

H.25-260.U – PROPOSAL

June 2, 2025

Wheaton Park District Temperature Controls Replacement – CX SERVICES FOR BMS REPLACEMENT

This agreement for the performance of services (Agreement) is subject to the General Terms and Conditions attached to this form and incorporated herein by reference.

BETWEEN: Wheaton Park District – c/o Steve Hinchee (Superintendent of Planning) (CLIENT)	
AND: Baumann Consulting, Inc. (CONSULTANT)	
PROJECT: Wheaton Park District BMS Cx	LOCATION: Wheaton, IL
BACKGROUND & PROJECT DESCRIPTION: Baumann Consulting is proposing the following commissioning services for the Wheaton Park District Temperature Controls Replacement project for the Wheaton Park District BMS upgrades. The project is currently in the design phase, and the Engineer of Record (EoR) is Berg Engineers. The project includes existing chillers, cooling towers, boilers, exhaust fans, domestic water heaters, and associated pumps for these pieces of equipment, all of which will be integrated into the new Building Management System (BMS). Construction is expected to commence in Q3 2025 and is anticipated to be completed by Q2 2026. EQUIPMENT IN SCOPE: • 1 Chiller CH-1 - packaged controls • 2 CHW secondary pumps P-2/3: BMS-controlled • 1 cooling tower CT-1: BMS-controlled (Fan VFD and modulating hydronic bypass valve) • 2 CW pumps P-4/5: BMS-controlled • 3 boilers B-1/2/3: packaged controls • 3 HW primary pumps - BCP-1/2/3: BMS-controlled • 2 HW secondary pumps P-6/7: BMS-controlled • 1 exhaust fan EF-1: BMS-controlled • 1 power meter PM-1: BMS-integrated COMMISSIONING SCOPE: <u>Design Phase</u> • Perform one (1) Design review and provide comments prior to document issue for bidding. • Provide project-specific commissioning specification(s) for inclusion in construction documents.	

Construction Phase

- Review the temperature controls submittal and coordinate with the engineer's review.
- Prepare a commissioning plan including functional performance test procedures and forms.
- Conduct one (1) onsite Cx kickoff meeting during construction to review Cx scope with Contractors and Owner.
- Chair and conduct four (4) 1-hr virtual commissioning coordination meetings with GC and contractors during the construction phase.
- Direct and witness functional performance testing with the controls contractor over the course of three (3) 8-hour days.
- Submit a preliminary commissioning report.
- Include one (1) 8-hr day for directing and witnessing the retesting of failed functional performance tests.
- Submit a final commissioning report.
- Include one (1) 4-hr day during heating season for verification and adjustments with a summary report.
- Include one (1) 4-hr day during the cooling season for verification and adjustments with a summary report.

SCHEDULE & MILESTONES:

Baumann can start with this scope immediately after a written work authorization and the provision of all relevant documents and information. The final Cx documentation can be provided one (1) week after the completion of 3rd Party Cx verification activities, except if there is an unforeseen extension in the schedule.

FEES & PAYMENT TERMS:

For services as defined in this proposal, the client shall reimburse Baumann with the following lump sum fee:

- **Cx services** (including travel expenses) **\$14,000**

To be invoiced monthly based on project progress, and is payable within 14 days.

INFORMATION / SERVICES TO BE PROVIDED BY CLIENT:

Client to provide all necessary information required to perform our work including but not limited to drawings, specifications, access to the project site, and to other consultants and contractors.

SELECTED SERVICES

The Client engages Baumann Consulting to provide the Services described above and Baumann Consulting agrees to perform the Services for the remuneration provided above. Once signed, this agreement, together with the General Terms and Conditions will replace all or any oral agreement previously reached between the Client and Baumann Consulting.

CLIENT AUTHORIZED SIGNATORY:


PRINT NAME: **Michael J. Benard**

TITLE: **Executive Director**

DATE: **7/31/25**

BAUMANN CONSULTING:


PRINT NAME: **Ajit Naik**

TITLE: **Vice President**

DATE: **06/02/2024**

January 31st, 2025

APPENDIX A

Baumann Terms and Conditions

Appendix C - Terms and Conditions to Accompany Proposal Letter

The services and compensation of Baumann Consulting ("Consultant") are based on the following Terms and Conditions unless otherwise noted in the accompanying proposal.

