

ENERGY SERVICES AGREEMENT

This Energy Services Agreement is entered into as of July 7, 2026 (the "Effective Date") by and between Schneider Electric Buildings Americas, Inc. ("ESCO") and City of Tupelo, MS ("Customer").

ARTICLE 1 – DEFINITIONS

- 1.1. "Change Order" means a written document executed by both parties for purposes of modifying the Scope of Work, the Project Price, and/or Project Time.
- 1.2. "Contract" means this Energy Services Agreement, together with the following schedules, exhibits, and other documents, each of which is attached hereto and incorporated herein by this reference:

SCHEDULE I: Scope of Work

SCHEDULE 2: Exhibit A Performance Assurance Support Services

Appendix A: Anticipated Utility Cost Impacts

- 1.3. "Date of Commencement" means the later of the Effective Date and the date on which ESCO receives payment of the Project Development Costs.
- 1.4. "Deliverables" means the Products, Software, documents, and services provided under this Contract, together with the information and technologies included therein or therewith.
- 1.5. "Final Completion" means that Substantial Completion of the Project has been achieved and all Punch List Items have been completed.
- 1.6. "Notice" means written notice delivered in accordance with Section 11.1.
- 1.7. "Project" means the materials, equipment, labor, services and improvements to the Project Site(s) to be provided by ESCO in accordance with and subject to the terms and conditions of this Contract, as set forth in the Scope of Work. For the avoidance of doubt, the Scope of Work shall represent the entirety of the intended and agreed upon scope of the Project.
- 1.8. "Project Development Costs" means, collectively, (i) all costs and expenses incurred by ESCO in connection with designing, developing, or engineering the Project, along with (ii) 10% of the total Project Price for costs and expenses relating to procurement of equipment, materials, bonds, and other project start-up and mobilization expenses. The initial invoice for these costs will be \$1,397,682.
- 1.9. "Project Site(s)" means the facilities of the Customer on or at which Work is to be performed, as identified in the Scope of Work.
- 1.10. "Scope of Work" means Schedule I and the contents thereof.
- 1.11. "State" means Mississippi.
- 1.12. "Substantial Completion" (as used with respect to the Project as a whole or any discrete portion(s) of the Work, as appropriate) means the point at which such Work is operational, ready for use by Customer, and fully complete except for minor adjustments and/or corrections ("Punch List Items").
- 1.13. "Substantial Completion Letter" means a letter notifying Customer that Substantial Completion has been achieved with respect to the portion of the Work described therein.
- 1.14. "Warranty Period" means one (1) year from the date set forth in the applicable Substantial Completion Letter, unless a different period is stated in the Scope of Work.

- 1.15. "Work" means the services required to be performed by ESCO pursuant to the Scope of Work, whether completed or partially completed, and all materials, equipment, labor and services required to be provided in order for ESCO to perform such services in accordance with the terms and conditions of the Contract. Work may refer to the whole or parts of the Scope of Work.
- 1.16. "Incentive Funds" means tax credits, energy efficiency rebates, incentives, and/or loan programs for which Customer may apply or otherwise be eligible in connection with the Project.

ARTICLE 2 – PROJECT PRICE AND PAYMENT

- 2.1. Project Price. The total price of the Work to be performed by ESCO pursuant to this Contract shall be \$7,715,476 (the "Project Price"), which shall be inclusive of the Project Development Costs.
- 2.2. Schedule of Values. ESCO will develop a schedule that delineates the items to be completed pursuant to the Scope of Work and apportions the Project Price among such items ("Schedule of Values") and shall endeavor to provide such Schedule of Values to Customer within thirty (30) days of the Date of Commencement. Within ten (10) business days of receipt, Customer shall review the Schedule of Values and shall advise ESCO if Customer identifies any items requiring correction or clarification.
- 2.3. Payment of Project Development Costs. Within thirty (30) days of the Effective Date, Customer shall make payment to ESCO for the Project Development Costs, as defined above.
- 2.4. Invoicing and Payment. ESCO shall invoice Customer monthly for progress payments based on the completion to date of items delineated on the Schedule of Values. Amounts invoiced must be paid or disputed by written Notice within thirty (30) days of the applicable invoice date. If ESCO has not received payment of all undisputed amounts within thirty (30) days of the applicable invoice date, then a late penalty equal to one percent (1%) or the late penalty imposed by applicable law will be applied to the overdue amounts each month until paid. Final Payment shall be paid in accordance with Section 6.4 (Final Payment).
- 2.5. Withholding of Payment. Upon providing written Notice of a payment dispute pursuant to Section 2.4, Customer may withhold payment of amounts otherwise due hereunder (i) if ESCO repeatedly or materially fails, refuses or neglects to fulfill its obligations under this Contract, and (ii) Customer has provided written Notice of default to ESCO detailing the alleged failure, refusal, or neglect, and the failure, refusal, or neglect has not yet been cured.
- 2.6. Taxes. ESCO and Customer agree to take all necessary measures to comply with all tax laws and regulations that apply to this Contract. ESCO shall be responsible for and pay when due all taxes for which ESCO is liable by reason of the performance of this Contract. Customer shall be responsible for and pay when due all taxes, if any, for which Customer is liable by reason of the performance of this Contract. Any changes in foreign exchange rates, sales taxes, tariffs or other taxes, duties or charges occurring after the Effective Date that has an impact on the cost of the Project including any Deliverables or component or part thereof provided by ESCO in connection with the Scope of Work shall be chargeable to the Customer.

ARTICLE 3 – ESCO'S PERFORMANCE OF THE WORK

- 3.1. Standard of Performance. ESCO shall supervise and direct the Work using such degree of care, skill and attention as is reasonably expected of professionals providing similar services within the State under similar circumstances (such circumstances to include, for example, conditions present at the Project Site(s) and any financial or other constraints applicable to the Project). ESCO shall be solely responsible for coordinating and/or performing all portions of the Work and shall have control over the means, methods, techniques, sequences and procedures used in the performance of the Work, unless the Scope of Work gives other specific instructions concerning these matters. All construction documents that are required to be prepared by ESCO in connection with the Work shall be prepared by qualified personnel and shall be in accordance with applicable codes, regulations, and laws. The ESCO shall remain responsible for all Work performed, whether performed by the ESCO or its Subcontractors.
- 3.2. Labor and Materials. Unless otherwise provided in the Scope of Work, ESCO shall provide and pay for all labor, materials, tools, equipment, machinery, and transportation necessary for the proper execution and completion of the Work. In the event a significant delay in acquiring materials or equipment or a significant increase in the price of materials or equipment occurs during the performance of the Contract by no fault of ESCO, the parties shall in good faith negotiate such changes (if any) as the parties deem equitable and appropriate under the circumstances and shall memorialize any agreed changes in a Change Order.
- 3.3. Licenses and Compliance with Law. ESCO currently has or shall timely obtain, and shall maintain, all such licenses, permits, qualifications and approvals as it is legally required to hold for performance of the Work. ESCO shall comply with all applicable laws and regulations bearing ESCO's performance of the Work.
- 3.4. Incentive Funds. ESCO makes no representation, warranty or guarantee that the Project or the performance thereof will entitle the Customer to receive any Incentive Funds. Procurement, or lack thereof, of the Incentive Funds will not alter the Project Price, unless stated otherwise herein, or the payment timeline associated with payment of the Project Price. Any and all rebate or incentive deposits paid by ESCO will be immediately returned to ESCO when received by Customer.
- 3.5. Regular Working Hours. Work will be performed during normal working hours (meaning 8:00 a.m. to 5:00 p.m., local time, Monday through Friday, excluding ESCO holidays) unless the parties specifically agree otherwise in writing. ESCO will use commercially reasonable efforts to minimize disturbances to Customer's operations while performing the Work.
- 3.6. Safety. ESCO shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to, (1) employees performing the Work and other persons who may be affected thereby, (2) the Work and materials and equipment to be incorporated therein, and (3) other property at the Project Site(s) or adjacent thereto.
- 3.7. Clean-Up. ESCO shall keep the Project Site(s) free from accumulation of waste materials and rubbish caused by its performance of the Work. Upon completion of the Work, ESCO shall remove from the Project Site(s) all waste materials and rubbish caused by its performance of the Work, all of ESCO's tools, equipment, machinery, and any surplus materials.

3.8. Employees.

3.8.1. Responsibility for Employees. ESCO is responsible for the supervision, direction, and control of its employees performing Work on the Project. ESCO shall pay all wages, salaries, and other amounts due its employees in compliance with applicable law.

3.8.2. No Unlawful Discrimination. ESCO represents and warrants that it is an equal opportunity employer and agrees that it shall not discriminate in violation of any applicable federal, state, or other law, rule, or regulation, including, but not limited, to discrimination against any employee or applicant for employment on account of such person's race, religion, color, national origin, ancestry, sex, or age.

3.9. Subcontractors. A "Subcontractor" is a person or entity that has a written contract with ESCO to perform a portion of the Work at the Project Site(s) (such written contract, a "Subcontract").

3.9.1. Use of Subcontractors. ESCO may use one or more Subcontractors to perform portions of the Work. If requested in writing by Customer, ESCO shall furnish in writing to Customer the names of the Subcontractors to whom ESCO plans to award Work.

3.9.2. ESCO's Responsibility for Subcontractors. ESCO shall remain ultimately responsible for the performance of its obligations under this Contract and shall be responsible for the acts and omissions of its Subcontractors (and any persons and entities employed by such Subcontractors) in their performance of the Work.

3.9.3. Subcontracts. Each Subcontract shall be consistent with the terms and conditions of this Contract and shall require the Subcontractor, to the extent applicable to the scope, quality, character, and manner of the Work to be performed by the Subcontractor, to be bound to ESCO by the terms and conditions of this Contract and to assume all the obligations and responsibilities that ESCO assumes toward Customer thereunder. No Subcontractor is intended to be or shall be deemed a third-party beneficiary of this Contract.

3.9.4. Payment of Subcontractors. ESCO shall timely pay each of its Subcontractors in accordance with their respective Subcontracts and in compliance with applicable law.

