.com

...

Comfort & Process Solutions – Mechanical
Pogue Electric – Electrical Power & Lighting
Automated Building Concepts – Controls
A & K Construction – General Trades
Palmetto Air Balance – TAB
Above All Acoustics - Ceilings
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§ A.5.1 Cost To Be Reimbursed as Part of the Contract (Not Applicable)

§ A.5.1.1 Labor Costs

§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site:

(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person Included	Status (full-time/part-time)	Rate (\$0.00)	Rate (unit of time)
-----------------	------------------------------	---------------	---------------------

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval.

§ A.5.1.2 Contract Costs. Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

§ A.5.1.3 ~~Costs of Materials and Equipment Incorporated in the Completed Construction~~

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.1.4 ~~Costs of Other Materials and Equipment, Temporary Facilities and Related Items~~

§ A.5.1.4.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or

value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

§ A.5.1.4.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ A.5.1.4.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.5.1.4.4 Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

§ A.5.1.4.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

§ A.5.1.5 Miscellaneous Costs

§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior approval, costs for electronic equipment and software directly related to the Work.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

§ A.5.1.5.9 With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.

§ A.5.1.5.10 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ A.5.1.6 Other Costs and Emergencies

§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

§ A.5.1.6.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

§ A.5.1.7 Related Party Transactions

§ A.5.1.7.1 For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.

§ A.5.1.7.2 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4.

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract

The Cost of the Work shall not include the items listed below:

- ~~1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;~~
- ~~2 Expenses of the Design-Builder's principal office and offices other than the site office;~~
- ~~3 Overhead and general expenses, except as may be expressly included in Section A.5.1;~~
- ~~4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;~~
- ~~5 Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;~~
- ~~6 Any cost not specifically and expressly described in Section A.5.1; and~~
- ~~7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded. (Not Applicable)~~

...

§ A.5.3.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained. Rebates resulting from work in this Contract shall be paid to the Owner. Tax credits or deductions resulting from this Contract that the Owner is not eligible to receive due to tax-exempt status will be passed on to the project designers and/or engineers as allowed by all applicable federal laws.

~~§ A.5.3.2~~ Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

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Kyle Estes, Superintendent Russellville Independent
School District

Risa Miller, Project Manager CMTA, Inc.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:44:04 ET on 03/10/2025 under Order No. 4104246198 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A141™ – 2014 Exhibit A, Design-Build Amendment, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA® Document A141® – 2014 Exhibit B

Insurance and Bonds

for the following PROJECT:

(Name and location or address)

Russellville High School HVAC Renovation PBDB
1101 West 9th Street
Russellville, KY 42276

THE OWNER:

(Name, legal status and address)

Russellville Independent School District
355 S Summer Street
Russellville, KY 42276

THE DESIGN-BUILDER:

(Name, legal status and address)

CMTA, Inc.
9519 Civic Way, Suite 100
Prospect, KY 40059

THE AGREEMENT

This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the Eighteenth day of March in the year Two Thousand Twenty-Five.

(In words, indicate day, month and year.)

TABLE OF ARTICLES

- B.1 GENERAL**
- B.2 DESIGN BUILDER'S INSURANCE AND BONDS**
- B.3 OWNER'S INSURANCE**
- B.4 SPECIAL TERMS AND CONDITIONS**

ARTICLE B.1 GENERAL

The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS

§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

Insurance Required by Exhibit A—Article A.11, shall be no less than the following limits, or greater if required by law:

- .1 Worker’s Compensation:**
 - a. State** Statutory
 - b. Applicable Federal** Statutory
 - c. Employer’s Liability** \$500,000
- .2 Comprehensive or Commercial General Liability (including Premises-Operations; Independent Contractor’s Protection; Product Liability and Completed Operations: Broad Form Property Damage):**
 - a. General Aggregate (except Products-Completed Operations)** \$2,000,000
 - b. Products-Completed Operations Aggregate** \$1,000,000
 - c. Personal/Advertising Injury (per person/organization)** \$1,000,000
 - d. Each Occurrence (Bodily Injury and Property Damage)** \$1,000,000
 - e. Exclusions of Property in Contractor’s Care, Custody, or Control shall be eliminated.**
 - f. Property Damage Liability Insurance shall provide Coverage for Explosion, Collapse, and underground Damage.**
- .3 Contractual Liability:**
 - a. General Aggregate** \$2,000,000
 - b. Each Occurrence (Bodily Injury and Property Damage)** \$1,000,000
- .4 Automobile Liability:**
 - a. Bodily Injury** \$500,000 each person
\$1,000,000 each accident
 - b. Property Damage** \$500,000 each accident, or
a combined single limit of
\$1,000,000
- .5 Liability coverage for the Owner shall be provided by endorsement as additional insureds on the Qualified Provider’s Liability Policy.**
- .6 Excess Liability Umbrella Form:**
 - a. General Aggregate** \$2,000,000
 - b. Each Occurrence** \$2,000,000
- .7 There shall be an endorsement in each of the above policies as follows:**

"It is hereby agreed that in the event of a claim arising under this policy, the company may not deny liability by reason of the insured being a state, county, municipal corporation or governmental agency."

(Paragraphs deleted)

§ B.2.1.9 Additional Insured Obligations. The Owner and its consultants and contractors shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement.

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

§ B.2.2 Performance Bond and Payment Bond

The Design-Builder shall provide surety bonds as follows:

(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
Performance and Payment Bonds written on AIA Document A312-2010, Performance Bond and Payment Bond	100% of the Contract Amount Sum

§ B.2.2.1 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

ARTICLE B.3 OWNER'S INSURANCE

§ B.3.1 Owner's Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ B.3.2 Property Insurance

§ B.3.2.1 Unless otherwise provided, at the time of execution of the Design-Build Amendment, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Owner shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement. Unless the parties agree otherwise, upon issuance of a Certificate of Substantial Completion, the Owner shall replace the insurance policy required under this Section B.3.2 with another property insurance policy written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 11.2.2 of the Agreement.

§ B.3.2.1.1 The insurance required under Section B.3.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.

§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ B.3.2.1.3 The insurance required under Section B.3.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ B.3.2.2 **Boiler and Machinery Insurance.** The Owner shall purchase and maintain boiler and machinery insurance, which shall specifically cover commissioning, testing, or breakdown of equipment required by the Work, if not covered by the insurance required in Section B.3.2.1. This insurance shall include the interests of the Owner, Design-Builder, Architect, Consultants, Contractor and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.

§ B.3.2.3 If the Owner does not intend to purchase the insurance required under Sections B.3.2.1 and B.3.2.2 with all of the coverages in the amounts described above, the Owner shall inform the Design-Builder in writing prior to any construction that is part of the Work. The Design-Builder may then obtain insurance that will protect the interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Work. The cost of the insurance shall be charged to the Owner by an appropriate Change Order. If the Owner does not provide written notice, and the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, the Owner shall bear all reasonable costs and damages attributable thereto.

§ B.3.2.4 **Loss of Use Insurance.** At the Owner's option, the Owner may purchase and maintain insurance to insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Design-Builder for loss of use of the Owner's property, including consequential losses due to fire or other hazards covered under the property insurance required under this Exhibit B to the Agreement.

§ B.3.2.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section B.3.2.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ B.3.2.6 Before an exposure to loss may occur, the Owner shall file with the Design-Builder a copy of each policy that includes insurance coverages required by this Section B.3.2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. The Owner shall provide written notification to the Design-Builder of the cancellation or expiration of any insurance required by this Article B.3. The Owner shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.3.2.7 **Waivers of Subrogation.** The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, if any, and any of their subcontractors,

sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of the other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ B.3.2.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section B.3.2.10. The Design-Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

§ B.3.2.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.

§ B.3.2.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of a loss to the Owner's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design-Builder have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ B.3.2.11 The Owner's insurance coverage shall not apply to Qualified Provider's property.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

Not applicable.

Additions and Deletions Report for AIA® Document A141® – 2014 Exhibit B

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:43:56 ET on 03/10/2025.

PAGE 1

Russellville High School HVAC Renovation PBDB
1101 West 9th Street
Russellville, KY 42276

...

Russellville Independent School District
355 S Summer Street
Russellville, KY 42276

...

CMTA, Inc.
9519 Civic Way, Suite 100
Prospect, KY 40059

...

This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the Eighteenth day of March in the year -Two Thousand Twenty-Five.

PAGE 2

Insurance Required by Exhibit A—Article A.11, shall be no less than the following limits, or greater if required by law:

<u>.1</u>	<u>Worker's Compensation:</u>	
	<u>a. State</u>	<u>Statutory</u>
	<u>b. Applicable Federal</u>	<u>Statutory</u>
	<u>c. Employer's Liability</u>	<u>\$500,000</u>
<u>.2</u>	<u>Comprehensive or Commercial General Liability (including Premises-</u>	
	<u>Operations; Independent Contractor's Protection; Product Liability and</u>	
	<u>Completed Operations; Broad Form Property Damage):</u>	
	<u>a. General Aggregate (except Products-Completed Operations)</u>	<u>\$2,000,000</u>
	<u>b. Products-Completed Operations Aggregate</u>	<u>\$1,000,000</u>
	<u>c. Personal/Advertising Injury (per person/organization)</u>	<u>\$1,000,000</u>

<u> </u>	<u>d. Each Occurrence (Bodily Injury and Property Damage)</u>	<u>\$1,000,000</u>
<u> </u>	<u>e. Exclusions of Property in Contractor's Care, Custody, or Control shall be eliminated.</u>	
<u> </u>	<u>f. Property Damage Liability Insurance shall provide Coverage for Explosion, Collapse, and underground Damage.</u>	
<u> </u>	<u>.3 Contractual Liability:</u>	
<u> </u>	<u>a. General Aggregate</u>	<u>\$2,000,000</u>
<u> </u>	<u>b. Each Occurrence (Bodily Injury and Property Damage)</u>	<u>\$1,000,000</u>
<u> </u>	<u>.4 Automobile Liability:</u>	
<u> </u>	<u>a. Bodily Injury</u>	<u>\$500,000 each person</u> <u>\$1,000,000 each accident</u>
<u> </u>	<u>b. Property Damage</u>	<u>\$500,000 each accident, or</u> <u>a combined single limit of</u> <u>\$1,000,000</u>
<u> </u>	<u>.5 Liability coverage for the Owner shall be provided by endorsement as additional insureds on the Qualified Provider's Liability Policy.</u>	
<u> </u>	<u>.6 Excess Liability Umbrella Form:</u>	
<u> </u>	<u>a. General Aggregate</u>	<u>\$2,000,000</u>
<u> </u>	<u>b. Each Occurrence</u>	<u>\$2,000,000</u>
<u> </u>	<u>.7 There shall be an endorsement in each of the above policies as follows:</u>	
<u> </u>	<u>"It is hereby agreed that in the event of a claim arising under this policy, the company may not deny liability by reason of the insured being a state, county, municipal corporation or governmental agency."</u>	

§ B.2.1.1 ~~Commercial General Liability with policy limits of not less than —(\$ —) for each occurrence and —(\$ —) in the aggregate providing coverage for claims including~~

- ~~.1 — damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;~~
- ~~.2 — personal injury;~~
- ~~.3 — damages because of injury to or destruction of tangible property;~~
- ~~.4 — bodily injury or property damage arising out of completed operations; and~~
- ~~.5 — contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.~~

§ B.2.1.2 ~~Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than —(\$ —) per claim and —(\$ —) in the aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.~~

§ B.2.1.3 ~~The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.~~

~~§ B.2.1.4 Workers' Compensation at statutory limits.~~

~~§ B.2.1.5 Employers' Liability with policy limits as provided below:~~

~~§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than —(\$ —) per claim and —(\$ —) in the aggregate.~~

~~§ B.2.1.7 Pollution Liability covering performance of the Work, with policy limits of not less than —(\$ —) per claim and —(\$ —) in the aggregate.~~

~~§ B.2.1.7.1 The Design Builder may obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than —(\$ —) per claim and —(\$ —) in the aggregate.~~

~~§ B.2.1.8 The Design Builder shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.2. The Design Builder shall provide such written notice within five (5) business days of the date the Design Builder is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.~~

PAGE 3

Performance and Payment Bonds written on AIA Document 100% of the Contract Amount Sum
A312-2010, Performance Bond and Payment Bond

PAGE 5

§ B.3.2.11 The Owner's insurance coverage shall not apply to Qualified Provider's property.

...

Not applicable.

Exhibit C – Certificate of Liability Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/06/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH RISK & INSURANCE SERVICES FOUR EMBARCADERO CENTER, SUITE 1100 CALIFORNIA LICENSE NO. 0437153 SAN FRANCISCO, CA 94111 CN 10246455-CMTA-GAUWP-24-25	CONTACT NAME: PHONE (A/C No. Ext): FAX (A/C No.): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: Zurich American Insurance Company INSURER B: American Guarantee and Liability Insurance Company INSURER C: Allied World Surplus Lines Insurance Company INSURER D: INSURER E: INSURER F:	NAIC # 16535 26247 24319
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COVERAGES **CERTIFICATE NUMBER:** SEA-004080894-01 **REVISION NUMBER:** 1

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: Deductible: 100,000			GLO 8650384-01	06/20/2024	06/20/2025	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			BAP 4340750 - 03	06/20/2024	06/20/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			AUC 4340745-03	06/20/2024	06/20/2025	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WC 8650385-01	06/20/2024	06/20/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability			0313-2020	06/20/2024	06/20/2025	Limit: 10,000,000 SIR: 250,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Russellville Independent School District is included as additional insured where required by written contract with respect to General Liability and Auto Liability. This insurance is primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured subject to policy terms and conditions. Waiver of subrogation is applicable where required by written contract and subject to policy terms and conditions. Umbrella is follow form of primary subject to policy terms, conditions and exclusions.

CERTIFICATE HOLDER Russellville Independent School District Attn: Kyle Estes 355 S. Summer St. Russellville, KY 42276	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Marsh Risk & Insurance Services</i>
--	--

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ACORD 25 (2016/03)

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Exhibit D – Scope of Services and Energy Conservation Measures

A detailed description of each Energy Conservation Measure (ECM) or building improvement item is organized in the following categories:

Electrical Replacements & Upgrades

- E1 Classroom LED Lighting Upgrades (Add Alt.)

HVAC Replacements & Upgrades

- H1 HVAC Renovation
- H2 HVAC Equipment

Building Automation Upgrades & Commissioning

- C1 Building Controls Replacement

General Trades

- G1 Air Seal Building Perimeter Soffits and Eaves
- G2 Corridor Life Safety Improvements
- G3 Corridor & Classroom Ceiling Replacements

Energy Conservation Measure & Building Improvements Narratives

E1 LED Lighting Upgrades

The LED Lighting Upgrades design drawings and specifications, located in Exhibit L, detail the specifics of the scope of services. A summary of the work to be performed is outlined below.

- LED flat panels will replace existing retrofitted LED fixtures in admin offices, cafeteria, and classrooms to match corridor fixtures.

H1 HVAC Renovation

The following is a summary of the HVAC renovation scope of work. The design drawings and specifications, located in Exhibit L, detail the specifics of the scope of services.

- **Classrooms, Offices, Corridors:** Remove and dispose of the existing water-sourced heat pump unit ventilators and the existing hydronic pump serving these units. Existing pump cabinets and pump valve boxes will remain and be reused. Install new console water-sourced heat pumps, new hydronic pumps, and seal outdoor air openings from inside the building. Exterior louvers will remain.
 - o **Room 18:** the unit in this room was recently replaced and is new. Remove the existing water-sourced heat pump unit ventilator, seal the outdoor air opening, and reinstall the existing unit.
 - o **Rooms 13 and 15:** These rooms contain new above-ceiling horizontal water-sourced heat pumps and associated hydronic pumps. This equipment is excluded from the scope of work.
 - o **Room 24:** Remove and dispose of the existing Variable Refrigerant Flow (VRF) system and air-sourced heat pump unit ventilator. Seal the outdoor air opening from inside the building. Install a new VRF system similar to the existing system.
 - o **Office 87:** Remove and dispose of the existing split-system heat pump and associated ductwork serving Office 87 and adjacent spaces. Install a new electric split-system heat pump and ductwork.
- **DOAS:** Install two new high-efficiency, roof-mounted Dedicated Outdoor Air Systems (DOAS) with associated ductwork to provide conditioned outdoor air to classrooms, the cafeteria, offices, and corridors.
- **Kitchen:** The kitchen area is excluded from the scope of work.
- **Gym:** The gym is conditioned by two rooftop units (RTUs). One of these units was recently replaced and will remain in place. Remove and dispose of the older existing rooftop unit and install a new high-efficiency unit in its place.
- **Locker Rooms:** Remove and dispose of the existing exhaust fans serving the boys and girls locker rooms. Install two new high-efficiency, roof-mounted energy recovery outdoor air units and associated supply air ductwork. These new units will provide both exhaust and conditioned air for the locker rooms. Existing exhaust ductwork will be reused.

H2 HVAC Equipment

CMTA will be providing the equipment listed in the following table:

<i>CMTA Provided HVAC Equipment – Russellville High School</i>		
Equipment	Mark	Qty
DOAS	DOAS-1	1
	DOAS-2	1
	DOAS-3	1
	DOAS-4	1
VRF System	Various	2
Split Unit	IU-1/OU-1	1
Horizontal WSHPs	HHP-12L	1
Console WSHPs	Various	53
Hydronic Pumps	Various	33
Gym RTU	RTU-1	1
Freeze-Proof Roof Hydrant	FPRH-1	5

C1 Building Controls Replacement

The building controls design drawings and sequences, located in Exhibit L, detail the specifics of the scope of services. A summary of the work to be performed is outlined below.

- Demolish and dispose of the existing Building Automation System (BAS) and install a new web-based BAS that provides seamless control and management of all equipment throughout the high school. The new system will be capable of monitoring and operating the HVAC equipment through a user-friendly, centralized interface. Existing unitary controllers on equipment not being replaced as part of this project shall be retained and integrated into the new BAS. The intent is to improve system performance, energy efficiency, and operational control of the facility.

G1 Air-Seal Building Perimeter Soffits and Eaves

The following is a summary of the perimeter air sealing scope of work. The design drawings located in Exhibit L, detail the specifics of the scope of services.

- Provide labor and materials to air seal the perimeter soffits and eaves of the classroom wing to improve the building's energy performance by reducing air infiltration. This includes inspecting the existing soffits and eaves to identify gaps, cracks, joints, and penetrations where air leakage is occurring. Approved air-sealing materials, such as foam will be applied from the interior of the building to all identified areas to ensure a continuous air barrier. All materials will be compatible with building components and rated for such use. The intent is to enhance energy efficiency and indoor comfort by minimizing uncontrolled air exchange through the building envelope.

G2 Corridor Life Safety Improvements

The firestopping drawings and ceiling drawings, located in Exhibit L, detail the specifics of the scope of services. A summary of the work to be performed is outlined below.

- Provide labor and materials to extend the corridor walls from their existing height to the underside of the structural deck, creating a continuous fire-rated barrier. Ensure the construction complies with all applicable fire-rated assembly standards and building codes. The scope includes the installation of approved firestopping materials at all existing and new corridor wall penetrations above the finished ceiling. This involves sealing around pipes, conduits, cables, ducts, and other building system penetrations to maintain the integrity of the fire separation. The intent of this work is to improve the current fire separation conditions of the facility. This scope does not address modifications to any components within the occupied space, such as automatic door closers or other related items.
- Provide all necessary labor and materials to relocate existing corridor fire alarm horn-strobe units to ensure compliance with NFPA 72 and other applicable codes. Test all relocated devices to verify proper operation, including sound output, and strobe synchronization and coordinate with the Authority Having Jurisdiction (AHJ) for final inspection and approval.

G3 Corridor Classroom and Ceiling Replacements

The Reflected Ceiling Drawings located in Exhibit L detail the specifics of the scope of services. A summary of the work to be performed is outlined below.

- Existing ceilings will be demolished and replaced with new 2x2 grid and acoustical tegular tile in corridors, classrooms, front admin spaces, and the cafeteria.