1. Scope of Services

- 1.1 The scope of services covered by these Terms and Conditions is as outlined in the attached Proposal.

2. Compensation

- 2.1 Compensation shall be as outlined in the attached Proposal.

3. Additional Services

- 3.1 Client may request or it may become necessary for Consultant to perform Additional Services in order to further the objectives of the project, and such charges shall be paid by Client above and beyond any charges for Basic Services set forth in the Proposal. Consultant will notify Client in advance of Consultant's intention to perform the particular Additional Service, and Client's failure to instruct Consultant not to perform the Additional Service shall be considered Client's acquiescence to the performance of the Additional Service. Notwithstanding any other description of Basic or Additional Services in the proposal, the following will constitute additional services: 1) any services which Client requests Consultant to perform after final payment has been made to the contractor(s) or more than thirty (30) days after the project has been certified to be substantially complete 2) modifications or changes requested by Client inconsistent with Client's prior approval(s), including the evaluation of substitutions proposed by Client or Contractor after the award of the Contract for Construction. 3) services necessitated because of an error or omission in any drawing or other information supplied by Client 4) Changes to previously prepared instruments of service because of the enactment or revision of codes, laws or regulations or official interpretations or assistance in requests for building code variances 5) services provided as a result of the failure of performance on the part of the Client, Client's consultants or contractors.

4. Time of Performance

- 4.1 Consultant will perform its services with reasonable professional promptness and in accordance

with deadlines or schedules mutually established subject to the Standard of Care outlined below. If Consultant is delayed or prevented from performing services for any reason beyond Consultant's control, Consultant shall be granted an extension equivalent to the period of delay in which to complete Consultant's services. Client agrees to render decisions timely as necessary for Consultant to provide services.

5. Standard of Care

- 5.1 Services provided by Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in accordance with the governing codes and regulations adopted at the time of this Agreement. No other warranty or representation, either expressed or implied, is included or intended in our proposal, contracts, plans and specifications, or reports.

6. Compliance with Laws

- 6.1 Consultant shall use reasonable professional effort and judgment to comply with applicable codes, regulations, laws, rules, ordinances, and such other requirements in effect as of the date of execution of this agreement including interpreting and advising Client as to the applicable requirements to comply with the Americans with Disabilities Act (ADA). Consultant shall rely on the local building department for interpretations of ADA. In that ADA is civil rights legislation and not a building code, regulatory or judicial bodies may have different interpretations of ADA requirements. For projects involving data centers, the terms "Tier Level" or "Operational Sustainability Level" are intellectual properties of the Uptime Institute, which is solely authorized to review, assess, or certify compliance with such levels. Projects involving sustainable/renewable certifications utilize certain design, construction and usage criteria. Such certification systems are subject to interpretation, and achieving levels of compliance involves factors beyond the control of the Consultant. It is recognized that achieving designations such as Tier Level or sustainable/renewable certifications are granted by independent parties and Consultant cannot guarantee that desired certifications will be met. Submissions for such designations are not included in basic fees unless expressly stated. Consultant will exercise appropriate professional judgment

to facilitate Client's desire to achieve such results but does not guarantee, warrant or represent any particular outcome or level of systems performance or energy savings. The Consultant shall not be responsible for any environmental or energy issues arising out of the use and operation of the completed project.

7. Opinion of Probable Costs

- 7.1 Consultant will generally not provide opinions of probable costs for the project. Neither Consultant nor Client has control over the costs of labor, materials, equipment, contractors' methods of determining bid prices, or competitive bidding, market or negotiation conditions. Accordingly, Consultant cannot and does not warrant or represent that bids will not vary from any established budgetary constraints. Client may perform its own cost analysis or retain its own cost consultant and shall be solely responsible for the accuracy and preparation of cost estimates at each appropriate stage of the project. Consultant will cooperate with any cost consultant so that the project can be constructed within appropriate budgetary constraints. However, if Client fails to authorize an adjustment to the scope based on Consultant's warning that the criteria for the design are not consistent with the budget limitations, then any Value Engineering or redesign subsequently performed by Consultant to reduce the construction cost shall be considered an Additional Service.