3.10. Unforeseen Conditions. "Unforeseen Conditions" means and includes any subsurface, concealed, latent or other physical conditions, including without limitation the presence of hazardous materials, that differ materially from those conditions contemplated in the Scope of Work or known by ESCO. In the event ESCO encounters Unforeseen Conditions that impact the Project, ESCO shall inform Customer of such conditions promptly and before such conditions are further disturbed. To the extent ESCO incurs additional costs or delays as a result of Unforeseen Conditions, the parties shall execute a Change Order reflecting an equitable adjustment to the Project Price, the Project Time, and/or the Scope of Work, as appropriate.

3.11. Hazardous Materials.

3.11.1. Exclusion for Hazardous Materials. The Work to be performed by ESCO pursuant to this Contract, and the compensation to be paid to ESCO hereunder, expressly excludes any Work of any nature associated or connected with the identification, abatement, cleanup, control or removal of environmentally hazardous materials, unless and except to the extent the Scope of Work provides otherwise. As used herein, "hazardous materials" shall be understood to include, but not be limited to, asbestos, lead, polychlorinated biphenyls (PCBs), mold, petroleum products, and any other material or substance known to have adverse health risks. Customer agrees that all duties and obligations in connection with any hazardous materials located at the Project Site(s) or affecting the Work are strictly the responsibility of Customer, unless and except to the extent ESCO expressly assumes such duties and obligations pursuant to the Scope of Work. Customer will provide any hazardous

materials testing documentation and reports, and information from previous sources or vendors used in hazardous materials testing. Customer warrants and represents that, to the best of Customer's knowledge, there are no hazardous materials at the Project Site(s) that will or would reasonably be expected to affect, be affected by, come in contact with, or otherwise impact or interfere with the Work, unless and except to the extent the Scope of Work provides otherwise.

- 3.11.2. Responsibilities Upon Encounter. If, in performing or preparing to perform the Work, ESCO encounters or has reason to suspect the presence of hazardous materials of a different type or in a different amount or location than described in the Scope of Work, ESCO is authorized to immediately cease any and all Work that may be affected thereby, and ESCO will promptly notify Customer of the conditions discovered. Should ESCO stop Work because of the discovery or suspicion of hazardous materials, the time for performance of ESCO's Work or service will be extended to cover the period required for abatement, cleanup, or removal of the hazardous materials. ESCO will not be held responsible for any claims, damages, costs, or expenses of any kind associated with the period during which ESCO has stopped Work as a result of hazardous materials. If appropriate, ESCO will be entitled to an equitable adjustment of the Project Price for any increased costs or other charges incurred by ESCO in connection with the exercise of its rights under this paragraph. Unless and except to the extent ESCO expressly assumes any such responsibilities pursuant to the Scope of Work, Customer will be responsible for taking all necessary steps to correct, abate, clean up, or control hazardous materials in accordance with all applicable statutes and regulations. Customer specifically agrees, to the extent allowed by State law, to indemnify and to hold ESCO, its officers, agents and employees harmless from and against any and all claims, demands, damages, or causes of action in any way arising out of the release of hazardous materials into the air, soil, or any water system or water course, or any actions taken in connection with same, or any failure to act.
- 3.12. Ownership and Use. The Work may include the sale to Customer of materials, goods, equipment and/or other tangible personal property ("Products"). Except as otherwise set forth in the Scope of Work, any Products that are included in the Work shall be owned by Customer upon Customer's full payment of the invoice covering such Products. The Work may also involve the licensing of software or software-as-a-service products, subscriptions and/or other digital content ("Software") to Customer. Except as otherwise set forth in the Scope of Work, ESCO grants Customer a limited, personal and non-exclusive license to use Software that is included in the Work, subject to Customer's timely payment of the Project Price, as applicable, and subject to ESCO's and/or its supplier's standard license agreement(s) for such Software, the terms and conditions of which are hereby incorporated by reference. ESCO shall be under no obligation to provide updates or revisions to such Software except to the extent expressly provided in the Scope of Work. Notwithstanding the foregoing, nothing in this Contract shall be deemed or construed to result in the Customer acquiring any ownership interest or rights in any intellectual property of ESCO or any third parties.

- 3.13. Infringement. Except as otherwise specified, ESCO shall pay all royalties and license fees required for the manufacture, sale and/or use of the designs, processes, devices, and other Products and Software provided by ESCO pursuant to the Scope of Work ("IP Products"). ESCO shall defend Customer from suits or claims for infringement of patent rights caused by the manufacture, sale and/or use of any such IP Products and shall hold Customer harmless from loss on account thereof. In the event any IP Product is found to infringe a third party's intellectual property rights, ESCO shall, at its expense and at its sole option, either: (i) procure the right for Customer to continue using such IP Product, (ii) modify such IP Product to render it non-infringing (provided such modification does not materially degrade the performance or operation of the IP Product), (iii) replace such IP Product with functionally equivalent, compatible, non-infringing IP Product, or (iv) refund or credit the amount paid for the infringing IP Product. Notwithstanding the foregoing, ESCO's obligations hereunder shall not apply to the extent (1) the alleged infringement is based upon or caused by ESCO's IP Products being modified or combined with any other design, process, device, material, Product or Software without ESCO's prior written approval, or (2) ESCO provided the allegedly infringing IP Product subject to specific requirements of Customer, unless ESCO knew of the alleged infringement and failed to inform Customer.
- 3.14. Warranty. ESCO warrants to Customer that, for the applicable Warranty Period: (i) the Work to be performed hereunder will conform to the requirements of the Contract and will be performed in accordance with applicable industry standards, (ii) any Products manufactured by ESCO and sold hereunder will be free of defects in workmanship and material, and (iii) any Software licensed hereunder will perform its essential functions (however, for the avoidance of doubt, ESCO does not warrant that the Software will operate uninterrupted or error-free, nor does ESCO warrant that the Software will meet any compatibility requirements not specified in the Scope of Work). Work, Products and/or Software that fail to comply with such standards may be deemed defective. If any Work, Product, and/or Software is proven to be defective within the Warranty Period, ESCO shall re-perform such defective Work, repair or replace such defective Product, and/or update or replace such defective Software, as ESCO deems appropriate. The foregoing warranties do not apply to the extent any Work, Product or Software has been: (i) subject to abuse, misuse, neglect, or accident, (ii) subject to improper operation, maintenance, storage or repair, (iii) subject to damage caused by circumstances beyond ESCO's control, or (iv) manufactured, programmed, installed, modified, or repaired other than by ESCO, on ESCO's behalf, or with ESCO's prior written approval. If a defect is found not to be ESCO's responsibility, standard rates for repair, replacement and/or labor shall apply. With respect to Products not manufactured by ESCO, ESCO will pass on any warranties provided to ESCO by its supplier(s). THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE) AND ESCO WILL NOT BE RESPONSIBLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OF CUSTOMER. TO THE EXTENT ALLOWED BY MISSISSIPPI LAW, ESCO'S RESPONSIBILITY IN WARRANTY OR CONTRACT SHALL NOT EXCEED THE CONTRACT PRICE PAID FOR THE SPECIFIC PRODUCT OR SERVICE THAT GIVES RISE TO THE CLAIM EXCLUDING THIRD PARTY CLAIMS FOR PERSONAL INJURY, DEATH OR PROPERTY DAMAGE OR AS MAY BE REQUIRED BY LAW.

ARTICLE 4 – CUSTOMER'S ROLE AND RESPONSIBILITIES

- 4.1. Cooperation Generally. Customer acknowledges and agrees that timely and proper performance of the Work is dependent on Customer's full and prompt cooperation in reviewing documentation and submittals, issuing approvals, attending meetings, providing facility access (including, without limitation and as appropriate, by providing sufficient keys, access cards, and/or escort services to facilitate timely execution of Work at multiple locations with multiple trades), relocating personnel, furniture, and equipment, and taking such other actions as may be reasonably requested by ESCO in furtherance of ESCO's performance of the Work.

- 4.2. Submittals. Within fifteen (15) business days of receiving any design, construction or other ESCO submittals, Customer shall review such documentation to confirm acceptance and consistency with the Contract and shall promptly advise ESCO of any issues or questions that are identified.
- 4.3. Project Meetings. Customer shall ensure that the appropriate Customer representatives attend Project meetings coordinated by ESCO. At ESCO's request, Customer shall provide commercially reasonable cooperation and assistance in scheduling and coordinating Project meetings.
- 4.4. Filings and Permits. Except for permits and fees that are to be obtained and paid for by ESCO as expressly stated in the Scope of Work, Customer shall make all such filings as are required by the State or other government authorities in connection with the Work and shall obtain and pay for all permits, approvals, inspections, easements, assessments and charges as are required for the use, occupancy or modification of the real property or structures at and around the Project Site(s), including (without limitation) inspections for concrete and/or earthen compaction, where applicable.
- 4.5. Repairs. Except to the extent the Scope of Work specifically contemplates the repair or replacement by ESCO of any existing system, equipment or other property, all such systems, equipment and other property are assumed to be in normal working order, and any defect(s) in the same that could adversely impact the Work thereby shall be promptly repaired or replaced by Customer.
- 4.6. Customer Information. Customer agrees that it has provided and shall continue to provide ESCO with all such information, documentation, access, knowledge and history as is available to Customer and as is relevant to ESCO's timely and successful completion of the Project and performance of its other obligations under the Contract, including, without limitation, the following:
- 4.6.1. Drawings, Specifications and Surveys. Customer shall provide ESCO with copies of or access to (i) all such working drawings, specifications, surveys and "As-Built" drawings as it may have relating to the Project Site(s), to the Work, and/or to work being performed by other companies at the Project Site(s), and (ii) all such surveys as it may have describing the physical characteristics, legal boundaries and restrictions, and/or utility locations at and around the Project Site(s). All drawings, specifications, and surveys furnished to ESCO by Customer are and shall remain the property of Customer.
- 4.6.2. Facilities Information. Customer shall promptly provide information and documentation relating to Customer's facilities, systems, and equipment and to its maintenance and operations practices. Customer has disclosed or will disclose as promptly as possible upon learning of, all known or suspected deficiencies, defects, and malfunctions of or affecting its facilities, systems or equipment and/or any components thereof, as well as any conditions of the Project Site(s) that should be considered in planning and executing the Work. To facilitate the exchange of relevant facilities information, Customer shall provide ESCO with access to Customer's key facilities personnel and, at ESCO's reasonable request, shall designate a Customer representative to ensure the timely and correct transfer of information requested by ESCO.
- 4.7. Operations. Customer shall operate all Work installed under this Contract in accordance with the manufacturer's recommendations and the manuals supplied to Customer by ESCO. Customer agrees to protect the Work and operating conditions thereof, and Customer shall promptly notify ESCO in the event of any malfunction in the operation of the Work. Except in the case of emergency, Customer shall not remove, move, turn off or otherwise significantly alter the operation of any Work performed hereunder without ESCO's prior written approval, which approval shall not be unreasonably withheld. Upon receipt of such approval, Customer shall closely follow any instructions provided by ESCO in connection with the same. If, due to an emergency, it is not reasonable to obtain ESCO's approval prior to taking action, Customer shall protect the Work from damage or loss and shall notify ESCO of all actions taken as soon as reasonably possible.

thereafter.