Exhibit E – Energy Savings Guarantee

E.0 Energy Usage Baseline

The energy usage baseline is established based on the average consumption analysis for each of the facilities as in *Table E.1.1*. This data was furnished by the Owner’s utility providers. The Owner and Qualified Provider agree that the energy usage baselines represented in *Table E.0.1* are accurate. Refer to *Exhibit E* for a list of utility accounts used to develop baseline.

Table E.0.1 – Energy Usage Baselines

Facility	Floor Area (SF)	Electric (kWh/yr)	Demand (kW/yr)	Natural Gas (Therms/yr)	EUI (kBtu/sf)
Russellville High School	82,550	736,667	2,231	13,597	46.9

The baseline was developed using data from January 2022 through December of 2024. Future adjustments to the baseline may be made to accommodate changes in building consumption as set forth in *Exhibit E*. CMTA will never make an adjustment to the baseline without proper notification and justification to the Owner.

E.2 Utility Rates

The following utility rates were used as the basis of the energy cost savings calculations and are used throughout the term of the contract. The following schedules will be used to reconcile the value of the guaranteed energy savings in future years.

Electric Rates:

Russellville Electric Plant Board

Rate: Commercial GSA-2

Customer Charge	\$55.00
Energy Rate (includes base, adder, fca, school tax) (\$/kWh)	\$ 0.1235 (First 15,000 kWh) \$ 0.0729 (Over 15,000 kWh)
Demand Rate (includes base, adder, school tax) (\$/kW)	\$ 0.00 (First 50 kW) \$ 14.81 (Over 50 kW)

Natural Gas Rates:

Atmos Energy Corporation

Rate: Non-Residential (G-1)

Commercial Service

Customer Charge	\$ 66.00
Purchased Gas Adjustment (\$/therm)	Varies Monthly
Distribution Service (\$/therm)	Varies Monthly

Table E.2.1 – Russellville High School Natural Gas Rates

Facility	\$/Therm
Russellville High School	\$0.83

E.3 Guaranteed Energy Savings

The Qualified Provider guarantees the annual level of energy savings to be achieved as a result of the installation and operation of the Energy Conservation Measures and provision of services provided for in this Contract in accordance with the methods of savings measurement and verification as set forth in E.13 - *Measurement and Verification Plan*. The year one guaranteed energy and cost savings guarantee and is set forth in *Tables E.3.1 and E.3.2*.

Table E.3.1 – Guaranteed Energy Savings

Guaranteed Energy Savings					
Facility	Utility	Account Number	Electric (kWh/yr)	Demand (kW/yr)	Fuel (Therms/yr)
Russellville High School	Russellville EPB Atmos Energy Corp	201783 3007215308	254,038	-	(1,237)

Table E.3.2 – Calculated Year 1 Utility Cost Savings

Energy Cost Savings	
Facility	Calculated First Year Utility Cost Savings
Russellville High School	\$17,489

E.4 Energy Cost Escalation Rate

The projected annual energy escalation rate used for determining energy cost savings is described below in *Table E.4.1 – Energy Cost Escalation Rates*. The Owner and Qualified Provider have reviewed the history of energy escalation and agree that this is an appropriate rate. Refer to section E.2 for utility rates used.

Table E.4.1 – Energy Cost Escalation Rates

Energy Cost Escalation Rates	
Utility	Annual Escalation
Electric	4%
Natural Gas	2%

E.5 Operational and Maintenance (O&M) Savings

The O&M savings identified in *Table E.5.1* are the result of the project scope and have been reviewed and validated with the Owner and are agreed to and stipulated for this contract. Costs are determined by analyzing the cost of equipment repairs and replacements no longer needed post-project due to the geothermal WSHP installation. These O&M savings will not be further measured or verified.

Table E.5.1 – O&M Savings Determination

<i>Agreed Upon Operational & Maintenance Savings</i>	
Facility	Calculated First Year Avoided Costs
Russellville High School	\$17,000

E.6 Operational and Maintenance (O&M) Cost Escalation Rate

The projected annual O&M cost escalation rate used for determining O&M cost savings is 3.0%. The Owner and Qualified Provider agree that this is indicative of inflation and is an appropriate rate.

E.7 Construction Phase Energy Savings

The energy consumption will be reduced during the construction period due to downtime of the building mechanical and electrical systems. The amount of energy savings will be determined by comparing the energy bills against the documented baseline period for each facility (where applicable). The construction phase energy savings will be credited towards the first-year energy savings figures on the Year 1 M&V reconciliation.

E.8 Rebates and Incentives

At this time, there are no rebates or incentives offered by utility service providers. However, if deemed eligible, CMTA will evaluate and aid Russellville Independent School District in obtaining rebates and incentives. All rebates and incentives offered by the utility service providers are returned to the Owner in full. The Owner agrees to allocate the Section 179D commercial buildings energy efficiency tax deduction(s) resulting from the upgrades of this contract to the Design Builder.

E.9 Commencement Date

The Commencement Date of the Energy Savings Guarantee shall be the first day of the month after the month in which the project has been accepted by the Owner as Final Completion and Acceptance.

The Commencement Date shall not occur and the Owner shall not be required to accept the work under this Contract unless and until all Equipment installation for the Project Site(s) is completed by the Qualified Provider in accordance with the terms and conditions of this Contract. The Owner shall have 30 days after notification by the Qualified Provider to inspect and accept the project scope. The Owner reserves the right to reject the Equipment if the installation fails to meet reasonable standards of workmanship, does not comply with applicable building codes, or is otherwise not in compliance with this Contract. The Qualified Provider shall be paid in full, including retainage, after the punch list is completed and the Qualified Provider has satisfied all claims for labor and materials. The project close out will not be unreasonably withheld by the Owner.

Compensation payments due to the Qualified Provider for on-going services and maintenance under this Contract as set forth in *Exhibit H* and shall begin no earlier than 30 days from the Commencement Date as defined herein.

E.10 Owner Responsibilities

The Owner acknowledges that their involvement in this project is vital to achieve the guaranteed energy and O&M savings and agree to the following:

1. Provide the Qualified Provider with online access to utility bills (where applicable), and/or provide utility bills in a timely fashion (within 10 days of receipt from the Utility Company) for the term of the contract.
2. Provide the Qualified Provider with clearance for remote access to the building automation system for the term of the contract.
3. Properly operate, maintain, repair, and replace all equipment, components and systems with similar operating functionality and/or efficiencies.
4. Maintain temperature setpoints and occupancy schedules as specified in *E.14 – Occupancy Schedules and Temperature Setpoints*.
5. Notify the Qualified Provider of any changes to the buildings, utilization schedules, automation system sequences, or temperature setpoints. Any changes should be sub-metered or modeled with approved software to determine the impact on energy usage.
6. Provide the Qualified Provider with access to the buildings to perform evaluations and analysis of system operation.
7. To implement the District Energy Policy established in *Exhibit N*.
8. Continue the Measurement and Verification program as outlined in *Exhibit H - Support Services*. Should the M&V program be cancelled in any given year by the owner, the Owner relieves the Qualified Provider of the guarantee per this contract. The Owner has the right to cancel the M&V program at any point throughout the term of the 20-year guarantee period.

E.11 Annual Review and Reimbursement/Reconciliation

Energy-related cost savings shall be measured and/or calculated as specified in *E.13 - Measurement and Verification Plan* and compared to *E.1.1 – 3 Year Average Energy Usage Baselines*, and a report provided within 60 days of the end of the guarantee year for the previous year for each anniversary of the Commencement Date.

In the event the Energy and Cost Savings achieved during such guarantee year are less than the Guaranteed Energy and Cost Savings as defined in *Tables E.3.1, E.3.2, and E.4.1* the Qualified Provider shall pay the Owner an amount equal to the deficiency as calculated using the rates indicated in *Section E.2*.

The Qualified Provider shall remit such payments to the Owner within 30 days of the reconciliation statement that determines monies are due. When the total energy savings in any one year during the guarantee period exceed the Energy and Cost Savings Guarantee as set forth in *E.3*, such excess savings shall first be applied to reimburse the Qualified Provider for any payment the Qualified Provider made to Owner to meet the guarantee for previous years in which the energy savings fell short of the Qualified Provider's Guaranteed Savings under the terms as set in this Exhibit.

In the event the Energy and Cost Savings achieved during a guarantee year are more than the Guaranteed Energy and Cost Savings as defined in E.3, the surplus savings shall carry forward for the cost reconciliation future guarantee years.

E.12 Adjustments to the Guarantee

The Owner acknowledges that CMTA cannot be held responsible for items reasonably outside of CMTA's control. These include the following factors:

1. Changes in the building construction, such as architectural features, square footage additions, building system changes, etc.
2. Changes in utility account status, addition of new utility accounts, addition new utility metering devices, etc.
3. Weather variance from baseline years to current years. For purposes of documenting the baseline years (Jan 2023 – Dec 2024), the following parameters define the baseline period:

Table E.12.1 – Weather Variance Baseline

<i>Weather Variance Baseline</i>		
Parameter	Base	Average Degree Days
Heating	55°F	1615
Cooling	55°F	3873

4. Addition of energy consuming equipment at the site.
5. Changes in occupancy.
6. Owner's failure to adhere to operating and maintenance requirements as defined by the equipment manufacturer.

CMTA reserves the right to appropriately adjust the baseline for any of the above factors before calculating achieved savings. Adjustments shall be made with sub-metering equipment or by using modeled data from approved software. The Owner shall notify the Qualified Provider in writing 60 days in advance of a circumstance that may warrant a baseline adjustment during the term of the 20-year guarantee period.

While CMTA reserves the right to appropriately adjust the baseline for these factors, we recognize that Russellville Independent School District desires a partner who demonstrates accountability and integrity and that's exactly the type of firm we are. We are confident in our Energy Guarantees and will never do anything to undermine the integrity of that promise.

We will never adjust the baseline without first consulting the District Board and discussing the reasonability of why such a change would be necessitated. We do not view baseline adjustments as a means to offset any deficiencies in savings. Rather, CMTA expects the district to make us aware of any large changes that may affect performance so that we can help make necessary changes to the equipment

and HVAC strategies to accommodate these changes. We will do all we can to help you address your district's needs as it relates to energy savings.

E.13 Measurement and Verification Plan

The annual measurement and verification for this project will be based on the *International Performance Measurement and Verification Protocol (IPMVP)*. IPMVP provides four options for determining savings (Options A, B, C and D). These options are summarized as follows:

Option A – Partially Measured Retrofit Isolation

Savings are determined by field measurement of the key performance parameter(s) which define the energy use of the energy conservation measure's (ECM) affected system(s) and/or the success of the project. Parameters not selected for field measurement are estimated. Estimates can be based on historical data, manufacturer's specifications, or engineering judgment. Documentation of the source or justification of the estimated parameter is required. Typical applications may include a lighting retrofit, where the power drawn can be measured and hours of operation can be estimated. Savings that are guaranteed using this method are stipulated based on the assumptions used in the calculation methodology and are agreed to by the Owner.

Option B - Retrofit Isolation

Savings are determined by field measurement of all key performance parameters which define the energy use of the ECM-affected system. Typical applications may include a variable frequency drive retrofit where both energy usage and hours of operation are documented.

Option C - Whole Facility Meter Comparison

Savings are determined by measuring energy use at the whole facility or sub-facility level. This approach is likely to require a regression analysis or similar to account for independent variables such as weather conditions. Typical examples may include measurement of a facility where several ECMs have been implemented, or where the ECM is expected to affect all equipment in a facility.

Option D - Calibrated Simulation

Savings are determined through simulation of the energy use of the whole facility, or of a sub-facility. Simulation routines are demonstrated to adequately model actual energy performance measured in the facility. This Option usually requires considerable skill in calibrated simulation. Typical applications may include measurement of a facility where several ECMs have been implemented, but no historical energy data is available.

The Measurement and Verification Plan utilized to reconcile the savings excess/shortfall is illustrated in *Table E.13.1* below:

Table E.13.1 – Measurement and Verification Plan

<i>Measurement & Verification Plan</i>				
Facility	Utility	Account Number	Address	M&V Method
Russellville High School	Russellville EPB	201783	1101 W. 9 th St.	C
	Atmos Energy Corp	3007215308	Russellville, KY 42276	C

The measurement and verification plan for each energy conservation measure is detailed by the applicable IPMVP option below:

Option C – Savings Guarantee:

M&V Plan Summary

1. Measurement and Verification Method: Option C - Whole Facility Meter Comparison: Savings are determined by measuring energy use at the whole facility or sub-facility level.
2. What is measured: Utility Bill (Units).
3. Sample size (or population) measured: A sample of 12 of months will be used as an average.
4. How measurements are performed: CMTA will have remote access to the building utility information to track guarantee.
5. How measurements are used to determine the actual savings: 12 months of building demand data will be analyzed to verify that the metered demand and/or metered consumptions is sufficient to cover the guarantee.
6. How often measurements are performed: CMTA will monitor utility bills monthly and compare to guarantee.
7. A list of all utilities used to track energy usage are in *Table E.13.1*.

E.14 Standards of Comfort and Occupancy Schedules

As indicated in *Exhibit N*, the parameters established in this section are important to the realization of the guaranteed savings and the Owner shares the responsibility for ensuring these parameters are adhered to and enforced. The Qualified Provider will assist in the maintenance of temperature setpoints and occupancy schedules as part of the Support Services program. Spaces will be controlled to maintain temperatures and occupancy schedules as indicated in *Table E.14.1 – Occupancy Schedules and Temperature Setpoints*.

The ventilation systems will be scheduled on M-F from 8:30am – 3pm or adjusted to fit ventilation needs for the occupancy use of the building(s).

The buildings will be in the unoccupied mode during weekends, holidays, snow days, spring break, winter break and summer break, except for those facilities indicated as summer school sites.

Ventilation systems are designed to ventilate a fully occupied building. When schedules are overridden to the occupied mode to accommodate staff during in service days or during building cleaning, the ventilation system will not be enabled for such events unless there is a need (i.e., ventilation air to dilute cleaning chemicals, floor waxing, painting, etc.). Special functions, sporting events, and weekend and summer programs that coincide with an unoccupied mode will be overridden to the occupied mode by exception only and only for the duration required.

Table E.14.1 – Occupancy Schedules and Temperature Setpoints

Russellville High School - Occupancy Schedules & Temperature Setpoints					
Space	Occupancy Schedules	Occupied Cooling Setpoint	Occupied Heating Setpoint	Unoccupied Cooling Setpoint	Unoccupied Heating Setpoint
Classrooms	M-F 7AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Media Center	M-F 8AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Common Areas	M-F 7AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Kitchen	M-F 6AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Auditoriums	M-F 8AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Admin	M-F 7AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Cafeteria	M-F 7AM - 9AM 11AM - 1PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Gym	24/7	70°F	70°F	70°F	70°F

Exhibit F – Sample Annual Reconciliation Statement



Taylor County Schools

Guaranteed Energy Savings Contract
2020 – 2021

Year 1 Energy Savings Report

1209 E Broadway St
Campbellsville, KY 42718

December 13th, 2021

CMTA Energy Solutions
9519 Civic Way, Ste 100
Prospect, KY 40059



Executive Summary

Mr. Higdon and School Board Members,

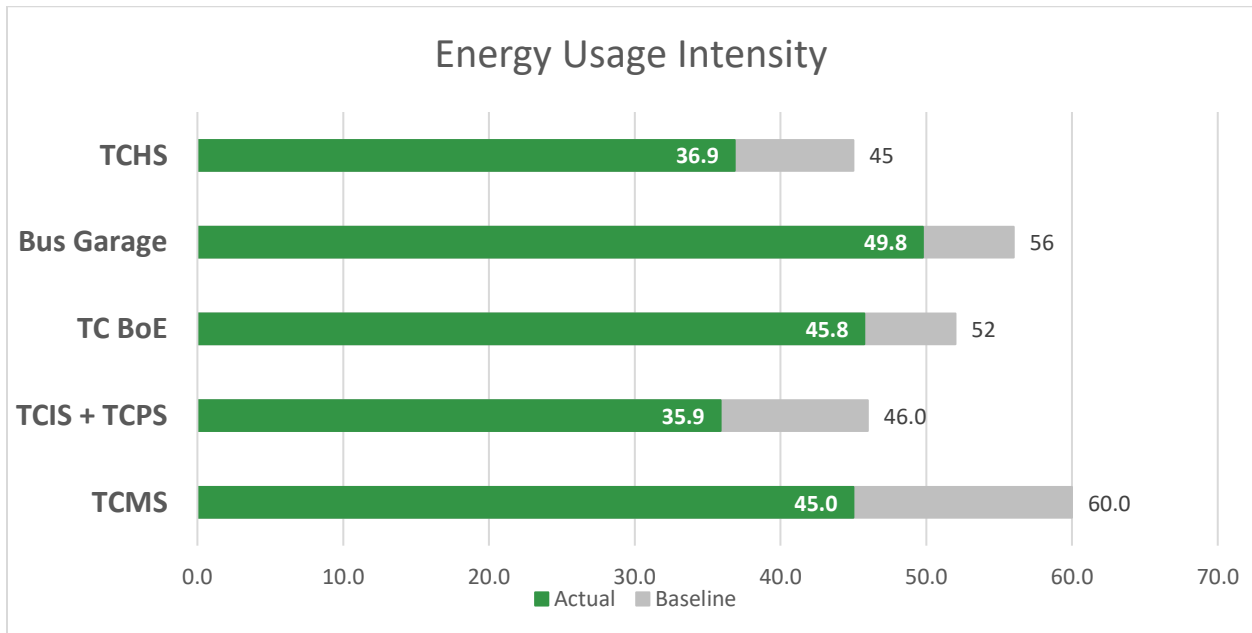
CMTA is pleased to present the Year 1 Energy Savings Report to Taylor County Schools. **All data in this report is taken from the actual utility bills. There are no baseline adjustments or modifications to the data from the utility bills with the exception of the newly constructed dressing room building that is connected to the weightlifting building; more discussions on this adjustment follows in section 5 of this report.** The savings period for the Year 1 period is between Oct 2020 – Sep 2021. In addition to the savings Taylor County Schools realized this year, the facilities are now operating with a much healthier HVAC system. The entire district has been converted to LED lighting; the Middle School's old 2-pipe hydronic system that once forced all spaces to be in heating or cooling mode for months at a time has been replaced with a highly efficient Water Source Heat Pump system that is capable of independent heating and cooling in all areas; the High School is using its outside air ventilation units more efficiently; the pumps in Intermediate School have been optimized for the existing system; the Middle School is now utilizing bi-polar ionization to help improve ventilation and mitigate the spread of COVID-19; and much more as described in Section 2 of this report.