8. Construction Administration

- 8.1 Consultant shall have no responsibility for construction administration unless explicitly described in the Proposal. If construction observation services are performed, Consultant shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the construction work, for any defects, deficiencies or other acts or omissions of the contractor, or any other persons performing any of the construction work, or for the failure of any of them to carry out the work in accordance with the plans and specifications, or for any asbestos or hazardous or toxic materials. In particular, Consultant shall have no responsibility for or oversight of erection procedures, temporary bracing or other temporary conditions. The Consultant shall visit the site

at intervals appropriate to the stage of construction or as otherwise agreed by the Client and Consultant in writing. Consultant's visits to the construction site shall be for the purpose of becoming generally familiar with the progress and quality of the construction work within Consultant's scope and to determine in general if the work when completed will be in accordance with the plans and specifications. Consultant is not authorized to stop the construction work or take any other action relating to jobsite safety, which are solely the contractors' right and responsibility. Consultant shall review and approve or take other appropriate action upon contractor submittals such as shop drawings only for the limited purpose of checking for conformance with information given and the design concept, but not for determining accuracy or completeness of other details such as dimensions or quantities or for substantiating instructions for installation or performance of equipment or systems. Consultant's review shall not be for the purpose of approving any safety precautions or temporary arrangements, and Consultant may review without approving submittals outside the scope described herein. If Consultant requires a contractor to retain a design professional to submit stamped and sealed calculations, certifications or other instruments of service, Consultant shall be entitled to rely upon the adequacy, accuracy and completeness of such certifications, services or approvals. Upon receipt of a contractor's affidavit that the project is substantially complete, the Consultant shall conduct a review of the installed systems and prepare a final punch list of items to be corrected or completed by the contractors.

9. Verification of Existing Conditions

- 9.1 Inasmuch as the remodeling or rehabilitation of an existing building requires that certain assumptions be made regarding existing conditions, and because some of these assumptions cannot be verified without expending additional sums of money, or destroying otherwise adequate or serviceable portions of the building, the Client agrees that Consultant shall not be liable for any costs or damages incurred by any person or entity resulting from concealed conditions in the existing building.
- 9.2 In addition, Consultant shall have no responsibility for the discovery, presence, handling, removal

or disposal of, or exposure of persons to, hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl, or other toxic substances. To the fullest extent of the law, Client shall indemnify, hold harmless, reimburse and defend Consultant, Consultant's consultants, and Consultant's partners, employees, and agents from, for, and against all claims, demands, expenses and liabilities, including but not limited to attorney's fees arising from the discovery, presence, handling, removal or disposal of hazardous materials in any form.

10. Invoicing

- 10.1 Invoices will be issued monthly and are payable within 30 days of receipt of our invoice. An interest charge of 1% per month (12% per annum) will be payable on any amount not paid within this time period. Attorneys' fees and any other costs incurred in collecting unpaid accounts shall be paid by the Client.

11. Reimbursable Expenses

- 11.1 Expenses will be charged at 1.1 x cost. Reimbursable expenses include travel expenses, printing of drawings or specifications, courier service, overnight mail, equipment rental, plotting performed by printing services and other charges incurred during the course of the work, not directly provided by us. These items are not included in our fee unless specifically noted in our proposal.

12. Dispute Resolution

- 12.1 In an effort to resolve conflicts that arise during the design or construction of the project or following the completion of the project, the Client and Consultant agree that all claims arising out of or relating to this Agreement shall first be submitted to nonbinding mediation before any arbitration may be filed.
- 12.2 Should a claim by Client not be resolved by non-binding mediation, it shall be arbitrated in accordance with the Rules of the American Arbitration Association. The decision of the arbitrator(s) shall be final and binding. The arbitration forum shall be exclusively in Washington D.C.

- 12.3 In order to assist the parties in resolving disputes, Client agrees that as a condition precedent to making any claim (directly or as a third-party claim) against the Consultant, Client will obtain a written certificate executed by an independent design professional with similar experience on similar projects and licensed in the state in which the Project is located, certifying that the Consultant failed to meet the applicable standard of care. Client agrees to provide such certification to Consultant thirty (30) calendar days prior to any demand for arbitration or the institution of legal or equitable proceedings.

13. Termination

- 13.1 Either party may terminate this agreement upon at least ten business days' advance written notice to other, 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. Client may terminate this agreement for convenience upon at least ten business days' advance written notice. In the event that Client terminates the agreement without fault of Consultant, Client shall compensate Consultant for all services provided and reimbursable expenses incurred to the date on which Consultant received the notice of termination plus any expenses incurred by Consultant due to premature termination of the project.