4.8. Cybersecurity.

- 4.8.1. Definitions. For purposes of Section 4.8 (Cybersecurity) only: (i) "Cyber Threat" means any circumstance with the potential to adversely impact Customer's Systems or that may result in any unauthorized access, acquisition, loss, misuse, destruction, disclosure, and/or modification of the Systems, including through malware, hacking, or similar attacks, (ii) "Patch" means an Update that fixes a vulnerability in a Deliverable, (iii) "Systems" means Customer's computer network, systems, machines, and data, and (iv) "Update" means software that contains a correction of errors in a Deliverable and/or minor enhancements or improvements for a Deliverable but does not contain significant new features.
- 4.8.2. Customer's Obligations for Its Systems. Customer is solely responsible for the implementation and maintenance of a comprehensive security program that contains reasonable and appropriate security measures and safeguards to protect its Systems against Cyber Threats, including those Systems on which it runs the Deliverables. Without limiting the foregoing, Customer shall at a minimum:
- (a) have qualified personnel with appropriate expertise in cybersecurity maintain Customer's security program and regularly monitor cyber intelligence feeds and security advisories applicable to Customer's Systems or Customer's industry;
 - (b) promptly update or patch its Systems or implement other appropriate measures based on any reported Cyber Threats and in compliance with any security notifications or bulletins, whether publicly disclosed on ESCO's security notification webpage at <https://www.se.com/ww/en/work/support/cybersecurity/security-notifications.jsp> or otherwise provided to Customer;
 - (c) regularly monitor its Systems for possible Cyber Threats;
 - (d) regularly conduct vulnerability scanning, penetration testing, intrusion scanning, and other cybersecurity testing on its Systems; and
 - (e) meet the recommendations of ESCO's Recommended Cybersecurity Best Practices, available at <https://www.se.com/us/en/download/document/7EN52-0390/> and then-current industry standards.
- 4.8.3. Customer's Use of the Deliverables. ESCO may release Updates and Patches for its Deliverables from time to time. Customer shall promptly install any Updates and Patches for such Deliverables as soon as they are available in accordance with ESCO's installation instructions and using the latest version of the Deliverables, where applicable. Customer understands that failing to promptly and properly install Updates or Patches for the Deliverables may result in the Deliverables or Customer's Systems becoming vulnerable to certain Cyber Threats or result in impaired functionality, and ESCO shall not be liable or responsible for any losses or damages that may result.
- 4.8.4. Identification of Cyber Threats. If Customer identifies or otherwise becomes aware of any vulnerabilities or other Cyber Threats relating to the Deliverables for which ESCO has not released a Patch, Customer shall promptly notify ESCO of such vulnerability or other Cyber Threat(s) via the ESCO Report a Vulnerability page (<https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp#Customers>) and further provide ESCO with any reasonably requested information relating to such vulnerability (collectively, "Feedback"). ESCO shall have a non-exclusive, perpetual and irrevocable right to use, display, reproduce, modify, and distribute the Feedback (including any confidential information or intellectual property contained therein) in whole or part, including to analyze and fix the vulnerability, to create Patches or Updates for its customers, and to otherwise modify its Deliverables, in any manner without restrictions, and without any obligation of attribution or compensation to Customer; provided, however, ESCO shall not publicly disclose Customer's name in connection with such use or the Feedback (unless Customer consents otherwise). By

submitting Feedback, Customer represents and warrants to ESCO that Customer has all necessary rights in and to such Feedback and all information it contains, including to grant the rights to ESCO described herein, and that such Feedback does not infringe any proprietary or other rights of third parties or contain any unlawful information.

- 4.9. Export Control. The Deliverables provided by ESCO under this Contract may contain components and/or technologies from the United States of America ("US"), the European Union ("EU") and/or other nations. Customer acknowledges and agrees that the supply, assignment and/or usage of Deliverables under this Contract must fully comply with applicable US, EU and/or other national or international export control laws and regulations ("Export Laws"). Unless applicable export licenses have been obtained from the relevant authority and ESCO has approved, the Deliverables shall not (i) be exported and/or re-exported to any destination or party restricted by applicable Export Laws; or (ii) be used for those purposes or fields restricted by any Export Laws. Customer also agrees that the Deliverables will not be used either directly or indirectly in any rocket systems, unmanned air vehicles, nuclear weapons delivery systems, and/or in any design, development, production or use of or related to weapons (which may include, without limitation, chemical, biological or nuclear weapons). ESCO shall be excused from performing any obligations under this Contract that would, in ESCO's judgment, violate any Export Laws or expose ESCO to a risk of liability thereunder.

ARTICLE 5 – PROJECT TIME

- 5.1. Project Time. ESCO projects that it will take 482 days from the Date of Commencement to achieve Substantial Completion of the Project (as the same may be adjusted from time to time in accordance with the terms and conditions of the Contract, the "Project Time").
- 5.2. Excusable Delay. If ESCO's performance of Work is at any point delayed or obstructed by circumstances beyond ESCO's reasonable control (including, without limitation, acts or omissions of Customer, epidemic, pandemic, quarantine restrictions, changes in applicable law, labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, unusually severe shortages in the available supply of and/or unusually severe increases in the cost of materials or equipment needed for performance of the Work, or delays of common carriers) then the parties agree to execute a Change Order allowing for an equitable extension of time for performance of ESCO's Work to cover such delay.

ARTICLE 6 – COMPLETION AND FINAL PAYMENT

- 6.1. Substantial Completion of Work. ESCO will issue Customer one or more Substantial Completion Letters upon achieving Substantial Completion of discrete portion(s) of Work. Customer shall provide ESCO with written Notice within seven (7) days of ESCO's issuance of a Substantial Completion Letter if Customer disputes the assertion that ESCO has achieved Substantial Completion of the applicable Work, and such Notice shall explain the basis for Customer's dispute and the portion of the applicable Work to which it pertains. The parties shall meet promptly following Customer's issuance of any such Notice of dispute and shall in good faith attempt to resolve the dispute and align on a path forward (i.e. any corrections or adjustments to be made to the Work, Scope of Work, or Project schedule, etc.). Unless timely disputed by Customer, the date on which ESCO issues any such Substantial Completion Letter shall be the "Date of Substantial Completion" with respect to the applicable Work.
- 6.2. Substantial Completion of the Project. ESCO will issue Customer a Substantial Completion Letter upon achieving Substantial Completion of the Project (the "Project Substantial Completion Letter"). Promptly following ESCO's delivery of a Project Substantial Completion Letter, the parties shall schedule a walk-through to compile a list of Punch List Items that remain to be completed, if any.
- 6.3. Final Completion of the Project. When all Punch-List Items have been completed, ESCO shall inform Customer that the applicable Work is ready for inspection and shall provide an invoice for

the outstanding balance of the Project Price along with a conditional release of all liens arising out of the Contract. Promptly following Customer's receipt thereof, the parties shall conduct a final walk-through and, upon confirming at the walk-through that all of the agreed Punch-List Items have been completed, Customer shall execute an acknowledgment stating that Final Completion has been achieved as of the date set forth therein (the "Project Completion Date").

- 6.4. Final Payment. Payment of the final invoice amount ("Final Payment") shall be due within thirty (30) days of the Project Completion Date. The making of Final Payment shall constitute a waiver of claims by the Customer except those arising from: (a) unsettled liens, security interests, or encumbrances arising out of the Contract; (b) the failure of the Work to comply with the requirements of the Contract; or (c) the terms and conditions of warranties expressly provided in the Contract. Upon receipt of Final Payment, ESCO shall deliver an unconditional and final release of all liens arising out of the Contract.

ARTICLE 7 – CHANGES

- 7.1. Change Request. Customer may request changes to the Scope of Work by submitting a description of the requested changes to ESCO in writing. In response to any such request, ESCO shall provide Customer a written proposal (the "Change Proposal") that describes, in reasonable detail, the proposed changes to the Scope of Work and any corresponding adjustments that would need to be made to the Project Time, and/or the Project Price, as applicable. ESCO may also submit a Change Proposal to Customer in the event that this Contract authorizes or requires the parties to negotiate and/or execute a Change Order or in the event that ESCO otherwise wishes to request a Change Order in good faith, in which case such Change Proposal shall describe the proposed changes in reasonable detail, along with the contractual, legal or other basis for requesting such changes.
- 7.2. Change Order Process. Within five (5) business days following receipt of the Change Proposal, the parties shall meet and confer, acting reasonably and in good faith, to negotiate a mutually acceptable Change Order in accordance with the principles set forth herein. Promptly following agreement on the terms and conditions of the Change Order, the parties shall execute the same. If the parties do not agree upon the terms and conditions of the Change Order and the proposed change relates to circumstances in which a party is entitled to a Change Order under this Contract, then either party may submit the matter to dispute resolution pursuant to Section 11.6 (Disputes and Choice of Law).
- 7.3. Customer Delays. In the event of any failure by Customer to timely fulfill its obligations under Article 4 (Customer's Role and Responsibilities) or in the event of any other delay or Work stoppage due to the acts or omissions of Customer or Customer's agents, the Project Time shall be equitably adjusted to reflect such period of interruption and the Project Price shall be equitably adjusted to cover reasonable costs incurred by ESCO due to the delay or Work stoppage, including, without limitation, any demobilization and remobilization costs. ESCO will use commercially reasonable efforts to mitigate such costs.