We are proud to report that the Year 1 total savings at Taylor County Schools is \$155,325, which surpasses the first year guarantee by an extra 14%

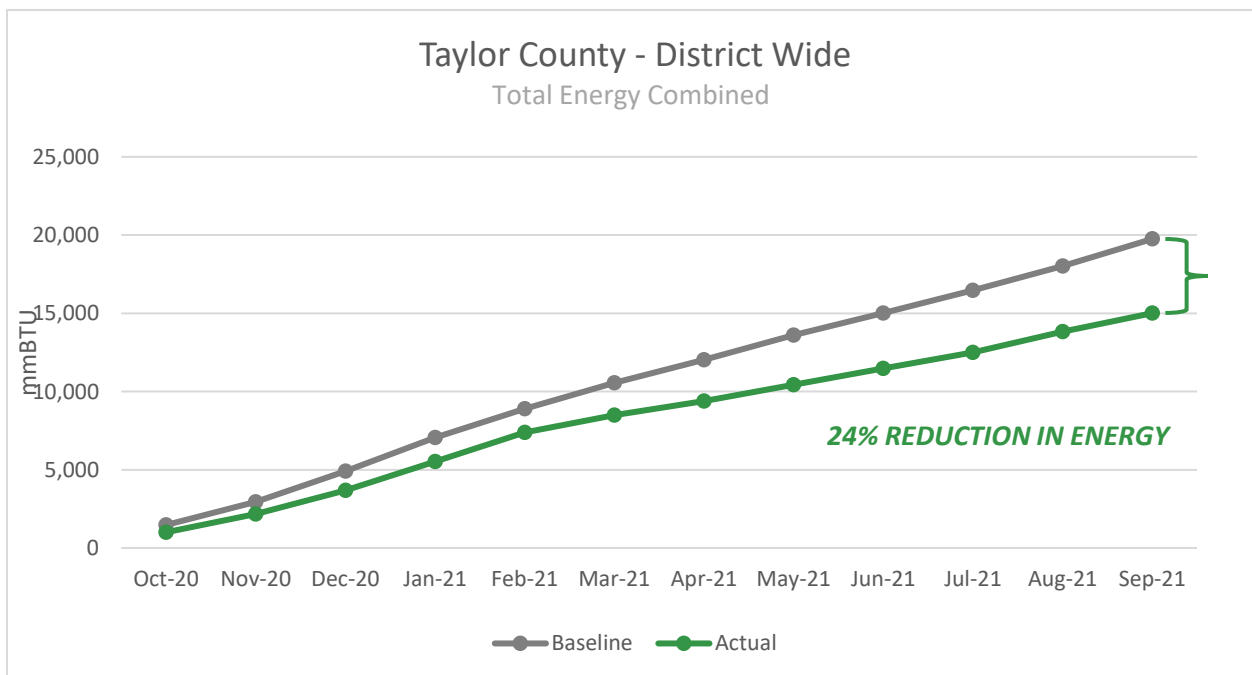
For reference, this figure includes the Guaranteed Energy Savings, the agreed upon O&M savings, and the elimination of an existing service contract. A detailed breakdown can be seen in the table below. The Year 1 Savings were \$21,383 higher than the level of the guarantee. Additionally, the energy dollar savings were overall in abundance, saving the district 114% more than the guarantee.

Taylor County Schools – Year 1 Savings		
Savings Method	Compared to Guaranteed Savings	Actual Savings
Guaranteed Energy Savings	\$56,963	\$88,556
Operational & Maintenance Savings	\$64,979	\$54,769
Service Contract Savings	\$12,000	\$12,000
Total	\$133,942	\$155,325

Each of the schools are now below the KY state average Energy Usage Intensity of 49, with the exception of the Bus Garage, and will continue to see a downward trend. Below are the resulting EUIs for each of the facilities at Taylor County Schools. Overall, the district saved 24% of their total energy usage during the first year.



Below is a cumulative graph of how the district performed over the year 1 period. By the 12th month, the district had experienced a 24% reduction in energy usage from the baseline.



The project construction was completed over two phases; Phase 1 during Summer 2019 and Phase 2 during Summer 2020. For a detailed breakdown of the construction phasing and scope of work completed at Taylor County Schools, please review Section 2 – Scope of Work & ECM Summary. The phasing of work for the project was as follows:

Phase 1:

1. Replacement of cafeteria and gymnasium air handlers at Taylor County Middle School on existing air-cooled chiller loop to new packaged, DX cooling, gas heat RTUs.
2. LED Lighting Replacements and Retrofits across the entire district.
3. Replacement of a massive and aging 500-gallon electric water heater with smaller 125- gallon heaters that are more readily available should replacement be needed.
4. Variable frequency drives installed at Intermediate School pumps and fans.

Phase 2:

1. Complete HVAC renovation at Taylor County Middle School – Two pipe heating and cooling system replaced with new water source heat pumps and dedicated outside air ventilation system.
2. Addition of new power level monitoring equipment at Taylor County High School and modification of the existing BAS control system to reduce demand charges and operate existing equipment more efficiently. Additionally, the future integration of existing controls around district has been setup.
3. Controls sequence optimization district-wide.

Both of these phases were successfully executed. Our goal for this project was not only to capture energy savings for the district but to also address your major maintenance issues such as the failing heating and air system at the middle school. We are very proud that we not only succeeded in delivering more savings than what was guaranteed but we have also completely renovated the middle school with a new HVAC system that will continue to drive energy costs down and be less of a burden on your maintenance staff.

We invite you to review the rest of this report to see the individual performance of each of the buildings as well as a complete picture of where the district stands as a whole. We appreciate your trust in CMTA and we are pleased to fulfil our promises made to you and the citizens of Taylor County.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Buckner", written over a horizontal line.

Ben Buckner, PE, CEM
CMTA Project Manager

4. District Wide Results

CMTA is pleased to present the Year 1 Energy Savings Report for Taylor County Schools.

Table 4.1 – Year 1 Actual Energy Savings in Dollars

Taylor County Schools - Actual Energy Savings		
Facility	Guaranteed Savings Year 1	Actual Savings Year 1
Taylor County Middle School - Main Campus	\$34,357	\$47,239
Taylor County Middle School - Weight Lifting Facility	\$817	-\$3667
Taylor County Primary + Intermediate Schools	\$15,293	\$10,122
Taylor County Board of Education	\$873	-\$399
Taylor County Bus Garage	\$1,423	\$1,226
Taylor County High School	\$4,200	\$34,035
Total	\$56,963	\$88,556

As compared to the guarantee of \$56,963, **the project savings during first year are 55% ahead of the guarantee.** While some of the facilities were slightly behind the guarantee level, others were overperforming above the guarantee and the district as a whole experienced an excess savings of \$31,593.

The project was completed in two phases; the first occurring during the summer of 2019 and the second during the summer of 2020. During the first phase of construction, the existing 2-pipe air handlers that served the cafeteria and gymnasiums of the Middle School were replaced with new, roof top units that are no longer on the chilled water loop, a 500-gallon water heater was replaced, and LED lighting was installed in most buildings that had existing fluorescent fixtures.

During the second phase, the entire HVAC system of the Middle School was replaced with new Water Source Heat Pumps, Condensing Boilers, and a Fluid Cooler. The following pages give breakdowns of the individual savings categories:

Table 4.2 Operational & Maintenance Savings

Taylor County Schools - O&M Savings		
ECM Description	Guaranteed Savings	Actual Savings
LED Lighting Upgrades	\$5,239	\$5,239
WSHP Conversion ^a	\$20,002 ^a	\$20,002
Air Cooled Roof Top Units ^a	\$14,996 ^a	\$14,996
Enhanced Energy Sequence Upgrades and Demand Monitoring ^a	\$15,002 ^a	\$15,002
Telecom Negotiations ^b	\$5,640	\$3,634 ^c
Waste Management	\$1,600	-\$4,104 ^d
Diesel and Gas Rate Savings ^b	\$2,500	\$0 ^e
Total	\$64,979	\$54,769

- a. The original RFP listed the O&M savings for the Middle School Mechanical as \$50,000. These savings were broken up into three items to correctly reflect the phasing of the job.
- b. Stipulated ECM - meaning that CMTA would work hard to find and arrange for energy savings in utility bill rate changes and contract renegotiations but could not actually execute work without Taylor County personnel approval.
- c. Additional Telecom savings have been found by CMTA on the 1G Point-to-Point line from TCMS to TCHS and the 23 Channel PRI (Over the Top) line at the Board of Education. At this time, no changes have been made as Taylor County IT department is evaluating CMTA's solution and new providers for merit. If changes are made, Taylor County Schools will experience a total savings of \$6,836.52 annually.
- d. CMTA has recommended changing waste management providers to Taylor County Schools due to price increases and now understands that, due to mergers and acquisitions, now only one waste management provider is available to TCS.
- e. CMTA helped to find a new favorable rate for Diesel fuel purchasing however the rate was not able to be secured in time before market fluctuation drove the price above the level that the schools were already paying. These rates are able to be revisited should the district wish to secure another price when the current contracts expire.

Table 4.3 – Year 1 Total Savings

Taylor County Schools - First Year Savings		
Savings Method	Compared to Guaranteed Savings	Actual Savings
Guaranteed Energy Savings	\$56,963	\$88,556
Operational & Maintenance Savings	\$64,979	\$54,769
Service Contract Savings	\$12,000	\$12,000
Total	\$133,942	\$155,325

As shown in Table 4.3 above, this figure includes the Guaranteed Energy Savings, agreed upon Operational & Maintenance Savings, and the elimination of an existing Trane service contract on the building control systems.

Overall, in dollars, CMTA saved the district \$155,325 during the first year!

The following pages detail the Year 1 Energy Savings in units of energy as measured by the utility bills.

Table 4.4 – Year 1 Electric Usage

Taylor County Schools - Electric Usage			
Facility	Baseline Annual kWh	Compared to Guaranteed Savings	Actual Savings
Taylor County Middle School - Main Campus	1,315,344	455,894	502,224
Taylor County Middle School - Weight Lifting Facility	52,422 ^a	10,724 ^a	-4,118 ^a
Taylor County Primary + Intermediate Schools	2,009,125	173,789	444,005
Taylor County Board of Education	62,066	8,853	10,379
Taylor County Bus Garage	43,553	11,562	14,672
Taylor County High School	1,563,200	0	381,200
Total		660,822	1,348,362

^a These values adjusted for baseline adjustment due to new dressing building construction

Table 4.5 – Year 1 Gas Usage

Taylor County Schools - Gas Usage			
Facility	Baseline Annual Therms	Compared to Guaranteed Savings	Actual Savings
Taylor County Middle School - Main Campus	25,323	9,698	1,373

Table 4.6 – Year 1 Electric Demand

Taylor County Schools - Electric Demand			
Facility	Baseline Annual kW*	Compared to Guaranteed Savings	Actual Savings
Taylor County Middle School - Main Campus	4,296	851	1,635
Taylor County High School	5,625	267	1,030
Total		1,118	2,665

* Demand determined by measuring the Peak kVA or Metered Peak kW

During the first year of Measurement and Verification, the overall guarantee was met and exceeded by a substantial amount in units of energy. While some facilities would have experienced a small deficit, others experienced a large surplus, the sum satisfying the overall guarantee. **One of the highlights of the year 1 savings is that Taylor County Schools saved an additional 104% over the guarantee in electric kWh usage as well as 138% over the guarantee on electric kW demand.** This is largely due in part to the controls' reconfiguration at Taylor

County High School where CMTA discovered large inefficiencies in the scheduling of the rooftop units.