14. Risk Allocation/Limit of Liability

- 14.1 The Client agrees that to the fullest extent permitted by law, Consultant's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claim expenses arising out of this Agreement from any claim or claims, whether based in contract, negligence, professional negligence, breach of warranty or any other theories of liability, shall not exceed the total amount of the Consultants fees for services.
- 14.2 Client warrants that it has a license to use or copy, or both, any documents it supplies to the Consultant for re-use on this Project that were prepared by others. To the fullest extent permitted by law, Client shall defend, indemnify and hold the Consultant, its officers, directors, shareholders, partners, principals, agents, employees, consultants, successors, and assigns, harmless from and against all liability, loss, damages, costs

and expenses, including attorneys' fees and disbursements, which any of them may at any time sustain or incur by reason of breach of Client's warranty.

- 14.3 Client and Consultant agree that Consultant has no control over software, hardware, computer or other technology caused errors and, as such, has no responsibility for them.

- 14.4 Third Parties - Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Consultant. Consultant's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against Consultant because of this Agreement or Consultant's performance hereunder.

15. Insurance

- 15.1 Consultant shall keep and maintain its current insurance policies, including professional liability, commercial general liability, automobile liability and workers' compensation insurance, for three years following the completion of the project. Certificates evidencing such coverages are available upon request. If client desires additional insurance, Consultant shall use its best efforts to obtain the additional insurance, but Client shall reimburse Consultant for any additional premium that Consultant incurs. Client will require that the construction contractor(s) and subcontractors (i) name Client and Consultant as additional insureds on their general liability insurance policy on a primary and non-contributory basis and include a waiver of subrogation, and (ii) agree to indemnify Client and Consultant in language reasonably satisfactory to both Client and Consultant.

16. Project Internet Site

- 16.1 The Owner acknowledges and agrees that it is responsible for the initiation and maintenance of any Project Internet or extranet site and any related computer software and hardware (collectively, the "Site") and for all costs associated therewith, including without limitation, any fees for users of the Site charged by the service provider which shall be retained by the Owner. The Consultant shall have no responsibility for the initiation or maintenance of the Site or for any costs

associated with the Site. The Consultant shall also have no responsibility or liability for any delays or damages caused by the failure of the Site to function properly and shall not be liable to the Owner or to any contractor, consultant or any third party for any delays, errors or omissions in the Consultant's services caused by the failure of the Site to function properly.

17. Owner Information

- 17.1 Consultant is entitled to rely on all information furnished or to be furnished by Owner and Owner's Consultants. The Consultant shall have no responsibility for any components of the Project designed by Owner's Consultants.

18. Ownership of Documents

- 18.1 All documents including calculations, computer files, drawings and specifications prepared by Consultant under this Agreement ("Plans") are instruments of professional service, all aspects of which, including the copyright, are owned by Consultant. Upon acceptance of this Agreement, Consultant grants Client a non-exclusive license to use and reproduce the Plans solely for the purpose of constructing this project, but for no other purpose. Such understandings will be included in an electronic transfer agreement with Client. In the event that Client breaches this Agreement, Consultant shall have the right upon written notice to Client to revoke this license and to forbid Client (or others claiming rights under the license) from reproducing or continuing to use the Plans. Client agrees to hold harmless, indemnify, and defend the Consultant against all damages, claims, and losses of any kind (including defense costs), arising out of any use of the Plans on any project, for additions to this project, or for completion of this project, without the written authorization of the Consultant.

19. Miscellaneous

- 19.1 To the extent within Client's control, Consultant shall have the right to take photographs and make other reasonable promotional use of the project, and Consultant shall be given appropriate credit on all construction signs or other promotional materials concerning the project. Client may accept Consultant's Proposal either by signature, oral assent, authorizing Consultant to

commence providing services or making any payments to Consultant in consideration of services, and any of the above modes of acceptance shall be deemed to incorporate these Terms and Conditions into the contract between the parties thereby formed. If the Proposal is not accepted as described herein, it shall expire after 60 days. This agreement shall be governed by the laws of the State of Illinois.

20. Complete Agreement

- 20.1 This document and the attached proposal letter constitute the entire Agreement between the parties. It shall not be modified except by a document signed by the parties.