ARTICLE 8 – SUSPENSION AND TERMINATION

- 8.1. Non-Appropriation. If Customer is a governmental entity, any applicable State or local law entitling Customer to terminate the Contract due to insufficient appropriation of funds is hereby incorporated in this Section 8.1 by reference. In the event of a termination pursuant to this Section 8.1, Customer shall provide ESCO written Notice of termination as soon as is reasonably possible, and in no event later than the effective date of termination.

- 8.2. ESCO Default. Customer may terminate the Contract or suspend the performance of Work by providing written Notice to ESCO if: (i) ESCO repeatedly or materially fails, refuses or neglects to fulfill its obligations under the Contract, (ii) Customer has provided written Notice of default to ESCO detailing the alleged failure, refusal, or neglect, and (iii) within thirty (30) days of ESCO's receipt of such written Notice, ESCO has neither cured nor commenced and diligently continued efforts to cure such default.
- 8.3. Customer Default. ESCO may terminate the Contract or suspend the performance of Work, as applicable, by providing written Notice to Customer if: (i) Customer repeatedly or materially fails, refuses or neglects to fulfill its obligations under the Contract or fails to make any payment(s) to ESCO as and when due hereunder, (ii) ESCO has provided written Notice of default to Customer detailing the alleged failure, refusal, neglect, or payment default, and (iii) within thirty (30) days of Customer's receipt of such written Notice, Customer has neither cured nor commenced and diligently continued efforts to cure such default.
- 8.4. Prolonged Stoppage of Work. ESCO may terminate the Contract by providing seven (7) days' written Notice to Customer if: (i) Work is stopped due to an act, omission, or request of Customer, other than pursuant to Section 8.2 (ESCO Default), (ii) the Work stoppage is not due to Contractor's negligence, misconduct, or breach of the Contract, and (iii) the Work stoppage is for more than ninety (90) consecutive days or one hundred twenty (120) aggregate days.
- 8.5. Insolvency. Either party may terminate the Contract by providing written Notice to the other party if the other party: (i) becomes insolvent, (ii) is generally unable to pay, or fails to pay, its debts as they become due, (iii) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, (iv) makes or seeks to make a general assignment for the benefit of its creditors, or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property or business.
- 8.6. Payment upon Termination. In the event of any termination other than a termination for cause by Customer pursuant to Section 8.2 (ESCO Default), Customer shall compensate ESCO: (i) in accordance with the Schedule of Values for Work performed and in progress prior to the effective date of termination, and (ii) for reasonable costs and damages incurred by reason of the termination, such as demobilization costs, termination fees, and restocking fees.
- 8.7. Effect of Termination. Subject to Section 11.7 (Survival; Statute of Limitations), termination of the Contract shall release ESCO of all remaining obligations under the Contract as of the effective date of such termination.
- 8.8. Other Remedies. Any remedies provided for in this Article 8 shall not be exclusive of any additional remedies available to a party pursuant to this Contract, in equity or in the law. Nothing in this Contract shall be deemed or construed as a waiver by either party of any rights it may have with respect to a wrongful termination by the other party.

ARTICLE 9 – INDEMNIFICATION AND ESCO LIABILITY

9.1 Indemnification. Except to the extent of the negligence or willful misconduct of Customer, or its agents, representatives, employees, officer, directors or assigns, ESCO shall indemnify and hold harmless Customer, and agents and employees thereof from an against all third party claims, damages, losses and expenses, including but not limited to reasonable attorney's fees, arising out of or resulting from performance of the Work, provided such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death or injury to or destruction of tangible property (other than the Work itself) but only to the extent caused in whole or in part by negligent acts or omissions of ESCO, a Subcontractor any one directly or indirectly employed by them or anyone for whose acts they may be liable.

9.2 Limitations of Liability.

9.2.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, AND TO THE EXTENT ALLOWED BY MISSISSIPPI LAW, ESCO SHALL NOT BE LIABLE IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, EXCEPT FOR THOSE SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES THAT CUSTOMER MAY BECOME LIABLE FOR DUE TO ESCO'S NEGLIGENCE OR WILLFUL MISCONDUCT WHICH ESCO IS REQUIRED TO INDEMNIFY CUSTOMER UNDER SECTION 9.1.

9.2.2 The remedies of Customer set forth herein are exclusive where so stated and the total cumulative liability of ESCO with respect to this Contract or anything done in connection therewith, such as the use of any product covered by or furnished under the Contract whether in contract, in tort (including negligence or strict liability) or otherwise, shall not exceed the Contract price for the specific product, equipment, material or service work performed that gives rise to the claim, excluding third party claims for personal injury, death or property damage or as may be required by law.

ARTICLE 10 – INSURANCE AND BONDS

10.1. Required Insurance. ESCO shall, at its own cost and expense, maintain in effect the following policies of insurance (each a "Policy", and collectively the "Policies") for the applicable period(s) set forth in Section 10.2:

10.1.1. Commercial General Liability Insurance. A policy of commercial general liability insurance, written on an "occurrence" basis, with a liability limit of two million dollars (\$2,000,000) per occurrence ("General Liability Policy").

10.1.2. Automobile Liability Insurance. A policy of automobile liability insurance, written on an "occurrence" basis, with a combined single limit of one million dollars (\$1,000,000) per accident for bodily injury and property damage ("Auto Liability Policy"). The Auto Liability Policy must include coverage for owned, hired and non-owned automobiles.

10.1.3. Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance as required by State law, and employer's liability insurance, written on an "occurrence" basis, with a liability limit of two million dollars (\$2,000,000).

10.1.4. Professional Liability Insurance. Professional liability insurance, written on a claims-made (and reported) basis, with a liability limit of two million dollars (\$2,000,000) per claim ("Professional Liability Policy").

10.2. Duration of Insurance. The Policies shall be procured by ESCO prior to ESCO's commencement of the Project and, except for the Professional Liability Policy, shall be maintained in effect for at least one year following the earlier of the Project Completion Date or termination of this Contract. ESCO shall maintain the Professional Liability Policy in effect for at least three years following the earlier of the Project Completion Date or termination of this Contract.

10.3. Insurer Rating Standards. The insurance policies required pursuant to this Article must be issued by one or more insurers that are (i) licensed to do business in the State and (ii) have an A.M. Best Company rating of not less than "A-" and a financial size category of not less than "VII."

- 10.4. Additional Insureds. At Customer's request, ESCO shall include Customer and Customer's directors, officers, employees, and agents as additional insureds on ESCO's General Liability Policy and Auto Liability Policy. The additional insured endorsements will be on ESCO's most current versions of ISO Form CG 2010 and ISO Form CG 2037 or their substantial equivalents.
- 10.5. Waiver of Subrogation. Each of the General Liability Policy and the Auto Liability Policy shall provide a waiver of transfer of rights of recovery in favor of Customer.
- 10.6. ESCO Insurance is Primary. The General Liability Policy and the Auto Liability Policy shall be endorsed to provide that they are primary and non-contributory.
- 10.7. Premiums, Deductibles and Self-Insured Retentions. ESCO shall be solely responsible for paying deductibles and self-insured retentions applicable to the Policies.
- 10.8. Evidence of Coverage. At Customer's request, ESCO shall provide to Customer a duly authorized and executed certificate of insurance evidencing that the required Policies and endorsements are in effect (each a "Certificate of Insurance").
- 10.9. Notice of Change in Policies. ESCO shall notify Customer within thirty (30) days of its receipt of written notice from an applicable insurer that a Policy will expire without renewal or will be canceled, terminated, or materially reduced in coverage.
- 10.10. Review of Coverage. Customer's failure to identify any non-compliance with the requirements of this Article shall not be deemed as a waiver of such requirements.
- 10.11. Subcontractor Insurance. ESCO shall require each Subcontractor to maintain such levels and types of insurance coverage as are appropriate for the Work to be performed by such Subcontractor.
- 10.12. Bonds. ESCO shall provide payment and performance bonds for 100% of the Project Price to secure the faithful performance of the Work and to ensure the satisfaction of ESCO's payment obligations to its Subcontractors and suppliers related to the Work. Notwithstanding any provision to the contrary herein, any payment and performance bonds associated with this Contract guarantee only the performance of the installation portion of the Contract and shall not be construed to guarantee the performance of: (1) any support or maintenance service agreement, or (2) any other guarantees or warranties with terms beyond one (1) year in duration from Substantial Completion Date.

ARTICLE 11 – MISCELLANEOUS

- 11.1. Notices. All written Notices required to be delivered pursuant to the Contract must be in writing and addressed to the other party at its address set forth below (or to such other address as the receiving party may designate from time to time by providing written notice to the other party in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Contract, a Notice is effective only (a) on receipt by the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

- (a) If to ESCO, to:

Schneider Electric Buildings Americas, Inc.
2204 Lakeshore Dr
Homewood, AL 35209
Attention: Chris Reynolds, Vice President of Operations - Southeast
E-mail: christopher.reynolds@se.com

with copies to:

Schneider Electric Legal Department
70 Mechanic Street
Foxboro, MA 02035
Attention: Time-Sensitive Legal Notice for SEBA

- (b) If to the Customer, to:

City of Tupelo
71E Troy Street
Tupelo, MS 38804
Attention: Don Lewis
E-mail: Don.Lewis@tupeloms.gov

- 11.2. Relationship of Parties. Nothing in this Contract creates any agency, joint venture, partnership or other form of joint enterprise, employment, or fiduciary relationship between the parties. ESCO is an independent contractor pursuant to this Contract. Neither party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.
- 11.3. Public Statements. Customer acknowledges that ESCO may provide information pertaining to this Project and this Contract when responding to requests for proposals, requests for qualifications, requests for references, and other requests from prospective customers and/or government agencies. However, ESCO will not disclose Customer information that has been marked confidential without Customer's prior written consent.
- 11.4. Ethics and Compliance with Law. Each party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party. Neither party shall take any action in violation of any applicable legal requirement that could result in liability being imposed on the other party. In the event Customer has concerns related to ESCO's ethics or any potential violations of ESCO's Trust Charter (code of conduct), Customer is welcome to make use of ESCO's Trust Line. The Trust Line is a confidential channel through which customers can ask questions and raise concerns. Reports can be made using the following link: <https://secure.ethicspoint.eu/domain/media/en/gui/104677/index.html>.