Table 4.7 –Cumulative Electric Usage District Wide

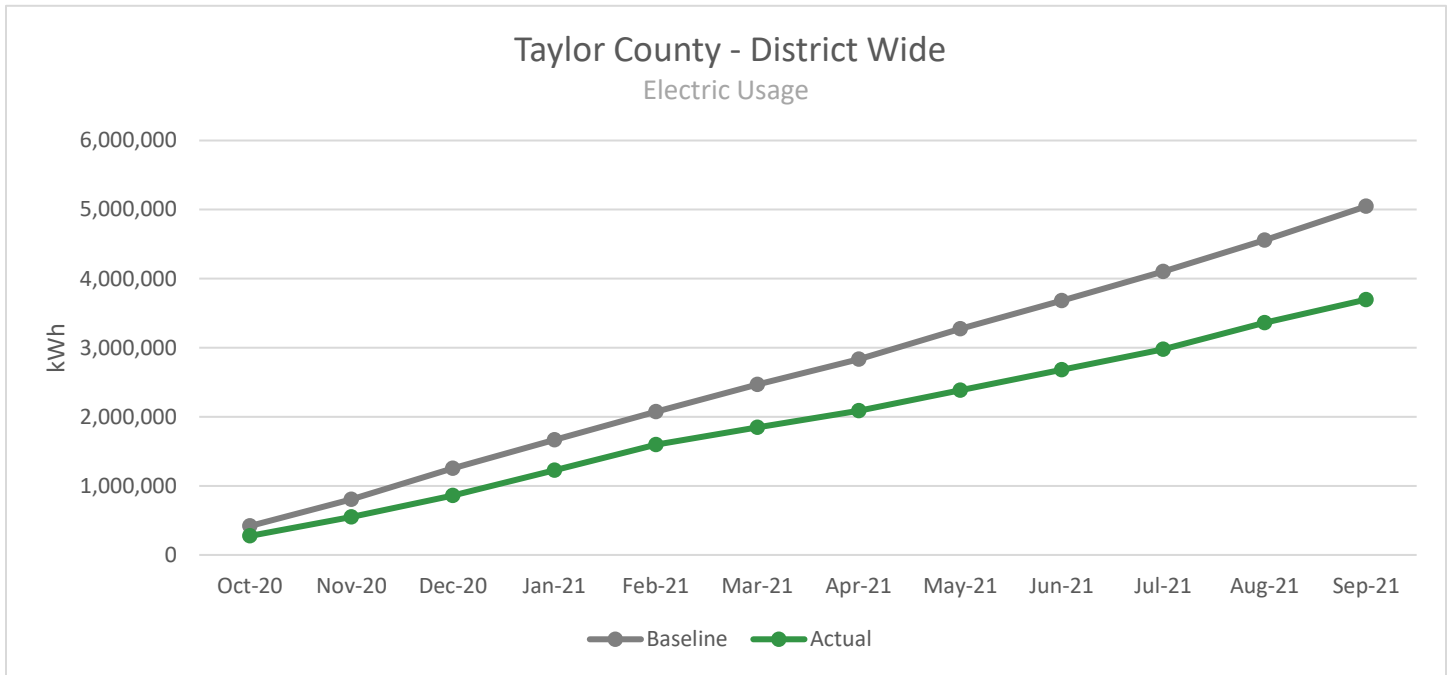


Table 4.8 –Monthly Electric Usage District Wide

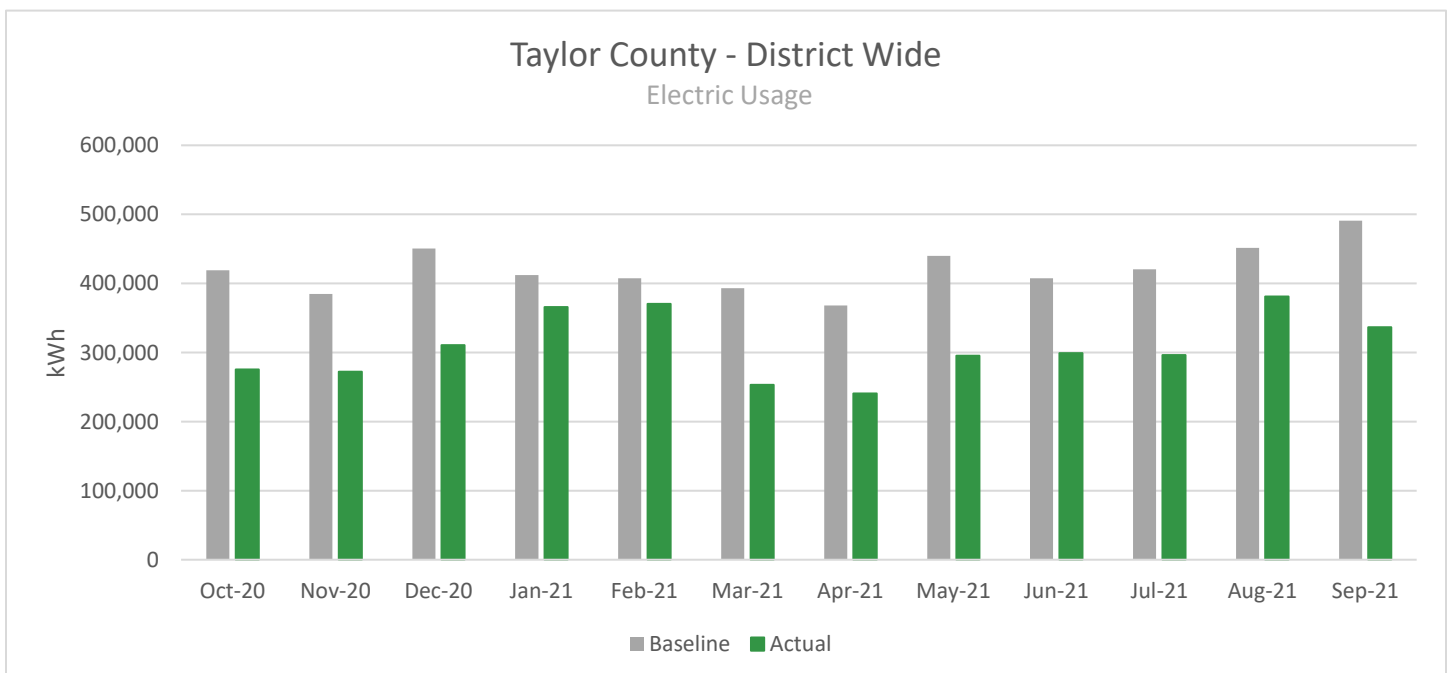


Table 4.9 –Cumulative Gas Usage District Wide

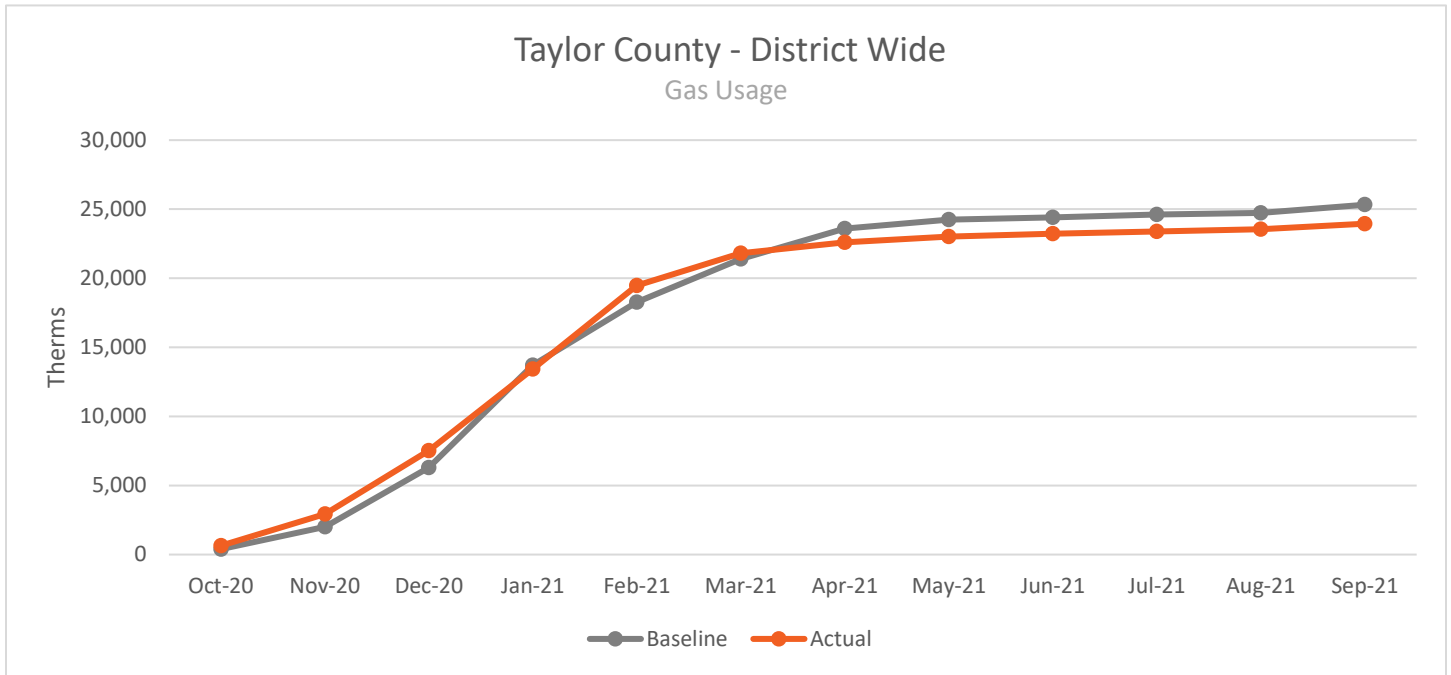


Table 4.10 –Monthly Gas Usage District Wide

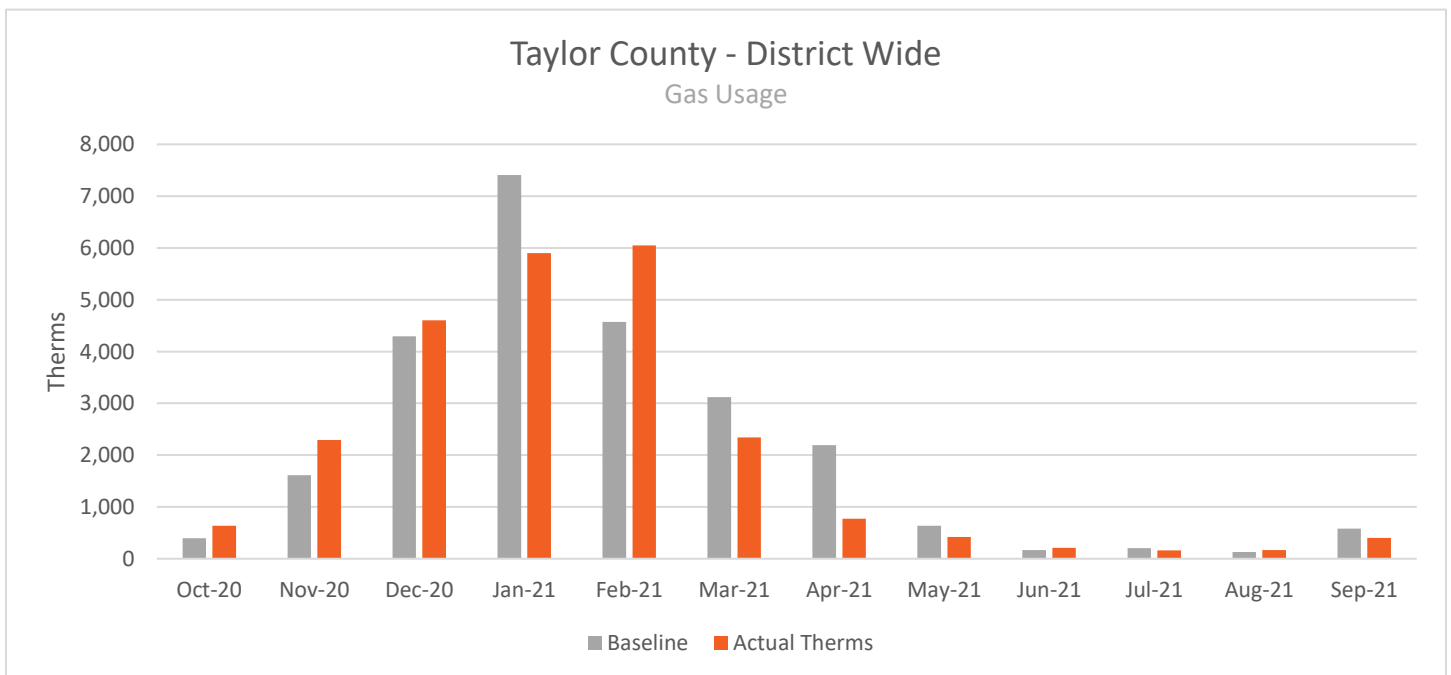


Table 4.11 –Cumulative Electric Demand District Wide

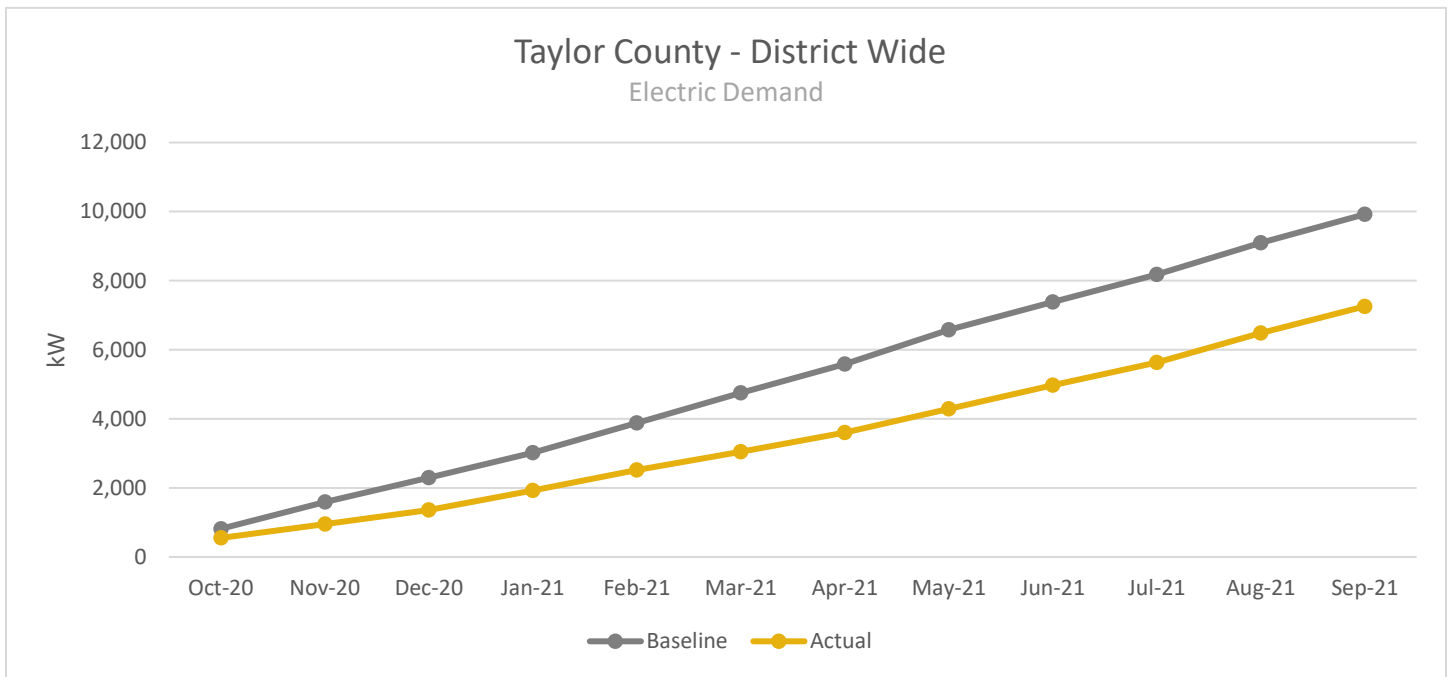


Table 4.12 –Monthly Electric Demand District Wide

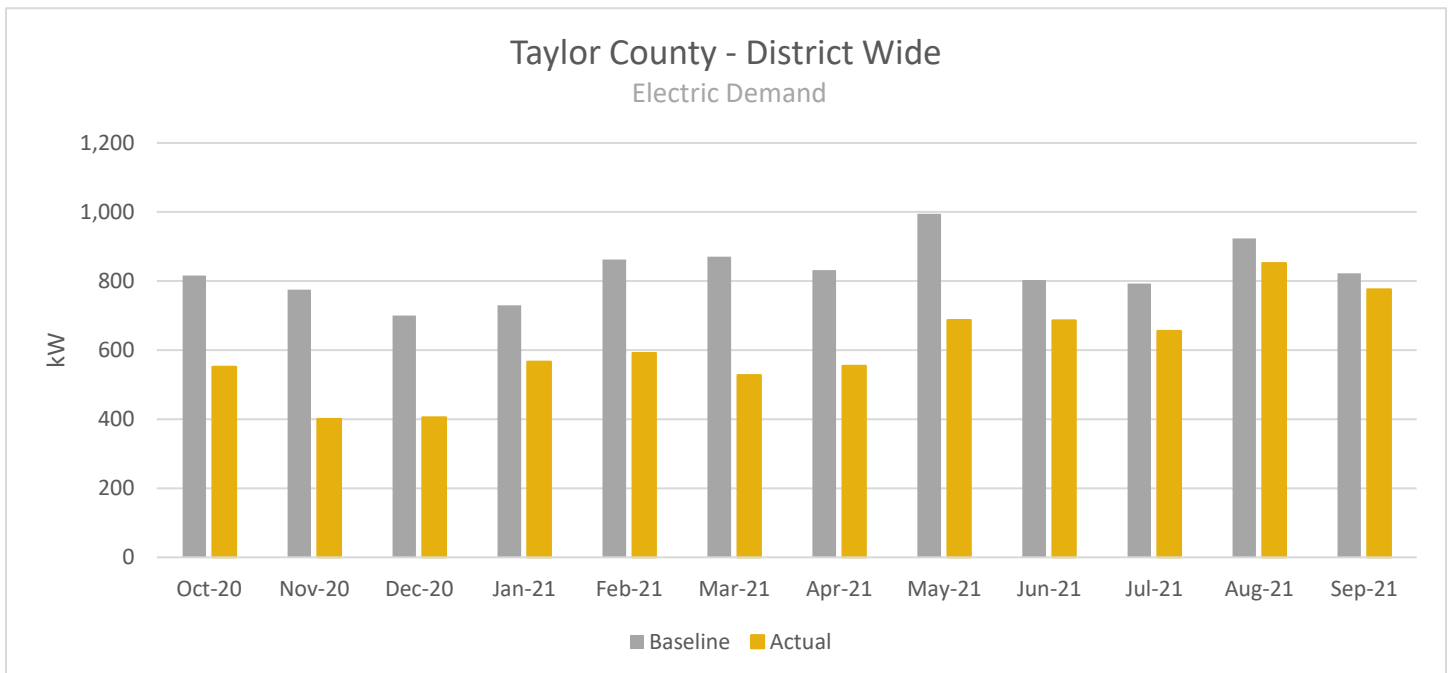
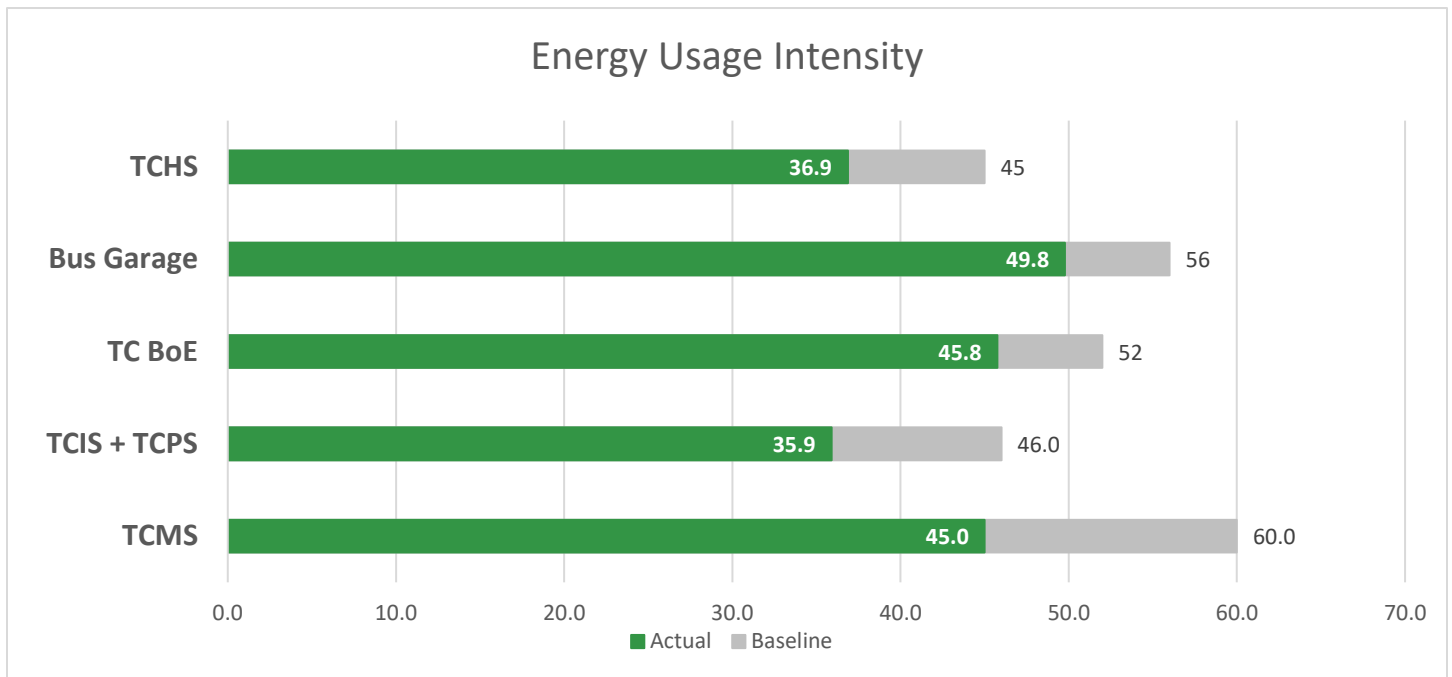


Table 4.13 – Resulting Energy Usage Intensity



5. Facility Breakdown

CMTA is proud to present to Taylor County Schools the individual performance data for each of the facilities that were included in our project. For each unit of energy at each facility there will be two tables that clearly depict their performance. The first is a cumulative representation of the school's baseline and NEW actual energy usage for the entire year. This shows how the facility is tracking post-project (actual) versus the pre-project (baseline) levels. The second is month-by-month, representing how your facilities performed each month. You will find that some months performed much better than the baseline while other months were just shy. The cumulative table best represents the performance of the construction period.

As described in Section 3 of this report and Exhibit E of the Guaranteed Energy Savings Contract, the following units of energy and respective facilities were measured as a part of this project:

Taylor County Schools - Electric Usage	
Facility	Account
Taylor County Middle School - Main Campus	3000-0040-4289
Taylor County Middle School - Weight Lifting Facility	3000-2154-0665
Taylor County Primary + Intermediate Schools	3000-0613-6174
	3000-0190-0301
Taylor County Board of Education	3000-0098-4777
Taylor County Bus Garage	3000-0208-1663
Taylor County High School	108894001

Taylor County Schools - Gas Usage	
Facility	Account
Taylor County Middle School - Main Campus	3007824918

Taylor County Schools - Electric Demand	
Facility	Account
Taylor County Middle School - Main Campus	3000-0040-4289
Taylor County High School	108894001

Taylor County Primary + Intermediate Schools:

Table 5.1 – Year 1 Cumulative Electric Usage TCPS + TCIS

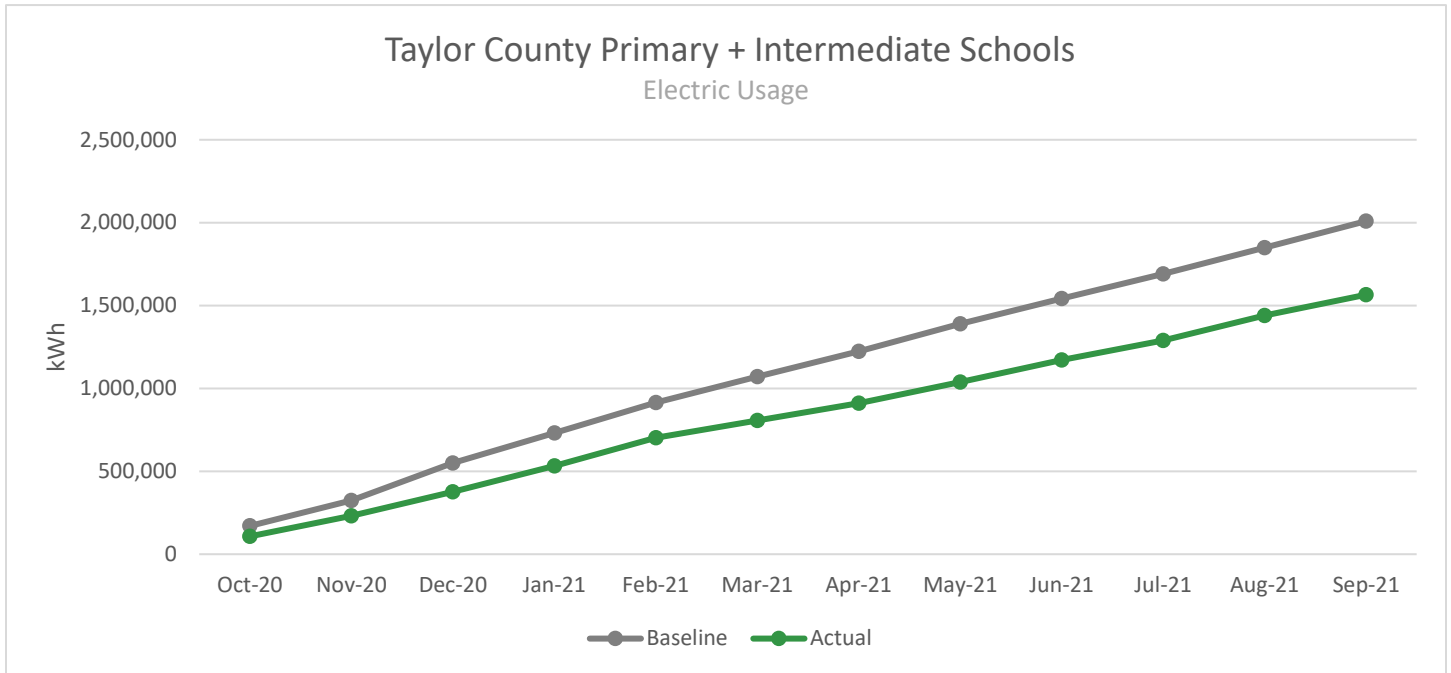
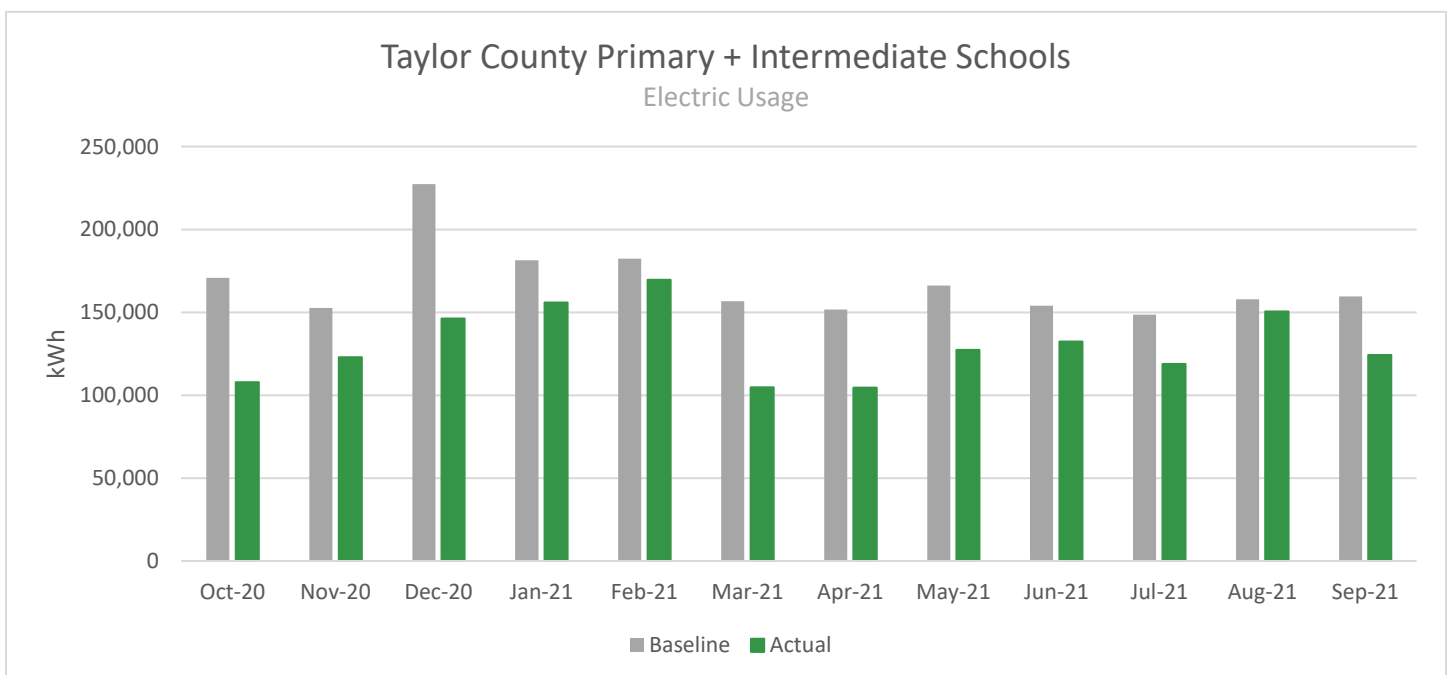