- 11.5. Applicable Law Deemed Included. Each and every provision required by applicable law to be included in this Contract is hereby deemed to be so included, and this Contract shall be construed and enforced as if all such provisions are so included. If, for any reason, any provision required by any applicable law is not expressly included herein, or is not correctly included herein, then, upon request of either Customer or ESCO, the parties shall amend this Contract to include or incorporate, or to correctly include or incorporate, such provision.

Without limiting the generality of the foregoing, the following provisions are hereby included at Customer's direction, to the extent legally required:

11.5.1. Intentionally Left Blank

- 11.6. Disputes and Choice of Law. To the extent allowed by applicable law, the parties shall attempt to resolve any controversy or claim arising out of or relating to this Contract or an alleged breach hereof by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim shall be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The Contract shall be governed by the laws of the State of Mississippi, and any litigation or arbitration proceeding shall take place in the county in which the Project is located.
- 11.7. Survival; Statute of Limitations. The obligations and rights of the parties under this Contract that by their nature would continue beyond expiration, termination, or cancellation of this Contract (including, without limitation, the warranties, indemnification obligations, limitation of liability, effect of suspension or termination, payment upon termination, and ownership and property rights) shall survive any such expiration, termination, or cancellation. As between Customer and ESCO, any applicable statute of limitation shall commence to run and any alleged cause of action shall be deemed to have accrued (1) not later than the Project Completion Date for acts or failures to act occurring prior to the Project Completion Date, or (2) not later than the date of the relevant act or failure to act by either party for acts or failures to act occurring after the Project Completion Date.
- 11.8. Entire Agreement. This Contract, inclusive of the schedules, exhibits, and other documents attached hereto and expressly incorporated herein, constitutes the sole and entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous written and verbal understandings, agreements, representations, warranties, and covenants with respect to such subject matter.
- 11.9. Further Assurances. Upon either party's reasonable request, the other shall execute and deliver all such further documents and instruments, and take all such further acts, as are necessary to give full effect to this Contract and applicable legal requirements.
- 11.10. Amendment and Modification. No amendment to or modification of this Contract is effective unless it is in writing and signed by an authorized representative of each party.
- 11.11. Waiver. No waiver under this Contract is effective unless it is in writing and signed by an authorized representative of the party waiving its right. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated and does not operate as a waiver on any future occasion.

- 11.12. Assignment. Customer may not assign any of its rights or delegate any of its obligations under this Contract without the prior written consent of ESCO. ESCO may assign its rights and delegate its obligations to any affiliate or to any person acquiring all or substantially all of ESCO's assets upon the consent of Customer, such consent not to be unreasonably withheld. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Contract.
- 11.13. Third-Party Beneficiaries. This Contract benefits solely the parties to this Contract and their respective permitted successors and assigns, and nothing in this Contract confers on any other person any express or implied legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Contract.
- 11.14. Interpretation. Unless the context otherwise requires, references in this Contract: (i) to articles, sections, exhibits, schedules, and attachments mean the articles and sections of, and exhibits, schedules, and attachments attached to, this Contract; (ii) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Contract is the result of negotiations between, and has been reviewed by, the parties and their respective legal counsel. This Contract shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.
- 11.15. Headings. The headings in this Contract are for convenience only and do not affect the interpretation of this Contract.
- 11.16. Severability. If any term or provision of this Contract is deemed invalid, illegal, or unenforceable pursuant to applicable law, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Contract or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court may modify this Contract to affect the original intent of the parties to the greatest extent possible.
- 11.17. Counterparts. This Contract may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Contract delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Contract.
- 11.18. Due Authority of Signatories. Each party represents and warrants that this Contract constitutes the legal, valid, binding, and enforceable obligation of such party, and that neither the execution nor performance of this Contract constitutes a breach of any agreement that such party has with any third party or violates any law, rule, regulation, or legal duty applicable to such party. Each party further represents and warrants that the execution of this Contract is within such party's legal powers, and that each individual executing this Contract on behalf of such party is duly authorized to do so by all necessary and appropriate action and does so with full legal authority.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties has caused this Energy Services Agreement to be executed as of the Effective Date by its duly authorized representative below.

City of Tupelo, MS

**Schneider Electric Buildings
Americas, Inc.
Contractor License No. 19977-MC**

By: Todd Jordan
(Signature)
Name: Todd Jordan
Title: Mayor
Date: 07/09/2025

By: [Signature]
(Signature)
Name: Glenn Gaines
Title: Regional Vice President
Date: 7.17.2026

SCHEDULE I SCOPE OF WORK

Customer hereby acknowledges and agrees that the scope of work shall be limited to, and ESCO shall only perform, the following:

1 TUPELO AQUATICS CENTER RENOVATIONS

Facilities

ESCO will provide mechanical upgrades to the following Customer facility:

- Tupelo Aquatics Center

Site-Specific Scope

Tupelo Aquatics Center

Scope of Work is for a design build project. All design details are subject to change as determined by ESCO during final design work following Customer project approval. Final design details include, but are not limited to, equipment sizing, equipment selection, equipment location, extent of demolition, extent of new work, and reuse of existing systems and materials.

This Scope of Work includes upgrades to the natatorium dehumidification and exhaust systems at the Tupelo Aquatics Center. ESCO to perform engineering and construction of the Scope of Work as defined in following sections.

General Scope for Tupelo Aquatics Center

- ESCO to provide testing and balancing services for all new equipment and systems upon completion of the Scope of Work. Certified testing and balancing report to be provided with project closeout documentation.
- ESCO will reuse and/or rework existing sidewall exhaust, return, and supply grills and penetrations in natatorium space as required to accommodate the Scope of Work as determined by ESCO.
- ESCO will temporarily remove and/or relocate existing wall fixtures including, but not limited to, conduits, piping, lighting fixtures, and natatorium devices as required to accommodate the Scope of Work as determined by ESCO. Devices found to be non-functional prior to removal and/or relocation will be reported to Customer using the Equipment Deficiency Report (EDR) process.
- ESCO will update and/or expand existing fire alarm system as required for the Scope of Work as determined by ESCO.
- ESCO will perform structural analysis for all new equipment and systems associated with the Scope of Work. ESCO to provide structural reinforcement as required by the Scope of Work as determined by ESCO.

Exhaust System Improvements

Demolition

- Demolish existing exhaust fans 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, and 18. Provide insulated curb caps for demolished roof-mounted fans or insulated penetration covers for wall-mounted fans at locations of demolished fans. Exhaust fan numbering and identification is per Customer-provided drawings titled "Tupelo Aquatics Center RE-BID", dated June 12, 2012.
- Demolish five (5) high volume low speed paddle fans located above natatorium bleacher area and associated electrical circuits and dispose of properly.
- Provide insulated blank off plates behind existing sidewall grills to remain abandoned in place. Existing exhaust grills to be re-installed over insulated panel.

New Work

- Provide and install approximately 160 linear feet of bench-style Paddock Evacuator (or equivalent alternative as determined by ESCO) chloramine exhaust system in natatorium.
- Paddock Evacuator exhaust to be connected to auxiliary fan system included with new Seresco DHUs 1 and 2.
- Provide and install new sidewall mounted EF-12 in existing wall penetration. Modify existing wall penetration as required to accommodate new EF-12 as determined by ESCO
- Provide testing and balancing services for new exhaust systems.

Natatorium Ductwork Modifications

Demolition

- Demolish existing supply and return ductwork associated with existing dehumidification units (DHUs) 1 and 2 back to units. This includes all fabric ductwork in natatorium space, metal ductwork in natatorium space, and exterior ductwork connected to DHUs 1 and 2.
 - Existing aluminum ductwork penetrating exterior wall, transiting plenum space, and penetrating interior wall to be reused as determined by ESCO.

New Work

- Provide and install new exterior aluminum ductwork between new DHUs 1 and 2. Ductwork will be externally insulated with 1" duct board insulation with non-painted aluminum jacket.
- Provide and install new interior distribution ductwork for new DHUs 1 and 2 in natatorium space. Interior ductwork will be a combination of materials. Rigid ductwork visible in the natatorium space will be spiral ductwork painted to match interior space as close as possible as determined by ESCO
- Remaining ductwork will be fabric material. Fabric ductwork color selected by Customer from manufacturers standard available colors.

Dehumidification Units 1 and 2 Replacement

Demolition

- Demolish existing Seresco DHUs 1 & 2. Existing concrete pad and electrical service to be retained for reuse.
- Disconnect existing power connections to existing DHUs 1 and 2. Demolish and dispose of properly. Existing flexible conduit connections will serve as final connection points to DHUs 1 and 2. Existing electrical conductors to remain for reuse.
- Demolish existing fence enclosure to extents required to accommodate the Scope of Work as determined by ESCO.

New Work

- Expand existing exterior concrete pad as necessary to accommodate new Seresco DHUs 1 and 2 and associated remote condensers.
- Provide new electrical circuits for remote condensers to new main electrical distribution panel. Conduit and wiring for new remote condenser power circuits to be run above ground as determined by ESCO.
- Provide and install new DHUs 1 and 2 in outdoor enclosed space. ESCO anticipates new DHUs 1 and 2 to be Seresco CWT-series 100-ton dehumidification units with remote condensers.
- Reconnect existing power feed from existing DHUs 1 and 2 to new air handling portion of new Seresco DHUs 1 and 2.
- Provide wired connection to Customer IP-network for Seresco WebSentry monitoring program.
- Replace or expand fencing as necessary to enclose new equipment with sufficient space for airflow per manufacturer recommendations.

- Provide extended equipment warranties for new Seresco DHUs 1 and 2 per below. All warranty inclusions, exclusion, terms and conditions apply as defined by the manufacturer.
 - (5) five years on equipment driveline
 - (5) five years on compressors
 - (5) five years on coils
 - (10) ten years (pro-rated) on heat exchanger

Electrical Main Distribution Panel Replacement

Demolition

- Disconnect all existing feeders from existing 1200A main distribution panel. Prepare existing feeders for reuse.
- Demolish existing 1200A main distribution panel and dispose of properly.

New Work

- Provide and install new fully rated 1200A main distribution panel with integrated electrical metering capabilities.
- Rework existing electrical feeders as necessary to accommodate installation of the new panel. Extent of rework required as determined by ESCO.
- Terminate existing electrical feeders into new 1200A main distribution panel.

Bleachers

- Provide and assemble tip and roll aluminum bleachers in the following sizes and quantities:
 - (6) four row low-rise bleachers 15' in length
 - (1) four row low-rise bleacher 9' in length
 - (5) two row standard rise bleachers 15' in length

CUSTOMER RESPONSIBILITIES

ESCO provides the following Customer Responsibilities for the Section 2 Tupelo Aquatics Center Renovations Scope of Work:

- Customer acknowledges that the Scope of Work is a complex construction project. Customer acknowledges that ESCO will make best efforts to accommodate swim meet schedule and normal building operations. However, ESCO makes no guarantee that operational or meet schedules will not be impacted by the Scope of Work, which may necessitate rescheduling of activities or modifications to operations.
- Customer acknowledges that the following design parameters for the Tupelo Aquatics Center are accepted. The competition and recreational pool water temperature setpoints shall be 80 degrees Fahrenheit. The natatorium indoor dry bulb air temperature setpoint shall be 82 degrees Fahrenheit. The natatorium relative humidity setpoint shall be 62%. These design parameters are for a design degree day defined as outdoor dry bulb air temperature of 98 degrees Fahrenheit and an outdoor wet bulb air temperature of 80 degrees Fahrenheit. The design parameters are for a maximum natatorium occupancy of 1600 persons.
- Customer agrees to operate the aquatics center on a single existing Seresco unit beginning on February 22nd, 2027 until the start of the shutdown period on March 15th, 2027. Customer acknowledges that ESCO makes no provisions for temporary conditioning during this time period.
- Customer has agreed to close the Aquatics Center to the public for the period beginning March 15th, 2027 through April 2nd, 2027.

- Customer acknowledges that both existing Seresco units will be inoperable during the shutdown period between March 15th, 2027 and April 2nd, 2027 and that ESCO will not provide temporary conditioning to the natatorium space. Any alteration to the shutdown schedule will be communicated by ESCO at the earliest possible date for review and approval by the Customer.
- Customer acknowledges that one-year labor warranty from Seresco for new DHUs 1 and 2 requires connection to Seresco WebSentry system and remote monitoring by manufacturer.
- Customer acknowledges that project elements including, but not limited to, supply ductwork, exhaust ductwork, piping and electrical systems and structural reinforcements will be visible in the natatorium space.
- Customer acknowledges that the Scope of Work involves major renovations to facility systems that will render those systems to be inoperable or to have reduced capability for extended periods of time. ESCO will require closure of natatorium during periods of construction to allow for safe execution of the Scope of Work as determined by ESCO. ESCO will coordinate with Customer to minimize impacts to facility operations to the extent possible as determined by ESCO.
- Customer is responsible for notification to facility staff and public of facility operations changes during execution of the Scope of Work.
- Customer is responsible for identification of areas that may require temporary conditioning equipment during implementation of the Scope of Work. Customer is responsible for provision of temporary conditioning equipment unless specified in the Scope of Work.
- Customer acknowledges that ESCO will make best efforts to limit the incursion of construction debris into the pools during the construction period but that it will not be possible to completely eliminate the incursion of construction debris.
- Customer agrees to perform the following tasks during the shutdown period planned between March 15th, 2027, and April 2nd, 2027
 - Customer will shut down pool pumping systems. Customer acknowledges that ESCO is not responsible for water loss during this period.
 - Customer will operate pool vacuum systems continuously during the shutdown period.
 - Customer will operate pumps continuously on the second to last day of the shutdown period.
 - Customer will perform a strainer cleaning and pool filter change on the final day of the shutdown period.
- Customer agrees that provided aluminum tip and roll bleachers are sufficient to provide necessary seating during events.
- Customer is responsible for placement and storage of aluminum tip and roll bleachers.
- Customer acknowledges that new fencing may not be an exact visual match for existing materials.
- Customer is responsible for ensuring all fire alarm systems are cleared of any existing faults or trouble alerts prior to connection and startup of new HVAC equipment.

CLARIFICATIONS

ESCO provides the following Clarifications for the Section 1 Tupelo Aquatics Center Renovations Scope of Work:

- Performance of the systems installed under this Scope of Work is based on design parameters, operating conditions, and system components expressly included in the Scope of Work. ESCO is not responsible for system performance degradation caused by equipment, systems, or operational conditions outside the Scope of Work.
- All existing equipment naming identification is per Customer-provided drawings titled "Tupelo Aquatic Center Re-Bid" dated June 12th, 2012.

- All existing roof curbs to be reused in the Scope of Work are assumed to be in suitable condition for reuse.
- ESCO will match existing fencing as closely as possible with commercially available material as determined by ESCO.
- Fire alarm modifications are limited to those directly required to support the installation of new equipment included in this Scope of Work. Any upgrades required to bring the existing fire alarm system into full code compliance are excluded unless specifically identified.
- The Mechanical scope above does not include any engineering, equipment, devices, or operating parameters considering recommendations or industry practices related to the operation of the mechanical equipment relative to Pandemic/Epidemic or Post-Pandemic/Post-Epidemic conditions. Operating parameters associated with these conditions can have an impact on savings, system capabilities, and performance.
- Scope of work will require the HVAC systems and heating/cooling in these spaces to be temporarily inoperable. Special coordination with the facility occupants and operations will be required as to minimize space disruption.
- Existing mechanical and electrical system appurtenances found suitable for re-use by ESCO will remain in place for use at the discretion of ESCO. This includes, but is not limited to, support structures, ductwork, electrical conduit, wiring, and piping.
- Reuse of existing components is based on visual inspection and available information. ESCO does not warrant the performance or condition of existing systems or components not replaced under this Scope of Work.
- ESCO will take reasonable care during removal and reinstallation; however, ESCO is not responsible for latent defects, hidden damage, or failures of existing systems not included in the Scope of Work.
- Existing equipment, piping, and accessories made obsolete by this scope are to be abandoned in-place unless demolition and removal are specifically included in Scope of Work.
- Changes to the design intent to include additional operation of system to reduce humidity or include extra conditioning will require adjustments in savings calculations.
- Painting of natural gas lines is limited to new installations only.
- General Clarifications listed at the end of this schedule.

EXCLUSIONS

ESCO excludes the following items for the Section 1 Tupelo Aquatics Center Renovations Scope of Work:

- Testing and balancing is limited to systems installed under this Scope of Work and is performed to verify operation of installed equipment. TAB results may be impacted by existing systems, building conditions, and operational factors outside the Scope of Work.
- Damage to pool surfaces, pool linings or pool equipment caused by construction debris, except when such damage is caused by actual malice or the gross negligence of ESCO or any agent, employee or subcontractor thereof.
- Cost to repair or replace existing roof curbs to be utilized in the Scope of Work.
- Cost to identify, troubleshoot, or repair any existing faults or trouble alerts in fire alarm systems.
- Costs associated with delay in equipment startup due to failure of Customer to correct existing fire alarm faults or trouble alerts.
- After hours fire watch.
- Night/holiday work unless otherwise specified in the Scope of Work.
- Materials and labor associated with modifications to existing systems and equipment not identified in these documents as included in the Scope of Work.
- Commissioning of existing systems not identified in these documents as included in the Scope of Work.
- Waste disposal other than that required to accomplish the Scope of Work.
- Demolition of equipment, piping and accessories indicated herein to be abandoned in-place unless indicated herein to be included.

- The cost for temporary power to facilities at any time during the construction period.
- The cost for temporary food storage facilities at any time during the construction period.
- Inspection and permitting fees for agencies (state and/or federal) other than the local authority having jurisdiction.
- Water treatment equipment not specified in the Scope of Work.
- Structural analysis and reinforcement are limited to supporting new equipment installed under this Scope of Work. Pre-existing structural deficiencies or conditions requiring global building upgrades are excluded.
- Repair, removal, or replacement of existing structural and/or architectural systems no longer performing design intent.
- Building envelope modifications not specified in the Scope of Work.
- Painting of existing natural gas lines to be reused.
- Replacement or repair of ductwork and diffusers not specified in the Scope of Work.
- Replacement or repair of ductwork airflow control devices not specified in the Scope of Work.
- Replacement or repair of piping not specified in the Scope of Work.
- Replacement or repair of existing safety devices not specified in the Scope of Work.
- Replacement or repair of any fire alarm system devices and wiring not specified in the Scope of Work.
- Ductwork and piping insulation not specified in the Scope of Work.
- Repair or replacement of electrical systems not specified in the Scope of Work.
- Equipment replacement and their components not specified in the Scope of Work.
- General exclusions listed at the end of this schedule.

END OF SECTION 1 TUPELO AQUATICS CENTER RENOVATIONS

2 BUILDING AUTOMATION SOFTWARE MIGRATION

Facilities

ESCO will provide Building Automation System (BAS) software migration the following Customer facilities:

- Ballard Park
- Bel Air Center
- CC Augustus Park
- Tupelo City Hall
- Eastwood Park
- Dot Cooper Kelly Park
- Fire Station #1
- Fire Station #5
- Fire Station #6
- Haven Acres Community Center
- Haven Acres Community Center
- North Side Boys and Girls Club
- Oren Dunn Museum
- PAL Building
- Parks and Rec Department
- Tupelo Police Station
- Rob Leake Park
- Rockwell Center
- Veterans Park

Project Scope of Work

- ESCO will provide EcoStruxure Enterprise Server software to be installed on Customer-provided server.
- ESCO will provide a central workstation on a virtual machine. Virtual machine to be provided by Customer.
- ESCO will integrate all buildings included in Scope of Work into new EcoStruxure Enterprise Server.
- ESCO will update existing StruxureWare building automation software to EcoStruxure version 3.2.4 or newer. Final determination of software version to be installed to be determined by ESCO.
- ESCO will retain existing graphics package. Graphics package will be migrated to new EcoStruxure software environment.