Table 5.2 – Year 1 Monthly Electric Usage TCPS + TCIS



Taylor County Middle School – Main Campus:

Table 5.3 – Year 1 Cumulative Electric Usage TCMS

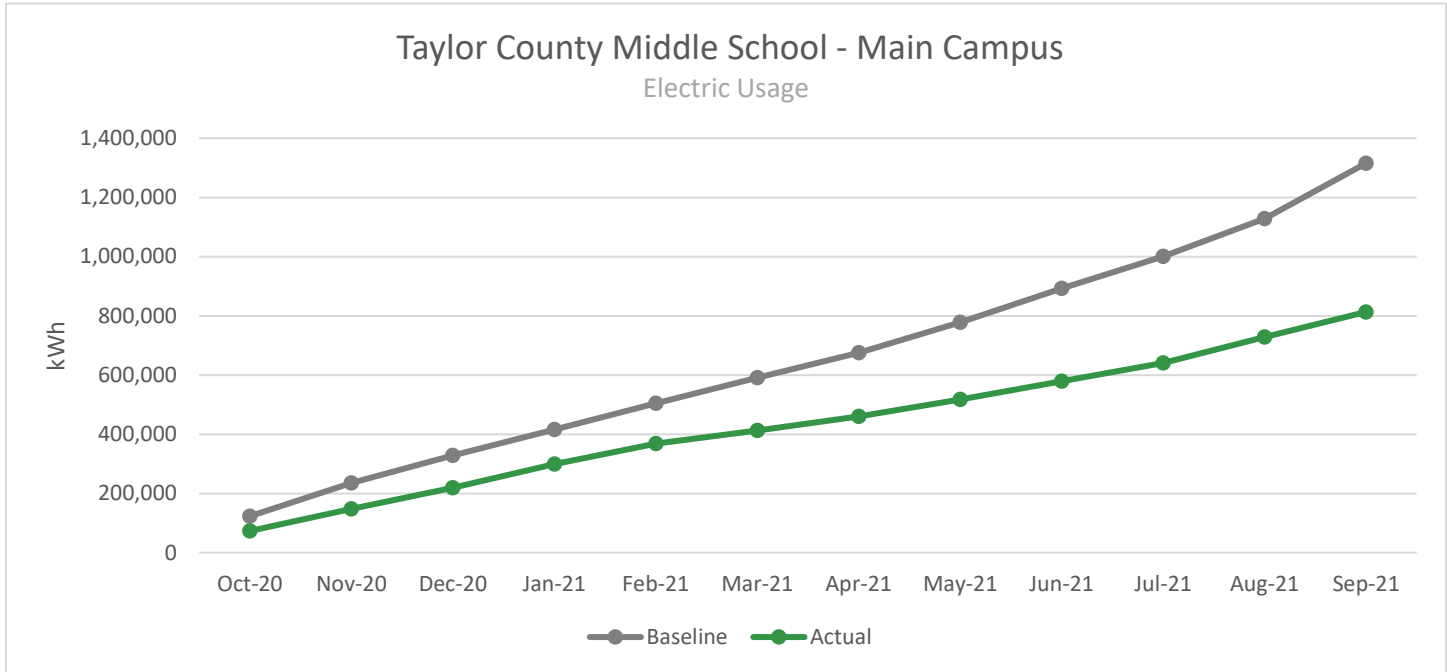


Table 5.4 – Year 1 Monthly Electric Usage TCMS

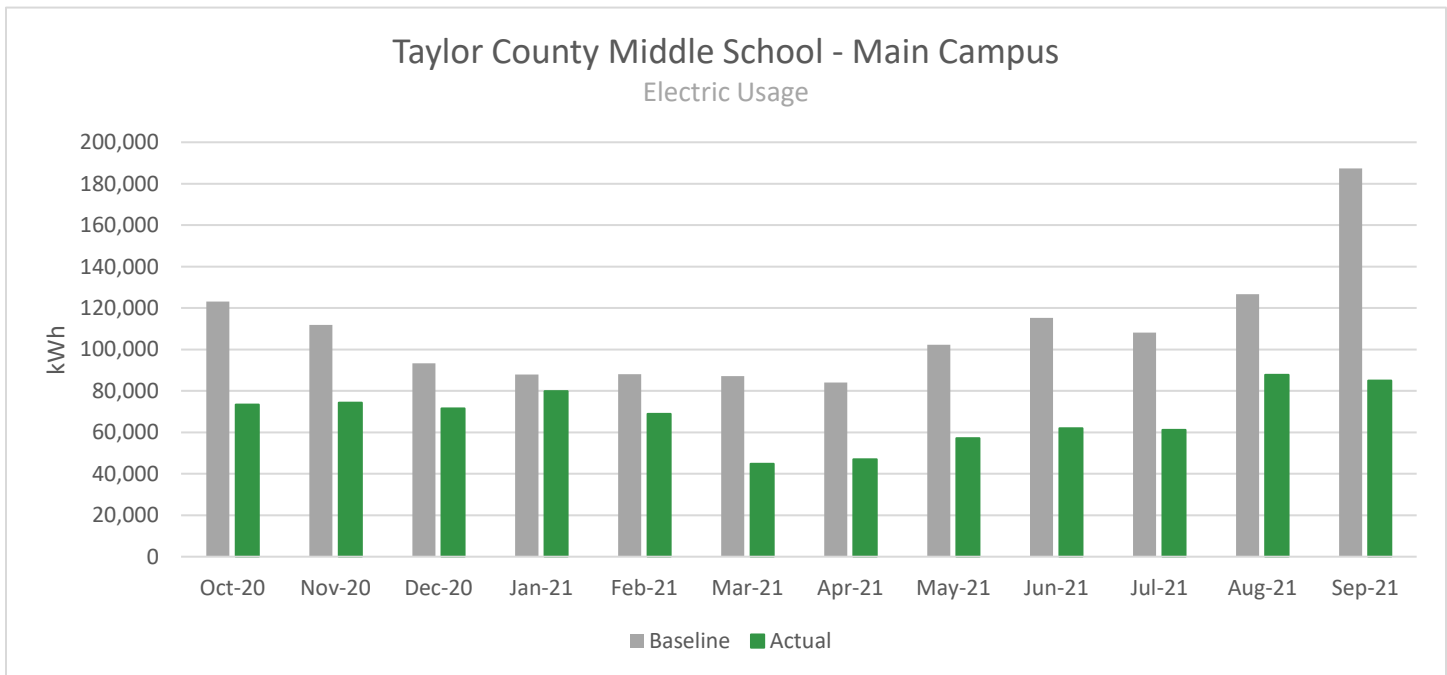


Table 5.5 – Year 1 Cumulative Gas Usage TCMS

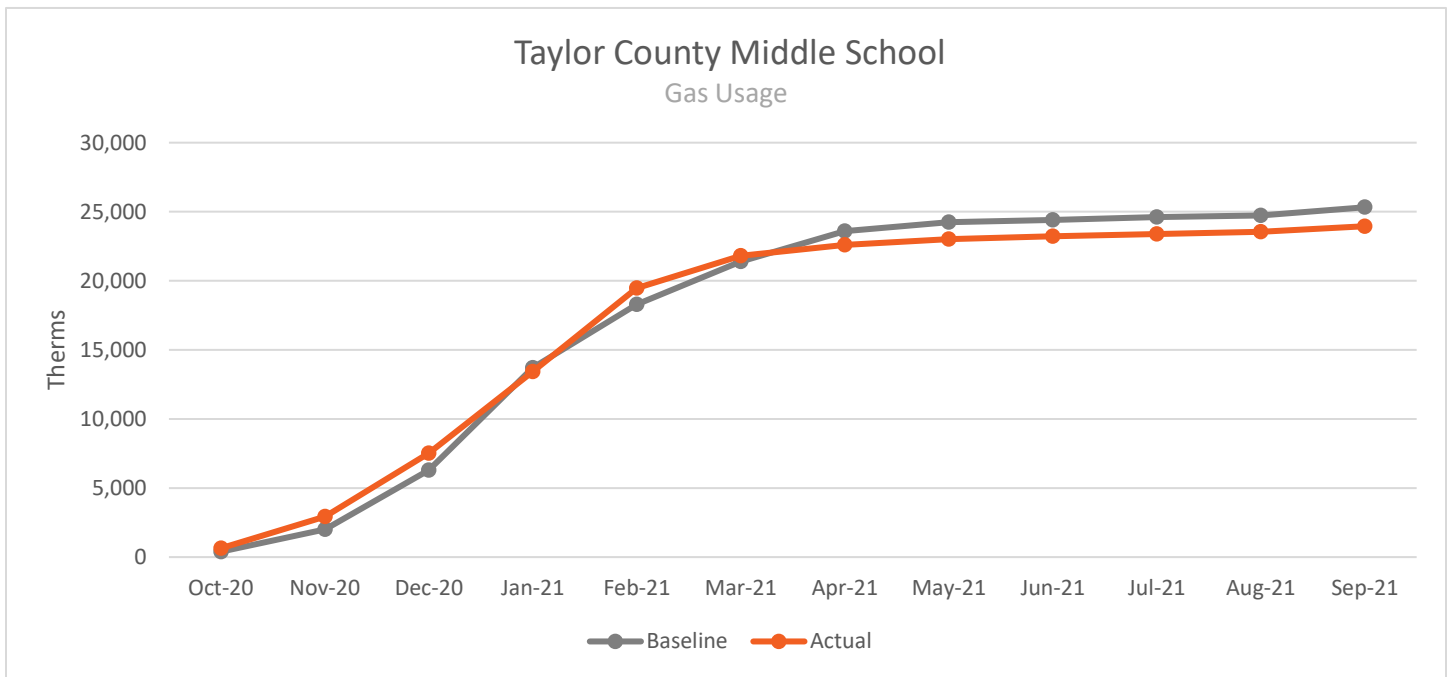


Table 5.6 – Year 1 Monthly Gas Usage TCMS

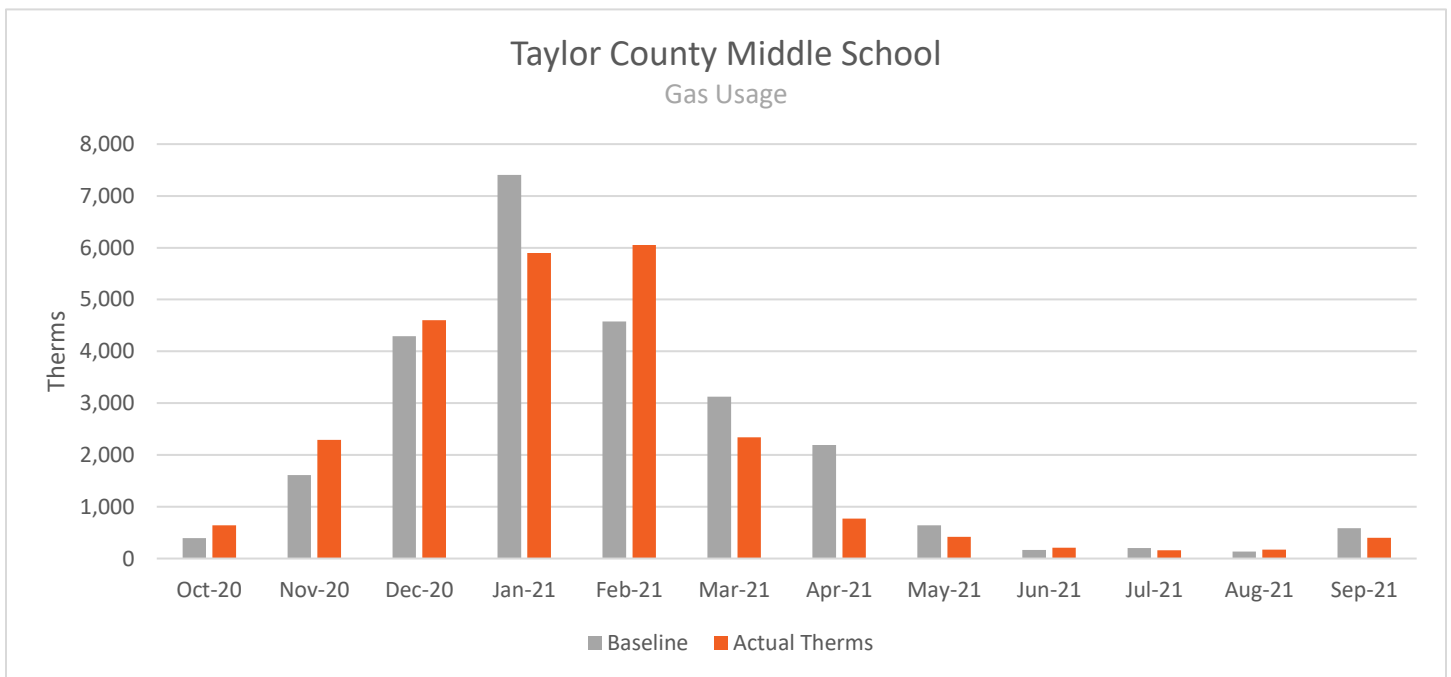


Table 5.7 – Year 1 Cumulative Electric Demand TCMS

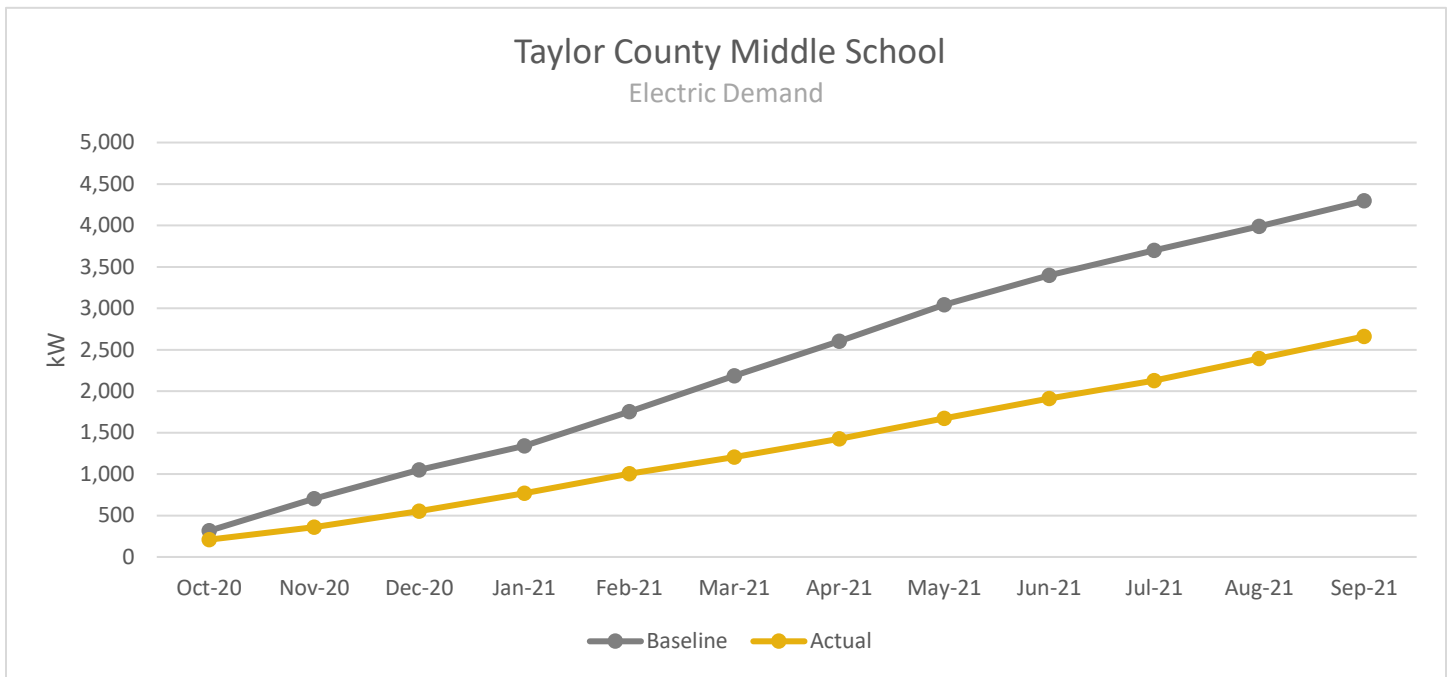
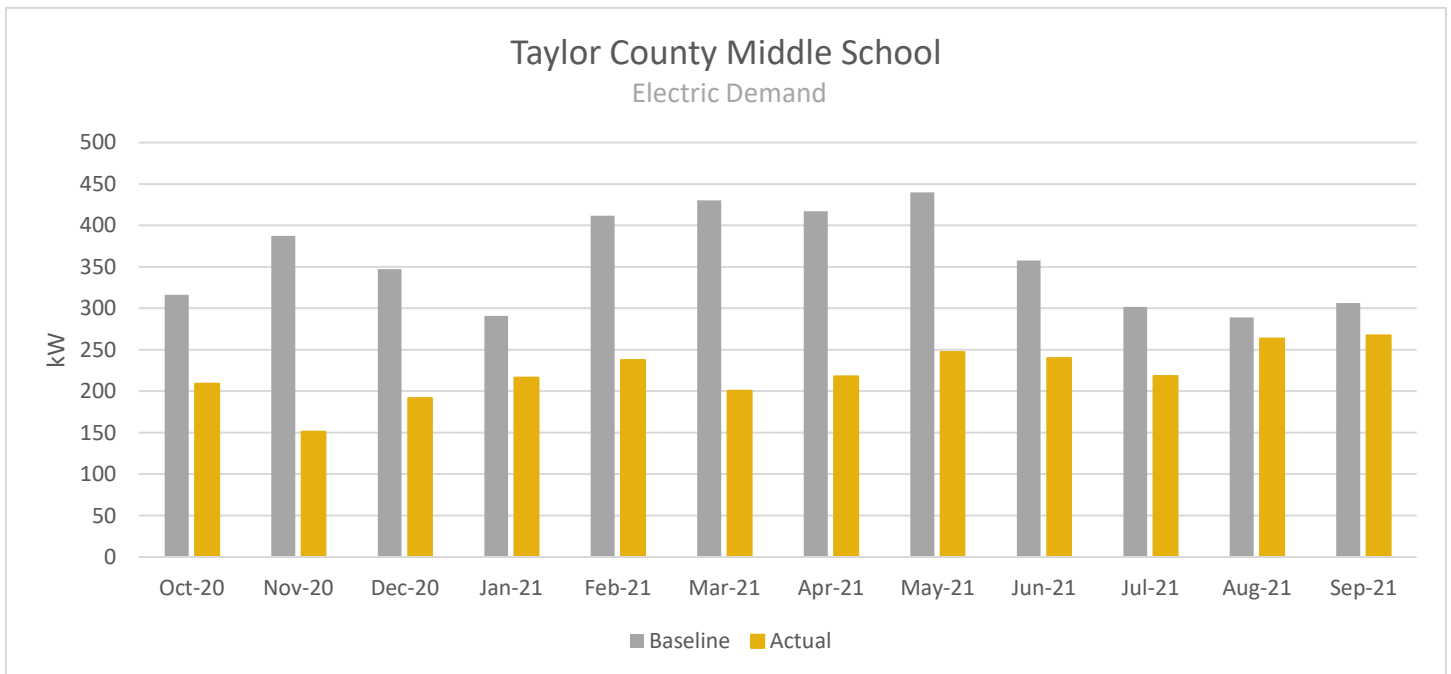


Table 5.8 – Year 1 Monthly Electric Demand TCMS



Taylor County High School:

Table 5.9 – Year 1 Cumulative Electric Usage TCHS

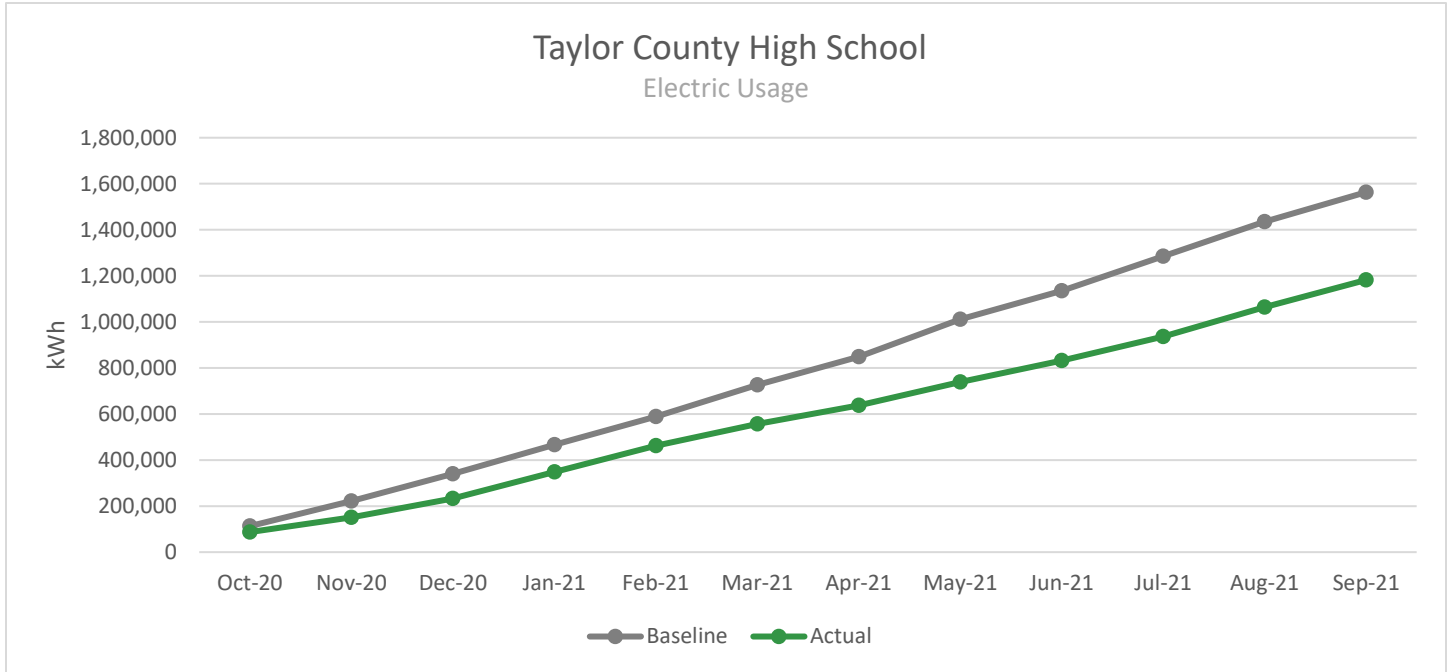


Table 5.10 – Year 1 Monthly Electric Usage TCHS

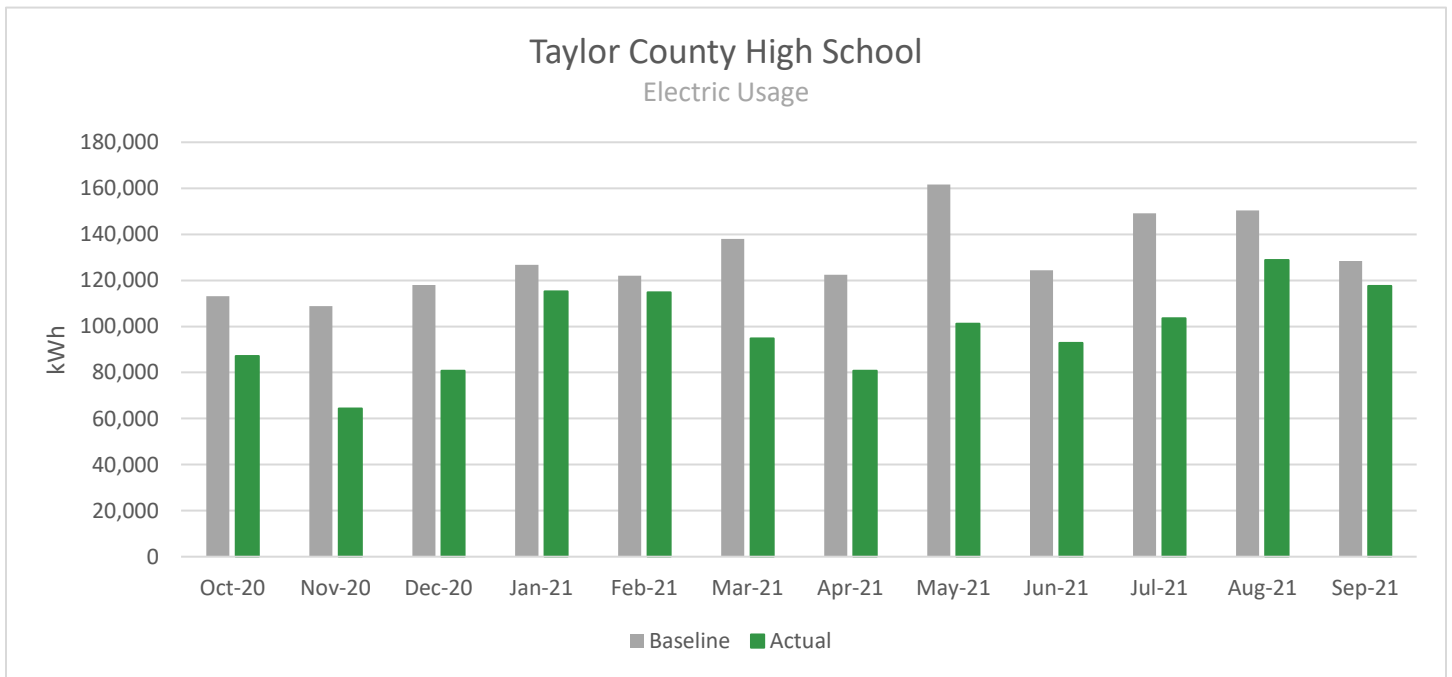


Table 5.11 – Year 1 Cumulative Electric Demand TCHS

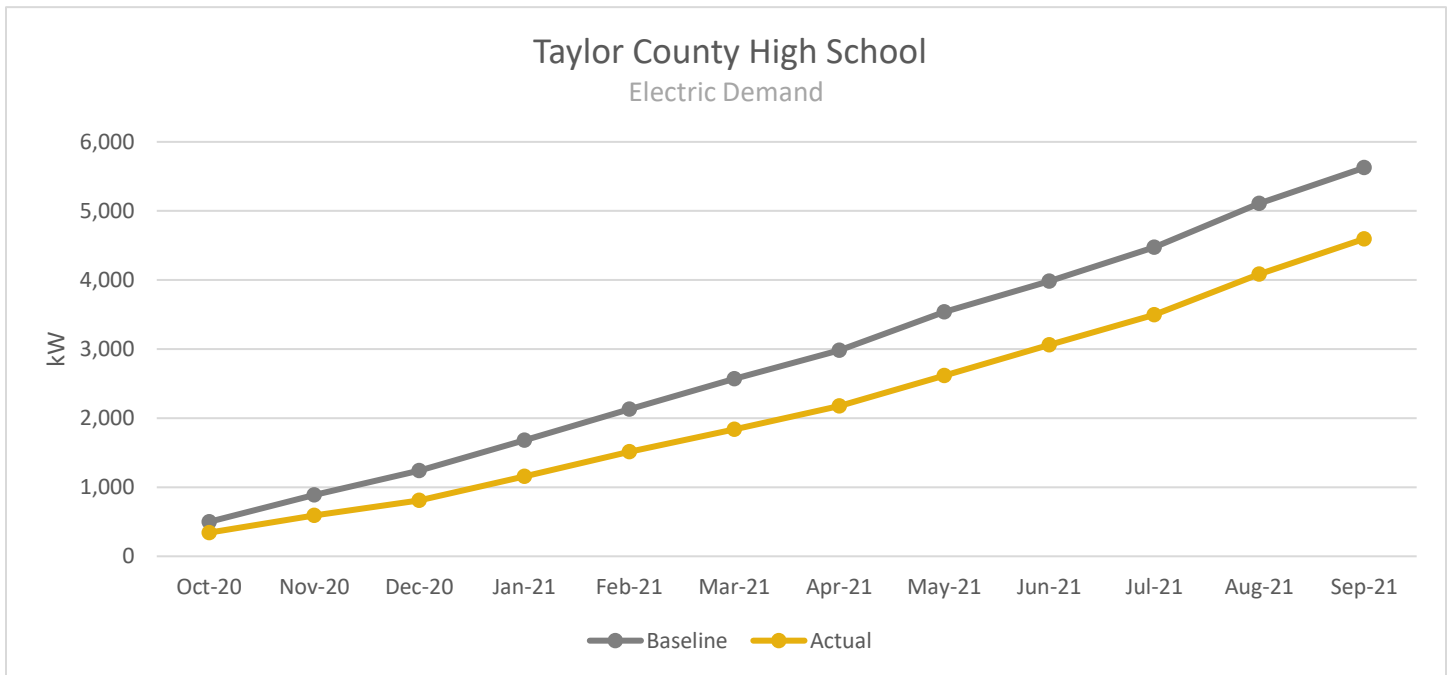
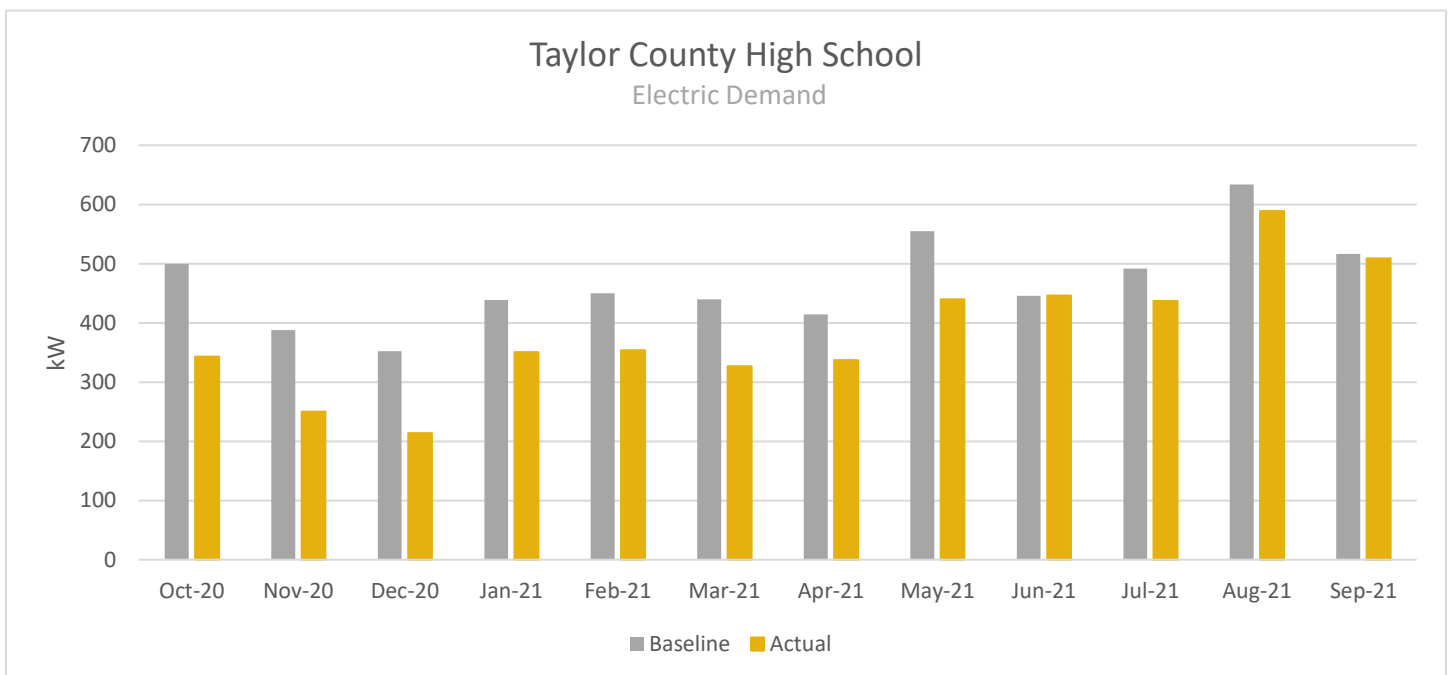


Table 5.12 – Year 1 Monthly Electric Demand TCHS



Taylor County Board of Education:

Table 5.13 – Year 1 Cumulative Electric Usage TCBoE

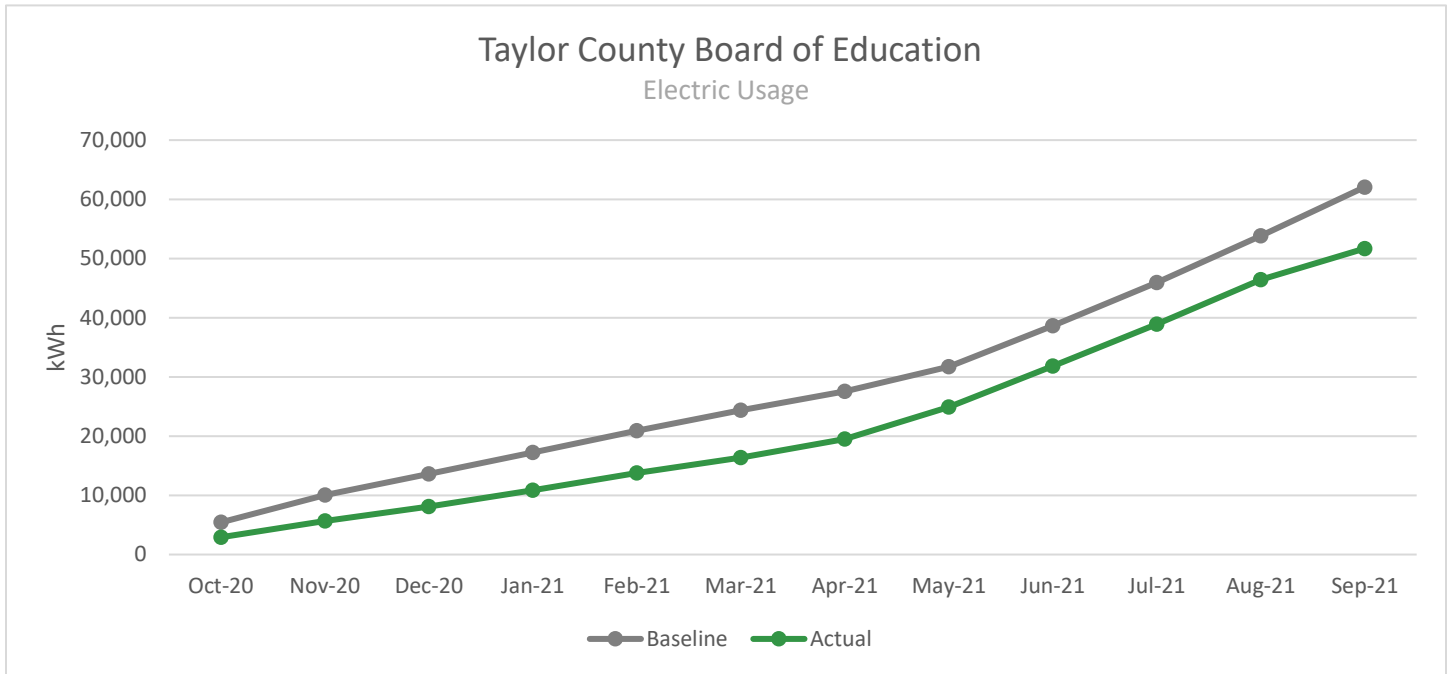
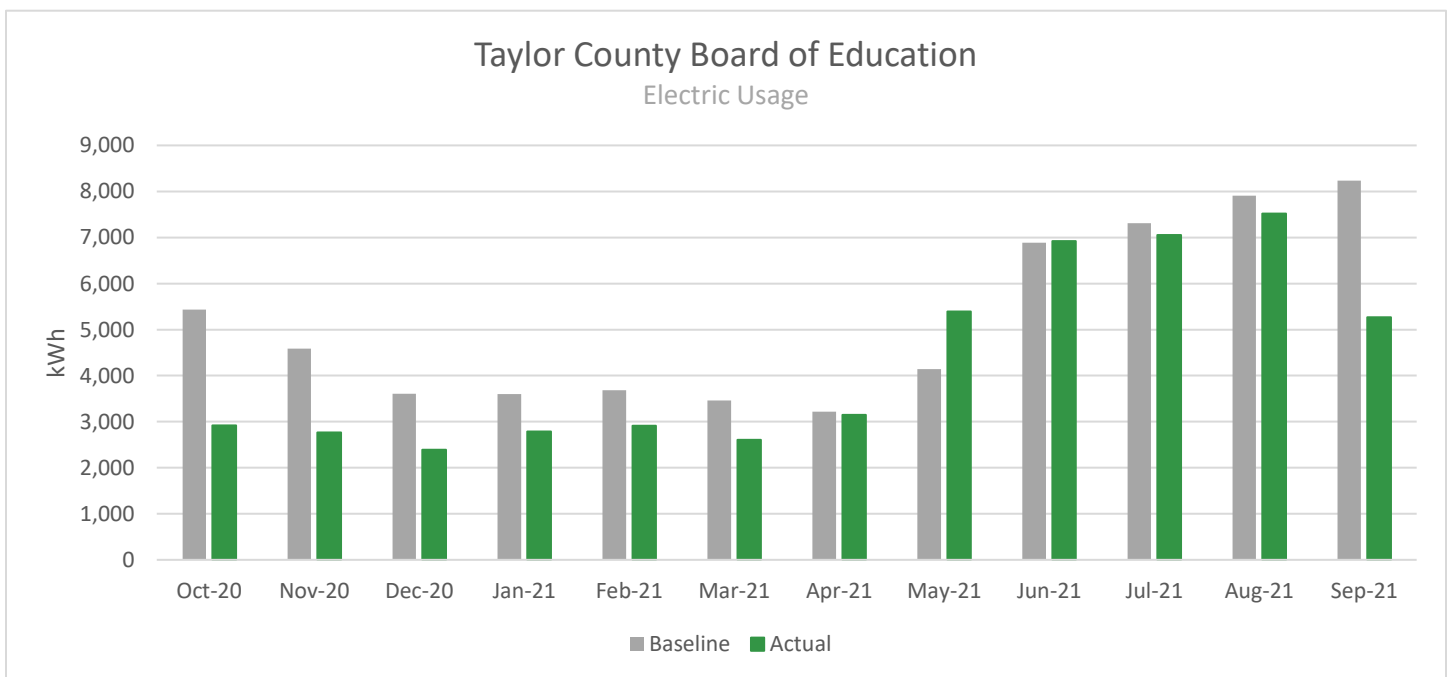


Table 5.14 – Year 1 Monthly Electric Usage TCBoE



Taylor County Bus Garage:

Table 5.15 – Year 1 Cumulative Electric Usage Bus Garage

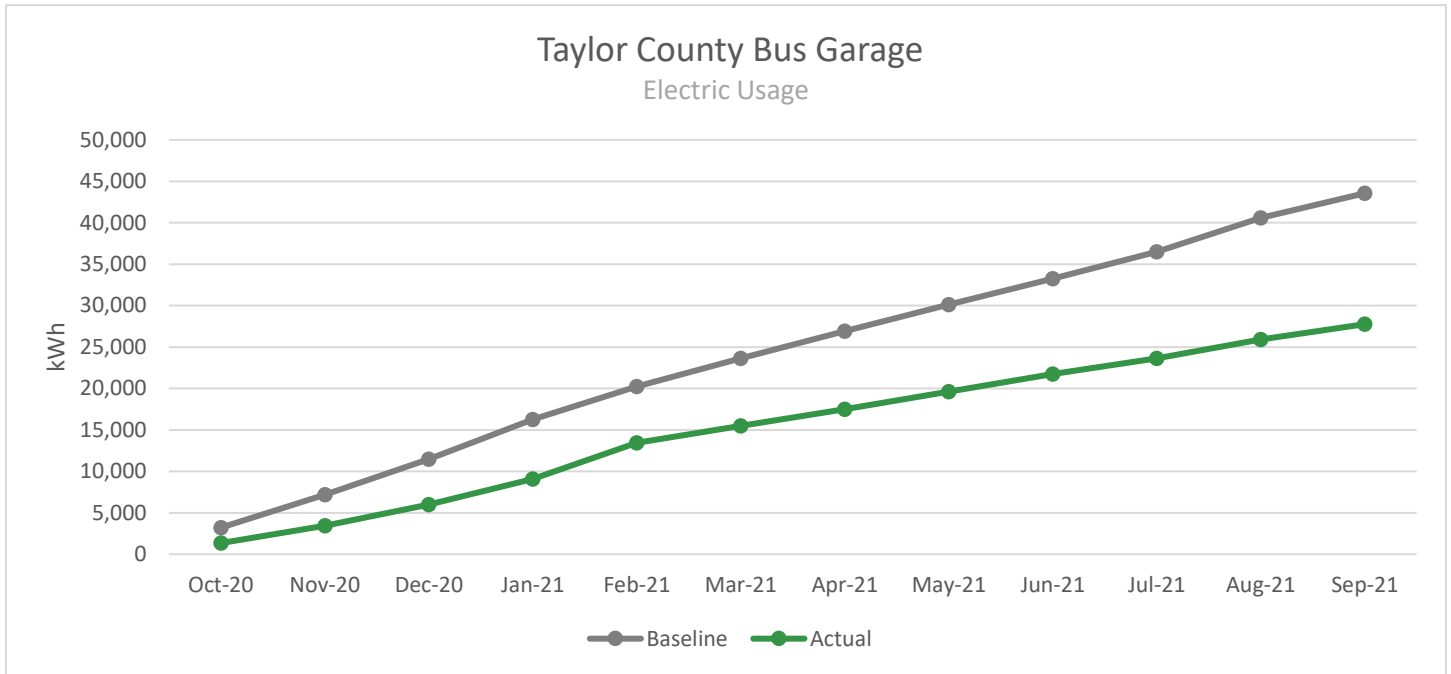
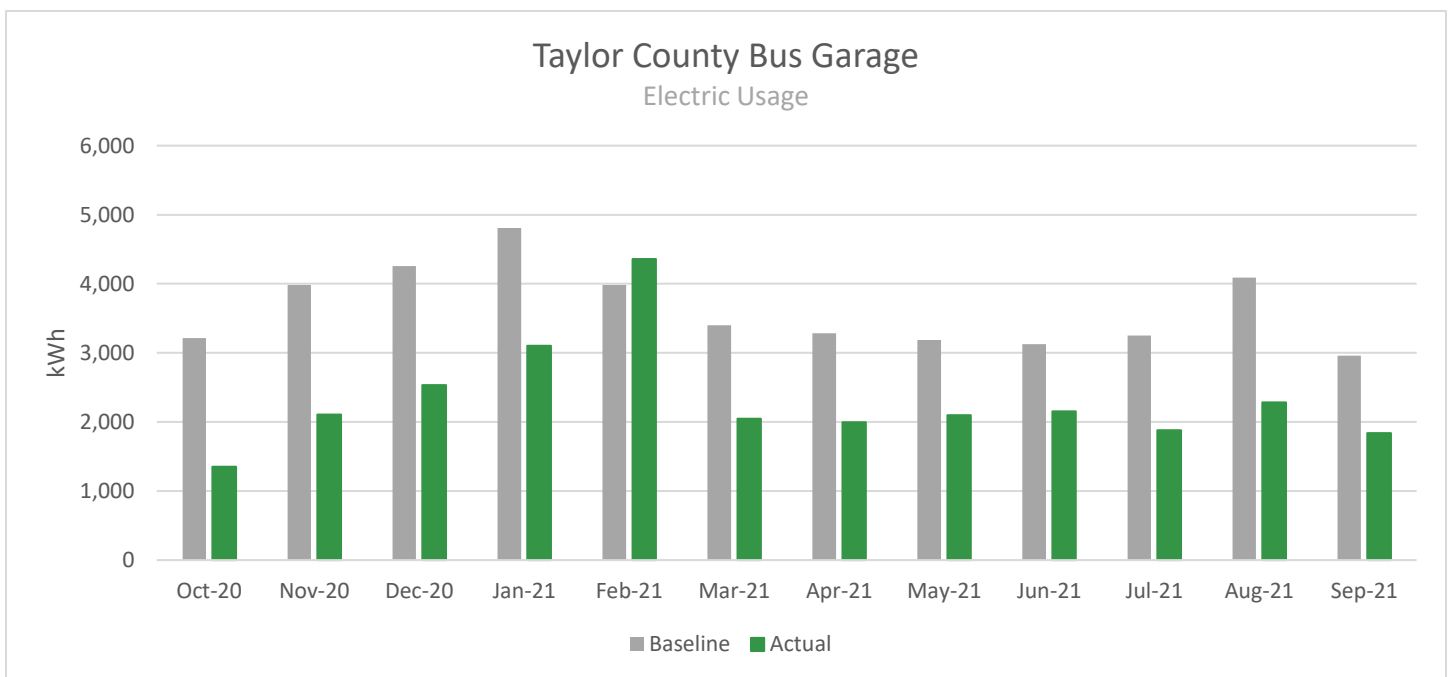


Table 5.16 – Year 1 Monthly Electric Usage Bus Garage



Taylor County Middle School – Weight Lifting Facility:

During this first year of M&V, the Weightlifting Building was expanded by building an adjoined building called the Dressing Room building. This building was tied to the Weightlifting Building's existing electric meter which CMTA had affected by performing a lighting retrofit of the facility and guaranteeing those results. This therefore merits a baseline adjustment to determine the new energy use from which to measure energy savings. An energy model of the Dressing Room was thus constructed using a US Department of Energy approved software program called EQuest3-65. The energy use output predicted by that program was added to the Weightlifting Building's energy use to establish a new baseline below. Even with the adjusted baseline the savings are negative for this building, especially in the winter months November to February. While not significant to the overall savings of the project, CMTA will continue to monitor to these buildings to determine why these savings are deficient.

Table 5.17 – Year 1 Cumulative Electric Usage TCMS Weight Lifting

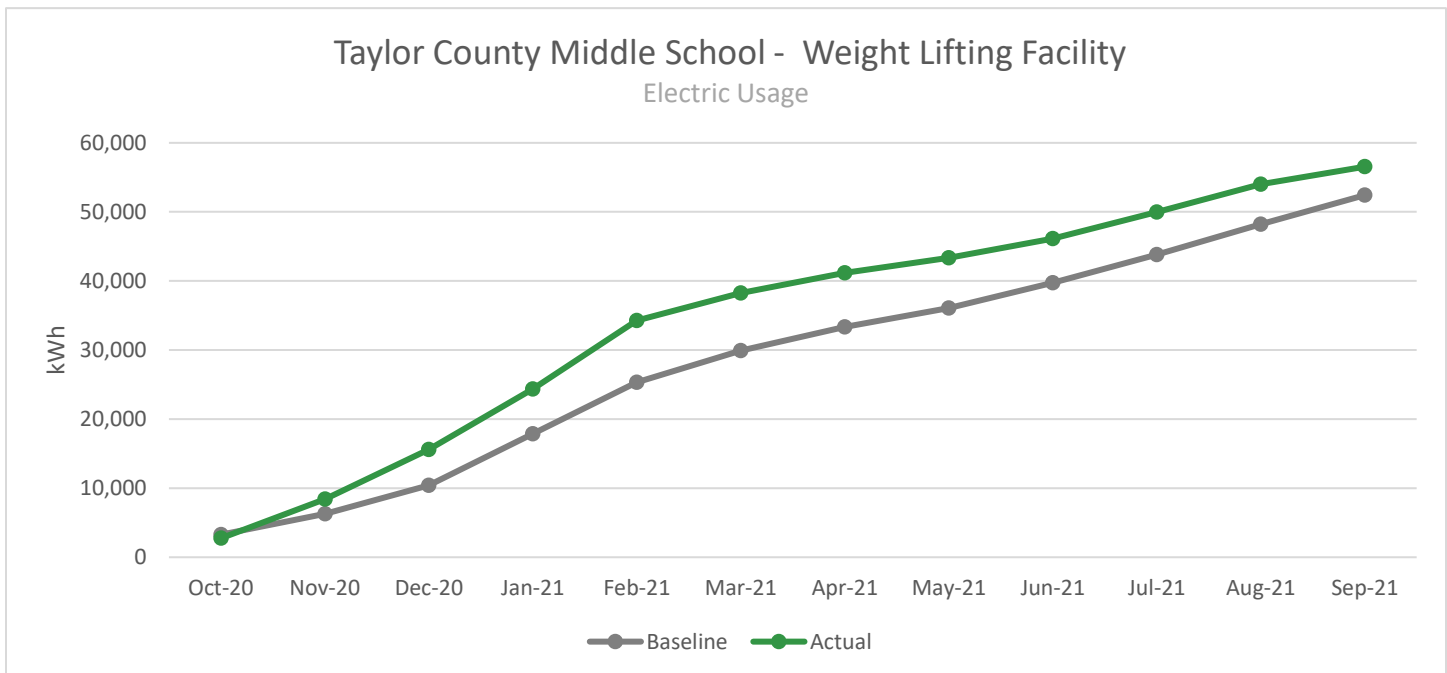


Table 5.18 – Year 1 Monthly

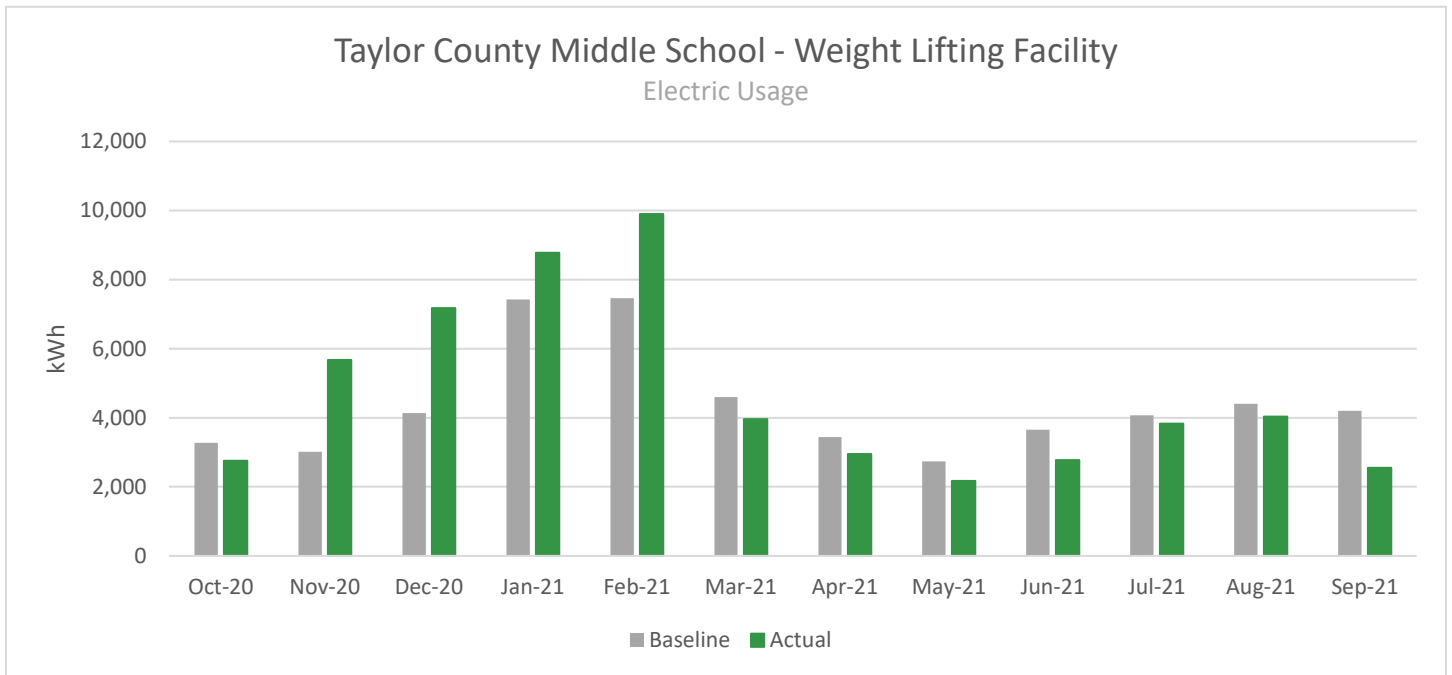


Exhibit G – Support Services Agreement

In coordination with *Exhibit E - Energy Savings Guarantee*, CMTA Energy Solutions will perform the Measurement and Verification (M&V) offerings stated below and outlined in detail in *Exhibit F* each year.

1. CMTA Energy Solutions will review monthly utility bills for all schools affected by the project and will track the performance for the duration of the contract.
2. CMTA Energy Solutions will have remote access to building automation systems that are web-based and will be granted site access to review building automation systems that are not web-based. An engineer will review system operation at least annually and more often as necessitated by the building energy performance.
3. CMTA Energy Solutions will provide an annual reconciliation report to Russellville Independent School District Board of Education outlining the performance of the energy conservation measures for the last year.
4. The cost of this M&V Service is included in the project cash flow as a separate annual cost that is in addition to the total project cost. Therefore, this fee will be billed annually for years 2 through 20. The cost will be escalated per year as seen in the below table.
5. Russellville Independent School District can discontinue the M&V Service at any time. If cancelled, energy savings will no longer be guaranteed.

Table H.1 – M&V Service Cost Offering

Russellville Independent School District		
	Year	M&V
1	2026	\$0
2	2027	\$4,120
3	2028	\$4,243
4	2029	\$4,370
5	2030	\$4,502
6	2031	\$4,637
7	2032	\$4,776
8	2033	\$4,919
9	2034	\$5,067
10	2035	\$5,219
11	2036	\$5,375
12	2037	\$5,536
13	2038	\$5,703
14	2039	\$5,874
15	2040	\$6,050
16	2041	\$6,231
17	2042	\$6,418
18	2043	\$6,611
19	2044	\$6,809
20	2045	\$7,014

Exhibit H – BG-1, Method, Cost of Financing

BG1 Project Application Form (Revised)

(Ref# 22068)

Form Status: Saved

Tier 2 Project: RHS HVAC Project

BG Number: 25-108

Status: Active

District: Russellville Independent (HB678) (523)

Phase: Project Initiation ([View Checklist](#))

Construction Delivery Method

Procurement Standard

Reason for Revision

Emergency

General Contractor

Model Procurement

Change in cost estimate

No

Project Type and Description

Applicable Items

New Building	No
Addition	No
Major Renovation	No
GESC	No
Roofing	No
HVAC	Yes
ADA Compliance	No
Life Safety	Yes
Security	No
Minor Project	No
New Relocatable Classroom	No
Equipment / Furnishings Procurement	Yes
Equipment / Furnishings Procurement Description	
LED flat panels, HVAC equipment, ceilings.	
Site Acquisitions	No

District Facility Plan (DFP)

Compliance with 702 KAR 4:180 and 702 KAR 4:160

DFP Approval Date 1/31/2021

DFP Priority

2c.1.1 -

Estimated Cost: \$10,177,255.00

Facility: No Data

Project Not Listed on DFP No

Inventory

Facility Name

Scope

Provide a Complete Narrative of the Proposed Project

Performance Based Design-Build Project at Russellville High School. This project includes an HVAC renovation in addition to lighting fixtures, ceilings, and life safety upgrades.

Work Related to Project But Excluded from this BG1 Scope

Financial Plan

Probable Costs

Proposed Plan to Finance Application

Total Construction Cost	\$2,701,064.00
Construction Contingency	\$0.00
Architect / Engineer Fee	\$0.00
Construction Manager Fee	
Fiscal Agent Fee	\$26,520.00
Bond Discount	\$67,600.00
Equipment / Furnishings	\$564,636.00
Equipment / Computers	
Technology Network System (KETS)	
Site Acquisition	
Site Survey	
Geotechnical Investigations	
Special Inspections	
Commissioning	
Advertising	
Printing	

Other Probable Costs

Title	Amount
Print, Plan Rev, T&B, Commissioning, SI	\$0.00
Bank & Rating	\$20,180.00
No Data	
Total Project Cost	\$3,380,000.00

Funds Available

Bond Sale - SFCC	
Bond Requirement - SFCC	
Local FSPK Bond Sale	\$3,380,000.00
Local General Fund Bond Sale	
Cash - SFCC Requirement	
Cash - Building Fund	
Cash - Capital Outlay	
Cash - Investment Earnings	
Cash - General Fund	
City - County - KYTC Reimbursement	
KETS	
Federal Funds	
External Partner Agreement	

Residual Funds

BG Number	Fund Source	Amount
No Data	No Data	No Data
Residual Funds Total:		\$0.00

Other Available Funds

Title	Amount
No Data	
No Data	
No Data	
Total Funds Available	\$3,380,000.00

BG1 Signature Page (Online Form Ref# 22068)

The signing of this financial document certifies the above stated funds are available and designated for this project during this fiscal year.

Superintendent	Date
Finance Officer	Date
Chairman	Date

NOTE: Any district anticipating the financing of this and/or other projects in a combined school revenue Bond should discuss the financing with the Director/Branch Manager, KDE - District Financial

Exhibit I – Anticipated Progress and Payment Schedule

Table I.1 – Anticipated Progress and Payment Schedule

Russellville Independent School District Anticipated Payment Schedule					
Month	Invoice	Year	% Draw	\$ Value	Work Performed
March	1	2025	13%	\$339,364	Project Development, Design Engineering, Mobilization
April	2	2025	3%	\$80,000	LED Installation, Ductwork Install
May	3	2025	9%	\$250,000	LED Installation, Unit Ventilator Demolition, Ceiling Demolition, Ductwork Install
June	4	2025	35%	\$950,000	WSHP & DOAS Install, Firestop Install, Perimeter Air Sealing Install
July	5	2025	26%	\$700,000	WSHP & DOAS Install, Firestop Install, Perimeter Air Sealing Install, Ceiling Installation
August	6	2025	8%	\$225,000	WSHP & DOAS Install, Firestop Install, Perimeter Air Sealing Install, Test & Balance
September	7	2025	5%	\$140,000	Punchlists, Training, Commissioning
October	8	2025	1%	\$16,700	Project Closeout & Record Documentation
			100%	\$2,701,064	

Should any of the events be delayed beyond the anticipated date, the project schedule shall be adjusted accordingly.

Exhibit J – Sample AIA Application for Payment

AIA® Document G742™ – 2015

Application and Certificate for Payment for a Design-Build Project

TO OWNER:	PROJECT:	APPLICATION NO: 001	Distribution to:
		PERIOD TO: April 30, 2022	OWNER: <input checked="" type="checkbox"/>
FROM		CONTRACT FOR: General Construction	ARCHITECT: <input type="checkbox"/>
DESIGN-BUILDER	CMTA, Inc. 9519 Civic Way, Suite 100 Prospect, KY 40059	CONTRACT DATE: April 18, 2022	DESIGN-BUILDER: <input type="checkbox"/>
		PROJECT NOS: ZHC22 / BG22-393	FIELD: <input type="checkbox"/>
			OTHER: <input type="checkbox"/>

DESIGN-BUILDER'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. AIA Document G743™, Continuation Sheet for a Design-Build Project, is attached.