CUSTOMER RESPONSIBILITIES AND ACKNOWLEDGMENTS

ESCO provides the following Customer responsibilities and acknowledgements for the Section 3 Building Automation Scope of Work:

- Customer acknowledges that the Scope of Work in Section 3 Building Automation Software Migration is limited to software migration only and does not include any troubleshooting, upgrading, or repair of any existing systems in the facilities included.
- Customer is responsible for resolution of any existing networking issues causing an offline state for any of the facilities included.

CLARIFICATIONS

ESCO provides the following Clarifications for the Section 2 Building Automation Software Migration Scope of Work:

- ESCO will be responsible for all final design decisions.
- Communication from each building to the central workstation will be provided through the owner's wide area network.
- Work shall be performed during daytime, evening, weekend, and holiday hours at ESCO discretion, unless otherwise specified in the Scope of Work. ESCO will coordinate the schedule with Customer,

- in effort to limit disruptions to facility operations.
- General Clarifications listed at the end of this schedule.

EXCLUSIONS

ESCO excludes the following items for the Section 2 Building Automation Software Migration Scope of Work:

- Troubleshooting, repair, validation, commissioning or any other tasks associated with facilities included in the Scope of Work.
- Upgrade, repair, or replacement of any existing BAS hardware in the facilities included in the Scope of Work.
- General exclusions listed at the end of this schedule.

END OF SECTION 2 BUILDING AUTOMATION SOFTWARE MIGRATION

3 TUPELO AQUATICS CENTER BUILDING AUTOMATION

Facilities

ESCO will provide a new Building Automation System (BAS) at the following Customer facility:

- Tupelo Aquatics Center

Project General Scope of Work

- ESCO will provide site-specific basic user training.

Site-Specific Scope

Tupelo Aquatics Center

General Scope for Tupelo Aquatics Center

- ESCO will demolish existing Delta Automation building automation system. ESCO will reuse existing hardware, devices, or wiring to extent possible as determined by ESCO.
- ESCO will provide and install new EcoStruxure Automation Server hardware and software v6.0 or higher. Final determination of software version to be installed to be determined by ESCO.

Building Automation System Points List

- ESCO will provide and install new building automation system hardware as required to accommodate building automation system points list included below. Extent of upgrade or replacement of existing building automation system hardware as determined by ESCO.

DX Rooftop Units w/Gas Heat (Typical of 4)

<i>Control Points</i>	<i>Monitoring Points</i>
▪ Cooling Command ▪ Heating Command ▪ Supply Fan Command	▪ Space Temperature ▪ Space Temperature Setpoint Adj. ▪ Space Override ▪ Space Humidity ▪ Supply Air Temperature ▪ Supply Fan Status

AAON DX Rooftop Outside Units w/Gas Heat (Typical of 2) ¹

<i>Control Points</i>	<i>Monitoring Points</i>
▪ Cooling Enable/Disable ▪ Heating Enable/Disable ▪ Supply Fan Command	▪ Space Temperature ▪ Space Temperature Setpoint Adj. ▪ Space Override ▪ Supply Air Temperature ▪ Supply Fan Status

Seresco DHUs (Typical of 2)²

<i>Control Points</i>	<i>Monitoring Points</i>
▪ DHU System Operational Mode	▪ Supply Air Temperature ▪ Return Air Temperature ▪ Return Air Humidity ▪ Space Temperature ▪ Space Humidity

Boiler Plant for Heating Pool Water

<i>Control Points</i>	<i>Monitoring Points</i>
▪ Boiler Enable/Disable (x2) ▪ Pump Command (x5) ▪ Pump VFD Speed (x3) ▪ Valve Command (x8)	▪ Hot Water Temperature (x14) ▪ Water Differential Pressure (x3) ▪ Pump VFD Alarm (x3) ▪ Pump VFD Speed Feedback (x3) ▪ Pump Status (x2) ▪ Boiler Status (x2) ▪ Valve Position Feedback (x8)

Miscellaneous

<i>Control Points</i>	<i>Monitoring Points</i>
	▪ Outside Air Temperature ▪ Outside Air Humidity ▪ Bldg. kW Meter

¹ Additional monitoring/control points will be available in the BAS through the BACnet integration interface. Inputs and Outputs of existing equipment are subject to change based on availability discovered during integration.

² Additional monitoring/control points will be available in the BAS through the BACnet integration interface. Inputs and Outputs of new equipment are subject to change based on final unit selection for new mechanical equipment.

CLARIFICATIONS

ESCO provides the following Clarifications for the Section 3 Building Automation Scope of Work:

- ESCO will be responsible for all final design decisions including controller selection, point configurations, and end device selection and will base such decisions on current standards and engineering practices of ESCO.
- Communication from each building to the central workstation will be provided through the owner's wide area network.
- Work shall be performed during daytime, evening, weekend, and holiday hours at ESCO discretion, unless otherwise specified in the Scope of Work. ESCO will coordinate the schedule with Customer, in effort to limit disruptions to facility operations.
- ESCO will not add or control any window units via the building automation system.
- ESCO will not control any self-contained units (units with integral control, not for remote control) via the building automation system.
- ESCO will reuse existing equipment for the execution of this contract, and assumes the equipment or devices are in good working order. Should the equipment or devices need repair or replacement, this will be the responsibility of the Customer. ESCO will create an EDR (equipment deficiency report) to give Customer written notification if such equipment or devices are found.

- Where life safety equipment utilizes compressed air (pneumatics), the source of the air, logic, and actuators will not be removed or modified within the execution of the project.
- ESCO will only control equipment and/or devices shown in the Scope of Work, unless devices are not suitable for automated control. Equipment and devices not in the Scope of Work are excluded.
- If equipment/devices controlled by the existing BAS are not in the Scope of Work, ESCO is not responsible for their functionality.
- Conduit will only be used from controller panels to the lower of a finished ceiling or 8' for all low voltage wiring and shall be in compliance with local codes and authorities having jurisdiction.
- ESCO will make the final decision for controller selection, point configurations, and end devices selection based on current standards and engineering practices of ESCO.
- ESCO will not be responsible for any modification or extension of the existing WAN/LAN for execution of this project.
- ESCO will not be responsible for the functionality of the existing safety devices. Pre and post testing of these smoke, fire, and life safety systems will be the responsibility of the Customer and the sequence will be provided to ESCO.
- ESCO will reuse existing safety circuits unless specified in the Scope of Work.
- Demolition of the existing BAS will be performed to the extent needed to implement the new DDC system as determined by ESCO.
- Reuse of enclosures, wire, and end devices will be determined by ESCO.
- General Clarifications listed at the end of this schedule.

EXCLUSIONS

ESCO excludes the following items for the Section 3 Building Automation Scope of Work:

- Troubleshooting, validation, commissioning or any other tasks associated with Tupelo City Hall, Parks and Recreation Office Building, Rockwell Center, and Rob Leake Park.
- Alterations, expansions, or modifications of building automation system beyond what is required for new mechanical as defined in Sections 1 and 2.
- Integration into the building automation system of exhaust fans controlled by occupancy sensors or local switches and exhaust fans that do not exhaust to the exterior of the building.
- Controlling the HVAC equipment located in buildings without WAN/LAN network communication.
- Demolition of existing BAS system beyond extent required for implementation of new work as determined by ESCO.
- Any painting and repair patching of existing walls, sheetrock, plaster, brick, wood, etc. due to the removal of existing thermostats (for retrofit with DDC sensor or new thermostat)
- Hydronic/ air flow testing and balancing on HVAC equipment.
- Repair of existing HVAC and control equipment not specified in the Scope of Work.
- Repair or replacement of existing safeties on equipment or any life safety equipment not specified in the Scope of Work.
- Repair or replacement of non-functional actuators, dampers, and valves not specified in the Scope of Work.
- General exclusions listed at the end of this schedule.

END OF SECTION 3 BUILDING AUTOMATION

GENERAL CLARIFICATIONS

ESCO provides the following clarifications that apply to all scopes of work in Schedule 1. For additional scope specific clarifications, refer to the clarifications listed in each Scope of Work section above.

- In the event of significant delay in acquiring materials or equipment, or a significant increase in the price of materials or equipment, that occurs during the performance of the Contract, the Contract Price and/or the Contract Time, as appropriate, shall be equitably adjusted by Change Order. A change in the price of an item of material or equipment will be considered significant when the price of an item increases by 15% between the Effective Date and the date on which such item is scheduled to be purchased and/or installed. Any change to the Contract Price and/or Contract Time shall be subject to the approval of Customer, and any such approval shall not be unreasonably withheld.
 - *Additionally, in the event a significant price increase occurs, ESCO and Customer agree to cooperate in good faith to consider alternative materials and designs that would mitigate the impacts of the significant price increase without significantly decreasing energy savings to be delivered under the Contract or proceed forward with a change order for costs above the 15% increase.*
- Due to unprecedented supply chain issues, it may be necessary to perform portions of the work during times that may be less than ideal in order to maintain project schedule and funding. In the event that work planned for unoccupied periods (i.e. summer or winter breaks) gets delayed due to supply chain and/or market (i.e. labor) issues, ESCO will work with Customer to schedule work during the occupied periods. ESCO will notify and collaborate a plan with the Customer to work around constraints, as possible, to maintain project performance. Customer will work with ESCO to provide accommodations for sufficient access to occupied spaces to allow for completion of the project during the original planned contract duration.
- ESCO will provide Customer with equipment deficiency reports (EDRs) for any existing system deficiencies that impede ESCO ability to execute the Scope of Work.
- ESCO Engineer of Record(s), for applicable scopes, has final decision on design and design specifications, unless provided by Customer and incorporated into this contract. Changes to the design that may differ from the scope of work details in this Schedule will be presented to the Customer prior to implementation.
- Work shall be performed during daytime, evening, weekend, and holiday hours at ESCO discretion, unless otherwise specified in the Scope of Work. ESCO will coordinate the schedule with Customer in an effort to limit disruptions to facility operations.
- ESCO has developed the scope of work under the understanding that Customer has provided ESCO all relative insight and inherent knowledge on the operation of the facilities, any deficiencies of the facilities and/or equipment and any requirements or specifications to be included as part of the scope of work.
- Customer is responsible for the selection of paint colors, flooring colors and other aesthetic matching material for any repairs included in the scope of work. Painting and repairs are limited to 1' radius around the affected area. Matching of color and material is limited by age, selection, etc. Selection and accuracy of color/material matching is the responsibility of Customer. It should be noted that tone differences in color or material may be unavoidable due to age and commercially available options. ESCO will assist in the process.
 - Excessive cost or upgrades are excluded from the scope of work.
 - Re-painting, re-application or re-repair based on the Customer selected color or material selection and acceptance of applied selection is excluded from the scope of work.
- Ceiling tiles and ceiling grid will be re-used unless damaged during construction. Ceiling tiles damaged by ESCO during construction will be replaced with new tiles. Matching of ceiling tile color and pattern shall be limited by current commercial availability should replacement tile be required.