1. ORIGINAL CONTRACT SUM	\$505,984.00
2. NET CHANGE BY CHANGE ORDERS	\$0.00
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$505,984.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G743)	\$44,779.50
5. RETAINAGE:	
a. 10.00 % of Completed Work (Column D + E on G743)	\$4,477.95
b. 0 % of Stored Material (Column F on G743)	\$0.00
Total Retainage (Lines 5a + 5b or Total in Column I of G743)	\$4,477.95
6. TOTAL EARNED LESS RETAINAGE	\$40,301.55
(Line 4 Less Line 5 Total)	
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT	\$0.00
(Line 6 from prior Certificate)	
8. CURRENT PAYMENT DUE	\$40,301.55
9. BALANCE TO FINISH, INCLUDING RETAINAGE	
(Line 3 less Line 6)	\$465,682.45

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$0.00	\$0.00
Total approved this Month	\$0.00	\$0.00
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order		\$0.00

The undersigned Design-Builder certifies that to the best of the Design-Builder's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Design-Build Documents, that all amounts have been paid by the Design-Builder for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

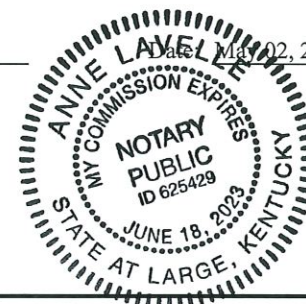
DESIGN-BUILDER:

By: Avery Colyer Date: May 02, 2022
Avery Colyer (May 2, 2022 10:20 EDT)
 State of: Kentucky

County of: Jefferson

Subscribed and sworn to before
 me this 2 day of May

Notary Public [Signature]
 My Commission expires: June 18, 2023



CERTIFICATE FOR PAYMENT

In accordance with the Design-Build Documents, based on the Owner's review of the Work and the data comprising this application, the Owner determines the following amount is properly due and owing to the Design-Builder.

AMOUNT DUE \$40,301.55

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

OWNER:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Design-Builder named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Design-Builder under this Contract.

AIA® Document G743™ – 2015

Continuation Sheet for a Design-Build Project

AIA Document G742™, Application and Certification for Payment, containing Design-Builder's signed certification is attached.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO:

APPLICATION DATE:

PERIOD TO:

OWNER'S PROJECT NO:

001

May 02, 2022

April 30, 2022

ZHC22 / BG22-393

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D + E + F)	%(G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
1	Solar Labor - HCHS	23,648.20	0.00	0.00	0.00	0.00	0.00%	23,648.20	0.00
2	Solar Labor - ELC	18,408.72	0.00	0.00	0.00	0.00	0.00%	18,408.72	0.00
3	Solar Labor - SHES	23,518.91	0.00	0.00	0.00	0.00	0.00%	23,518.91	0.00
4	Solar Labor - SMS	18,408.72	0.00	0.00	0.00	0.00	0.00%	18,408.72	0.00
5	Solar Labor - NMS	26,198.73	0.00	0.00	0.00	0.00	0.00%	26,198.73	0.00
6	Solar Labor - BGES	25,018.15	0.00	0.00	0.00	0.00	0.00%	25,018.15	0.00
7	Solar Labor - CA	18,408.72	0.00	0.00	0.00	0.00	0.00%	18,408.72	0.00
8	Solar Labor - NJES	22,462.40	0.00	0.00	0.00	0.00	0.00%	22,462.40	0.00
9	Solar Material - HCHS	36,378.66	0.00	0.00	0.00	0.00	0.00%	36,378.66	0.00
10	Solar Material - ELC	24,323.63	0.00	0.00	0.00	0.00	0.00%	24,323.63	0.00
11	Solar Material - SHES	30,355.96	0.00	0.00	0.00	0.00	0.00%	30,355.96	0.00
12	Solar Material - SMS	35,154.55	0.00	0.00	0.00	0.00	0.00%	35,154.55	0.00
13	Solar Material - NMS	31,087.55	0.00	0.00	0.00	0.00	0.00%	31,087.55	0.00
14	Solar Material - BGES	24,817.92	0.00	0.00	0.00	0.00	0.00%	24,817.92	0.00
15	Solar Material - CA	23,524.77	0.00	0.00	0.00	0.00	0.00%	23,524.77	0.00
16	Solar Material - NJES	28,131.53	0.00	0.00	0.00	0.00	0.00%	28,131.53	0.00
17	Design & Energy Engineering	35,418.80	0.00	35,418.80	0.00	35,418.80	100.00%	0.00	0.00
18	Project Management	12,649.60	0.00	6,324.80	0.00	6,324.80	50.00%	6,324.80	0.00
19	Commissioning	15,179.52	0.00	0.00	0.00	0.00	0.00%	15,179.52	0.00
20	Construction Management	12,649.60	0.00	0.00	0.00	0.00	0.00%	12,649.60	0.00
21	General Conditions	20,239.36	0.00	3,035.90	0.00	3,035.90	15.00%	17,203.46	0.00
		0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00
	GRAND TOTAL	\$505,984.00	\$0.00	\$44,779.50	\$0.00	\$44,779.50	8.85%	\$461,204.50	\$0.00

Exhibit K – Schedule of Values

Table K.1 – Schedule of Values

<i>Russellville Independent School District - Schedule of Values</i>	
Description of Work	Scheduled Value
Project Development, Design & Engineering	\$261,256
Bonding & Insurance, General Conditions, Plan Review, Permits	\$78,114
Project & Construction Management	\$163,285
WSHP Demolition	\$90,052
WSHP Install	\$360,207
DOAS Install	\$677,516
Gym RTU Install	\$163,577
Firestopping & Air Sealing	\$278,840
Ceiling Demolition	\$44,236
Ceilings and Lighting Installation	\$176,944
BAS Controls	\$254,882
TAB	\$15,176
Commissioning	\$65,580
Project Closeout, Training, O&M Documents, Warranty, & One Year Building Optimization	\$68,400
Project Cost Total	\$2,701,064

Exhibit L – Project Plans and Specifications

Russellville High School

Mechanical

- M0.0 – Mechanical Legend
- MD1.0 – Mechanical Demolition Plan - Overall
- MD1.1 – Mechanical Demolition Plan – Area A
- MD1.2 – Mechanical Demolition Plan – Area B
- MD1.3 – Mechanical Demolition Plan – Area C
- MD1.4 – Mechanical Demolition Plan – Area E
- MD1.5 – Mechanical Demolition Plan – Roof
- M1.0 – Mechanical New Work Plan – Overall
- M1.1 – Mechanical New Work Plan – Area A
- M1.2 – Mechanical New Work Plan – Area B
- M1.3 – Mechanical New Work Plan – Area C
- M1.4 – Mechanical New Work Plan – Area E
- M1.5 – Mechanical New Work Plan – Roof
- M2.0 – Mechanical Details & Schematics
- M2.1 – Mechanical Details & Schematics
- M3.0 – Mechanical Schedules
- M3.1 – Mechanical Schedules

Structural

- S0.1 – Structural Notes
- S1.1 – Roof Framing Plan – Area A
- S1.2 – Roof Framing Plan – Area B
- S1.3 – Roof Framing Plan – Area E
- S3.1 – Framing Sections and Details

Electrical Power

- E0.0 – Electrical Legend
- E1.0 – Electrical – New Work Plan - Overall
- E1.2 – Electrical – New Work Plan – Area B
- E1.3 – Electrical – New Work Plan – Area C
- E1.5 – Electrical – New Work Plan – Area E
- E1.6 – Electrical – New Work Plan – Roof
- E5.0 – Electrical Schedules & Details
- E6.0 – One-Line Diagram
- ED1.0 – Electrical – Demolition Plan - Overall
- ED1.1 – Electrical – Demolition Plan – Area A
- ED1.2 – Electrical – Demolition Plan – Area B
- ED1.3 – Electrical – Demolition Plan – Area C
- ED1.5 – Electrical – Demolition Plan – Area E
- ED1.6 – Electrical – Demolition Plan – Roof

Lighting

- EL001 – Lighting Fixture Schedule & Symbol Legend

- EL002 – Lighting Mounting Details & Retrofit Solution Codes
- EL1.0 – Title Page
- EL1.1 – Lighting Demo Plan First Floor Area ‘A’
- EL1.2 – Lighting Demo Plan First Floor Area ‘B’
- EL1.3 – Lighting Demo Plan First Floor Area ‘C’
- EL1.4 – Lighting New Work Plan First Floor Area ‘A’
- EL1.5 – Lighting New Work Plan First Floor Area ‘B’
- EL1.6 – Lighting New Work Plan First Floor Area ‘C’

Ceilings

- CE1.0 – Reflected Ceiling Plans
- CE1.2R1 – Ceiling Zoning Plan

General Trades - Firestopping

- FP1.0 – Fire Protection Drawings
- FP1.1 – Fire Protection Plan – Area B
- FP1.2 – Fire Protection Plan – Area C
- FP1.3 – Fire Protection Plan – Area E
- FP2.0 – Fire Protection Details – Joints
- FP2.1 – Fire Protection Details – Joints
- FP2.2 – Fire Protection Details - Penetrations

General Trades – Perimeter Air Sealing

- AS1.0 – Air Sealing Drawings
- AS1.1 – Russellville High School Perimeter Air Sealing Plan

Controls

- C1.0 – Controls Drawings
- C1.1R – Controls Plan – Area A
- C1.2R1 – Controls Plan – Area B
- C1.3 – Controls Plan – Area C
- C1.4 – Controls Plan – Area E
- C1.5 – Controls Points Schematics

Exhibit M – Warranty & Title

Warranty

Design Builder hereby warrants to Owner that all materials furnished by the Design Builder, if any, and all workmanship performed by the Design Builder in connection with the project, shall be in accordance with the general industry standards of the mechanical and electrical construction industry; shall be performed in a competent, good and workmanlike manner and in compliance with the Contract Documents, and all pertinent laws, rules, and regulations; and shall be free from any and all defective materials or workmanship. The Design Builder shall promptly remedy any and all defective materials or workmanship furnished by the Design Builder or any Sub-contractor upon receipt of written notice thereof from Owner. If required by Owner, the Design Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment used in connection with the Project.

The warranty set forth herein shall continue to be effective for a period of one (1) year following Owner's acceptance or beneficial use of each Energy Conservation Measure, acceptance of a particular Facility, or acceptance of the Project, whichever comes first. Owner shall give the Design Builder written notice of all defective work, specifically detailing the deficiencies to be corrected, and the Design Builder shall repair or otherwise remedy such defective work in an expeditious manner.

To the extent possible, the Design Builder shall assign to the Owner all warranties that the Design Builder receives from its vendors and/or Sub-contractors for any materials or equipment, which are or are to become permanent features of the Project, which shall be in addition to the other warranties provided herein.

Title and Risk of Loss

Risk of Loss for all equipment and materials provided by Design Builder or and Sub-contractor shall transfer to Owner upon installation and acceptance of such equipment and materials to Owner's Facilities. Title to an Energy Conservation Measure shall vest with the Owner upon installation, acceptance, and approving payment to the Design Builder. It is the intent of all parties that any transfer of title to Owner pursuant to this contract shall occur automatically without necessity of any bill of sale, certificate of title, or other instrument of conveyance beyond the partial certificate of acceptance. The Owner shall be responsible for operating and maintaining all Measures that are installed. The Owner shall also be responsible for any real or personal property taxes related to the Measures.

Exhibit N – District Energy Policy

Summary

Russellville Independent School District is committed to improving Russellville High School's energy performance for the purposes of reducing cost and overall environmental impact. This policy, outlined on the pages that follow, details key strategies and procedures to reduce energy consumption and expense. In addition, this policy will be implemented through designated district personnel.

District Energy Policy

1. Use of HVAC

The use of building HVAC systems to heat and cool facilities shall be limited to school instructional hours and any properly pre-scheduled events. Otherwise, the building HVAC systems shall be turned to setback temperatures. Furthermore, HVAC for non-instructional hours shall be strictly limited to the portion of the building being used (the whole building is not to be turned on, unless the whole building is being used).

2. Temperature Standards

Note: For buildings that are known to have extraordinary leaky conditions that could cause freezing pipes, the heating unoccupied setpoint may be overridden to 60°F during times when the outdoor air is less than 20°F, otherwise, the regular unoccupied setpoints shall be enforced.

Table N.2.1 – Occupancy Schedules and Temperature Setpoints

Russellville High School - Occupancy Schedules & Temperature Setpoints					
Space	Occupancy Schedules	Occupied Cooling Setpoint	Occupied Heating Setpoint	Unoccupied Cooling Setpoint	Unoccupied Heating Setpoint
Classrooms	M-F 7AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Media Center	M-F 8AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Common Areas	M-F 7AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Kitchen	M-F 6AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Auditoriums	M-F 8AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Admin	M-F 7AM - 4PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Cafeteria	M-F 7AM - 9AM 11AM - 1PM	72°F +/- 2°F	68°F +/- 2°F	80°F	60°F
Gym	24/7	70°F	70°F	70°F	70°F

Note: For spaces where thermostat location does not accurately depict space temperature, variations from occupied setpoints may be made. These variations shall be communicated with CMTA and Facilities director prior to change.

3. Use of Space Heaters

Space heaters are an energy issue and a fire hazard issue and therefore are NOT to be used unless permission is specifically granted for each instance. A lack of heating warmth may mean that the central heating system is in need of repair. The first contact in the event of adequate heat shall be to facilities maintenance department. In the event the issue cannot be fixed, an electric space heater will be allowed to be used upon notification of, and subsequent approval by, the Facilities Director. Liquid or gas fueled heaters are NOT to be used in any case.

All space heaters must meet 4 requirements:

- A. UL approved
- B. Heating elements protected from contact
- C. Automatic shut off if heater is turned over
- D. Thermostat controlled

For additional safety, electric heaters are to be unplugged at the end of each day and removed at the end of each heating season.

4. Use of Lights

- A. Classroom lights shall only be on when the classroom is occupied.
- B. Corridor and other general area lights shall be turned on at the beginning of the instructional day and turned off at the end of the instructional day.
- C. Lighting for spaces such as gyms, cafeterias, and auditoriums shall be only turned on as required, and otherwise be OFF during the instructional day.

The overall governing rule is that if a space is not occupied, the lights are to be turned off.

5. Custodial Practices

Custodians are a critical component of building energy management.

Lights: Custodians shall turn on lights as required to clean a space, then turn them off. If desired to keep a safe “feel” at night, corridor lights may remain on longer, but all other spaces are to be cleaned and then turned off. When the custodial staff leaves the building at night, all lights are to be turned off. Also, where installed, occupancy sensors are not to be overridden.

HVAC: Building systems shall operate to UNOCCUPIED temperature setpoints for all custodial activities. Systems shall not be overridden without approval from the Facilities Director.

Summer cleaning: HVAC systems shall remain in UNOCCUPIED setpoints. For activities such as floor waxing that require a semi-conditioned space, the activity shall be planned and scheduled in the most efficient manner possible through the Facilities Director.

The goal of the initiative is to **never have more than 10%** of a building turned to occupied setpoints at any given time during summer operation. This will additionally help with building humidity (if the entire building is turned to occupied temperatures, the cooling system will satisfy the load very quickly because it was designed for a fully occupied building with lights on; therefore, the cooling system will typically never run long enough to provide significant dehumidification). Running building systems “as usual” during summer breaks is one frequently cited contributing factor to building mold outbreaks, because it significantly drives up building relative humidity. For this reason, we want to allow fewer units to run much more, which will provide better summer dehumidification and significant energy savings.

6. Scheduling of After-School, Weekend, and Other Off-Schedule Activities

All activities occurring outside of the standard instructional day shall be scheduled through the district Facilities Director. Whenever possible, activities are to be consolidated at the most efficient buildings, and to be held in an appropriately sized space (as an example, meetings for 6 people should not be held in a cafeteria which requires a much larger HVAC unit to run compared to a smaller, more suitable space).

Requests shall be submitted in writing via email at least 7 days in advance of event. For reoccurring events such as team practices, one request may be made that includes multiple dates and times. Requests shall state the following:

- A. Building name
- B. Date of request
- C. Type of activity
- D. Time and duration of event
- E. Space requested

HVAC systems shall automatically return to setback temperatures after the event. The event participant is to turn off lights after the event.

7. Summer Usage of Buildings

Summer events shall be scheduled per Item #6 above, and shall be consolidated to the most efficient buildings to the extent possible. Building shall be conditioned to unoccupied temperatures unless an override is granted through the district Facilities Director. Examples of appropriate overrides include the following: floor waxing, open house events, etc.

8. Building Scheduling Through an Energy Manager

In order to maintain appropriate control and monitoring of the usage of district buildings, all building scheduling requests shall be made through the Facilities Director via an email request. The Facilities Director shall adhere to the requirements set forth in this energy policy.

9. Food Service Practices

Plug loads such as mobile freezers, small drink coolers, etc. shall be unplugged during extended breaks such as fall break, Christmas break, spring break, and summer break.

In all school buildings that do not have summer school (and when adequate food service staff exists to move food products), kitchen freezers and coolers are to be emptied at the end of school, cleaned, and turned off until restocked for the following school year. If necessary, to store frozen food over the summer, all food products shall be consolidated to a central location. Note: this portion of the policy is contingent upon availability of district employees to move food products.

Vending machines, appliances, and other similar plug loads shall be unplugged. Refrigerators in each school are to be limited to large centralized refrigerators. Small personal refrigerators are not permitted as these are much less efficient than full size refrigerators.

10. Overridden HVAC Equipment

HVAC equipment shall not be placed in “manual”, “hand”, or otherwise overridden from automatic control without notification to the district Energy Manager. In each case, a plan shall be submitted to the Facilities Director that details how and when the equipment can return to normal control.

11. Computers/Monitors/Printers/Copiers/Fax-machines

District computer and monitor power shall be reduced during periods of inactivity and at night by turning off or by utilizing low power consumption “sleep” mode (2 to 5 watts).

For printers, copiers, and other plug loads, these machines shall be unplugged during extended breaks (these machines continue to consume power even when not active). This includes fall break, Christmas break, spring break, and summer break.

12. Other Plug Loads

Vending machines, appliances, and other similar plug loads shall be unplugged for extended breaks (fall break, Christmas break, spring break, and summer break).

Refrigerators in each school are to be limited to large centralized refrigerators. Small personal refrigerators are not permitted as these types of refrigerators are much less efficient than full size refrigerators.

13. Future Facilities

When hiring design teams (architects and engineers) for future facilities, energy performance of past buildings shall be one of the criteria considered by the selection committee.

END OF POLICY.

Exhibit O – Owner Direct Purchase Order Summary

Russellville Independent School District Performance Based Design-Build Contract

PO No.	Material Description	Vendor	Original PO	Change Orders	Adjusted PO Amount	Previous Payment	Current Invoice(s)	Remaining Balance
33270	DOAS Units & RTU-1	Thermal Equipment Sales	\$ 315,000.00					\$ 315,000.00
	Watersource Heat Pumps, Split System Heat Pump, & VRF Systems	Thermal Equipment Sales	\$ 216,497.00					\$ 216,497.00
	Pumps	Weber-Huff	\$ 21,990.00					\$ 21,990.00
	LED Fixtures	S&J Lighting Lense Supply	\$ 11,149.00					\$ 11,149.00
		TOTAL	\$ 564,636.00					\$ 564,636.00

Exhibit P – Non-Collusion Affidavit

The following Non-Collusion Affidavit has been signed and delivered to the Kentucky Department of Education for their records.

**KENTUCKY DEPARTMENT OF EDUCATION
NON-COLLUSION AFFIDAVIT
702 KAR 4:160**

The undersigned agent, being duly sworn, states that neither he/she nor his/her firm has any relationship (financial or through kinship) to:

- ☒ Any school board member or the superintendent;
- ☒ Any or all prime contractors or material suppliers when using the construction management method of construction.

The undersigned further states that he/she has not entered into any agreement or collusion with any person relative to the price bid by anyone nor has he/she attempted to induce anyone to refrain from bidding.

Explain below any kinship or financial relationship you may have to any parties as mentioned above on this project.

NONE

This affidavit is subject to KRS 45A.455 prohibition against conflict of interest, and gratuities and kickbacks.

RISA MILLER, PROJECT MANAGER
Name Title
CMTA, INC.
Name of Company

Subscribed and Sworn to Me this

3 day of MARCH

20 25

Carrie Lea Black
Notary Signature

My Commission expires:

March 26, 20 25



Notary Seal