Similar or complementary tiles shall be provided where exact matches are not available. Custom tiles are excluded.

- Customer is responsible for handling and transportation of any salvaged equipment chosen to retain. Customer shall coordinate with ESCO for subcontractor to load equipment onto Customer-provided transportation when equipment is removed from the building. Additional handling of salvaged equipment will result in a Change Order to Customer.
- Removal and storage of ceiling tiles that have been painted or otherwise modified from the original manufacturers' design and appearance will be performed by the Customer. ESCO will not be responsible for damage to ceiling tiles.
- Salvage materials will be turned over to Customer (at Customer's request). Salvage materials not requested to be retained by Customer shall be properly disposed of off the site.
- Customer is responsible for the design, safety, and accessibility of ladders permanently attached to the building.
- Unless specifically included in the scope of work, Customer is responsible for handling and transportation of any salvaged equipment chosen to retain. Customer shall coordinate with ESCO for subcontractor to load equipment onto Customer-provided transportation when equipment is removed from the building. Additional handling of salvaged equipment will result in a Change Order to Customer.
- Customer is responsible for funding and the applicable use of funds for the scopes in this contract. If the funding is deemed not applicable to the work performed under this contract, Customer remains obligated for contract amount via other funding methods.

GENERAL EXCLUSIONS

ESCO provides the following general exclusions that apply to all scopes of work in Schedule 1. For additional scope specific exclusions, refer to the exclusions listed in each Scope of Work section above.

- Anything not clearly defined or stated in the Scope of Work.
- Costs related to delays resulting from failure of Customer to address equipment deficiency reports that impact ESCO ability to execute the Scope of Work or close the project.
- Repairs, remedies, and any development of any such repairs or remedies due to unforeseen, undisclosed, and unidentified conditions
- Warranty for any reused parts or parts provided by Customer.
- Costs of providing access, access control, or security escorts not specified in the Scope of Work
- Cleanup beyond construction debris, such as dusting, air scrubbers
- Structural modifications not specified in the Scope of Work
- Additional labor costs due to restriction of allowable work hours, provided however, ESCO is aware that Customer's facilities are used as public facilities and has been provided the current operating schedules. Any additional cost hereunder shall be limited to costs arising from circumstances of which ESCO was not made aware during the development phase, and that are not reasonably anticipated at the time of this Contract.
- Additional labor costs due to limitations to access and keys.
 - Customer shall provide facility access adequate to the requirements of ESCO and their subcontractors. Keys, access cards, and/or escorts will be provided for all facilities involved in the Scope of Work in a quantity sufficient to facilitate execution of scopes at multiple locations with multiple trades.
 - Customer is subject to change orders for delays resulting from limited or restricted access for scheduled or previously coordinated work. Keys and/or access cards will be issued to ESCO project personnel and subcontractor site foreman or lead personnel.
- Hazardous materials testing and abatement not specified in the Scope of Work

- Customer will provide any hazardous materials testing documentation and reports, and information from previous sources or vendors used in hazardous materials testing.
 - Customer will provide testing for suspected hazardous materials if current test reports are not available.
 - Customer is subject to change orders for delays and additional costs due to hazardous material testing and abatement work stoppages.
- Materials and labor associated with modifications to existing systems and equipment not identified as included in the Scope of Work
 - Patching of fire rated walls beyond area directly affected by Scope of Work
 - Maintenance of egress routes and signage
 - Existing open J boxes
 - Existing wiring resting on ceiling grid.
 - Life safety interlocks
 - Floor repair not specified in the Scope of Work.
 - Painting of an area where equipment was removed or altered.
 - Screening to hide equipment.
- Testing, adjusting, and balancing unless specified in the Scope of Work
- Commissioning of existing systems not identified in the Scope of Work
- The cost for utilities including natural or propane gas, fuel oil, electricity, potable or non-potable water during the construction period.
- The cost for equipment, labor, and/or utilities to provide temporary heating or cooling of facilities during the construction period.
- Cost escalation of materials as a result of a delay in the construction schedule caused by Customer action or inaction.
- Inspection and permitting fees for agencies (state and/or federal) other than the local authority having jurisdiction.
- Repair or replacement of ceiling beyond that required to accomplish the Scope of Work.
- Fees and project costs for third party engineers acting as Customer's agent.
- All damage and performance limitations considered Acts of God
- Any remedies or repairs as the result of Authority Having Jurisdiction inspections that are not defined in the scope of work, including but not limited to, existing electrical, infrastructure, mechanical, or other conditions that are not up to code or impact the performance of the building systems or safety.
- Electronic drawings in any format other than PDF
- Repair or replacement of sprinkler systems or underground utilities not specifically included in the scope of work.
- Landscaping, exterior site work, and any related services not specifically included in the scope of work.
- Costs for delays and remediation of unforeseen and/or hidden conditions related to unanticipated soil conditions, environmental contamination, geological conditions, and archaeological findings.

SCHEDULE 2: EXHIBIT A PERFORMANCE ASSURANCE SUPPORT SERVICES

SECTION 1 – SERVICES DURING INITIAL TERM

ESCO shall provide the Performance Assurance Support Services (the “Services”) defined below to Customer during the Initial Term as defined in Schedule 2.

Contract Year 1

Training

ESCO will provide 8 hours of On-Site training. Customer will schedule training sessions at least 14 days in advance. ESCO and Customer will work to schedule a mutually acceptable date for each visit. Customer will be responsible for providing access to the training location and paying for any fees associated with that location. The training location must include internet and Customer EMS access. ESCO does not impose any restrictions on the number of Customer employees attending training sessions so long as the location will accommodate that number.

Remote System Monitoring & Reporting

ESCO will remotely access your energy management system on a monthly basis. During each session, the system will be inspected, and variables will be compared to the contractual agreement. Additionally, ESCO will inspect the system for other areas of malfunction or energy waste and report those findings for Customer review. All findings will be reported, and that report will be delivered to Customer electronically. ESCO will notify Customer if remote access is not available. Customer is responsible for restoring remote access and notifying ESCO. ESCO is not responsible for providing the planned service session if remote access is unavailable.

Remote Energy Management, Training & Technical Support

ESCO will provide 24 hours of remote energy management support. This time can be used for any of the following activities including scheduling, system adjustment, on-demand remote energy management system training or technical support. All Remote Support is client initiated, and it is the expectation of ESCO that if a client does not remain on the phone for the duration of the time required to accomplish the task, the customer will accept the time, up to the limit of the hours already purchased and not used, that the ESCO representative documents as used for that task. No credit will be given towards future years if all of the 24 hours are not used by the end of the project year. If all of the hours are exhausted at any time before the end of the year, additional hours can be purchased in 10-hour blocks which will remain available for use until the end of the next project year.

On-Site Visit

ESCO will provide On-Site Energy Consulting consisting of 2 site visits per year. This service will include a site assessment to determine current conditions and identify areas of improvement. Each site visit will be documented in a report indicating the findings and outlining a plan for further improvement. Customer is responsible for providing access to all mechanical and electrical equipment and any supervision required by Customer. Site visits must be requested 14 days or more prior to the requested date. ESCO and Customer will work to schedule a mutually acceptable date for each visit.

SECTION 2 – SERVICES AFTER INITIAL TERM

After the end of Initial Term and each subsequent term thereafter, Customer may either (1) renew the same level of Service as set forth in the Initial Term or previous term, (2) change the Service level by selecting one or more of the options defined below, or (3) terminate this Agreement and the Savings Guarantee in accordance with the termination provisions contained herein. All prices will be calculated at the time of renewal.

Contract Year 2+ Proposed Pricing: \$7,525

Remote System Monitoring & Reporting

ESCO will remotely access your energy management system on a bi-monthly basis. During each session, the system will be inspected, and variables will be compared to the contractual agreement. Additionally, ESCO will inspect the system for other areas of malfunction or energy waste and report those findings for Customer review. All findings will be reported, and that report delivered to customer electronically. ESCO will notify Customer if remote access is not available. Customer is responsible for restoring remote access and notifying ESCO. ESCO is not responsible for providing the planned service session if remote access is unavailable.

Remote Energy Management, Training & Technical Support

ESCO will provide 12 hours of remote energy management support. This time can be used for any of the following activities including scheduling, system adjustment, on-demand remote energy management system training or technical support. All Remote Support is client initiated and it is the expectation of ESCO that if a client does not remain on the phone for the duration of the time required to accomplish the task, the customer will accept the time, up to the limit of the hours already purchased and not used, that the ESCO representative documents as used for that task. No credit will be given towards future years if all of the 12 hours are not used by the end of the project year. If all of the hours are exhausted at any time before the end of the year, additional hours can be purchased in 10-hour blocks which will remain available for use until the end of the next project year.

On-Site Visit

ESCO will provide On-Site Energy Consulting consisting of 1 site visit per year. This service will include a site assessment to determine current conditions and identify areas of improvement. Each site visit will be documented in a report indicating the findings and outlining a plan for further improvement. Customer is responsible for providing access to all mechanical and electrical equipment and any supervision required by Customer. Site visits must be requested 14 days or more prior to the requested date. ESCO and Customer will work to schedule a mutually acceptable date for each visit.

The PASS Services outlined in this contract will be prorated for Year 2 to properly align with the Existing PASS Services from the first phase of work (PC14P0022) signed 3/3/2015. For convenience, after such time a single annual renewal will be paid by CUSTOMER for PASS Services that will encompass both phases of work.

The available service options may be amended from time to time at the sole discretion of ESCO.