



Cincinnati Office: 3642 Muddy Creek Road
Cincinnati, Ohio 45238
[513] 347-4500

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Columbus, Ohio 43223
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SUBCONTRACTOR AGREEMENT

TO: National Tab
1329 E. Kemper Road,
Suite 4210
Cincinnati, OH 45246

PHONE NO: (855) 682-6822

JOB # 2000

PROJECT: CCPA RTU Replacement
LOCATION: 1425 Linn Street
Cincinnati, OH 45214

SUBCONTRACT: 2000S1A

DATE: 2/2/2024

TRADE: TAB

PRICE: \$2,300.00

This Subcontractor Agreement (the “Agreement”) is entered into on this **2nd day of February, 2024**, by and between Feldkamp Enterprises, Inc. (“Contractor”), and **National Tab** (“Subcontractor”), who agree as follows:

1. Scope of Work; General Contract Terms.

(a) General Description of the Project. Contractor hereby engages the Subcontractor to provide the labor, materials, and equipment specified in the Scope of Work as follows: **Testing and balancing per plans, specifications and attached quote** as more fully described in Exhibit A and in all other Contract Documents (collectively the “Work”). The Work will be provided at the following site: **1425 Linn Street, Cincinnati, OH 45214** (the “Site”) in connection with the following project: **CCPA RTU Replacement** (the “Project”).

(b) Contract Documents. The Contract Documents, as used herein, shall mean and include this Agreement, all written modifications to this Agreement and all change orders agreed to in writing by both Contractor and Subcontractor, the Scope of Work hereto, the Construction Agreement dated **7th day of December, 2023** between Contractor and **Cincinnati College Prep Academ, [the owner of the Site]** (the “Prime Party”) and all amendments and modifications thereto and all change orders agreed to in writing by Contractor and Prime Party



MECHANICAL CONTRACTORS
INDUSTRIAL AND COMMERCIAL SHEET METAL FABRICATORS
AN EQUAL EMPLOYMENT OPPORTUNITY COMPANY

(collectively the “Prime Agreement”), all documents included as Contract Documents under the Prime Agreement, including, but not limited to, Plans and Specifications, Drawings, General Terms and Conditions, and other documents identified in the Prime Agreement, and the following documents if checked below (if any):

- Plans and specifications dated 02/23/2023;
- Drawings prepared by Engineered Building Systems dated 02/23/2023;
- Drawings to be prepared by Subcontractor when approved in writing by Contractor;
- Other All sub-subcontractors must be approved by Feldkamp Enterprises.

All of the foregoing form the Contract Documents, and are as fully a part of this Agreement as if attached or reprinted here. Subcontractor assumes to Contractor all obligations and responsibilities which Contractor assumed toward the Prime Party.

(c) Contract Sum. In consideration of the Work to be provided by Subcontractor, Contractor shall pay Subcontractor the sum of **\$2,300.00**, subject to such additions and deductions as are agreed to by Contractor and Subcontractor and evidenced by written change order (the “Contract Sum”). The Contract Sum shall be payable to Subcontractor in accordance with Section 4 below. The Contract Sum and monthly progress draws will be subject to a retainage of **10%**.

(d) Schedule of Work. Subcontractor will commence the Work on or about and the Work will be diligently pursued to completion. Time is of the essence of this Agreement. Subcontractor shall be required to complete the Work in accordance with any schedule in the Contract Documents and as directed by Contractor to enable completion of the work required under the Prime Agreement. Subcontractor shall be liable to Contractor for damages caused by Subcontractor’s delay.

(e) Permits. Unless otherwise agreed in writing by Subcontractor and Contractor, Subcontractor will apply for all permits required for commencement and completion of the Work and the costs of obtaining such permits shall be paid for by Subcontractor.

2. Subcontractor Responsibilities.

(a) The Subcontractor shall promptly prepare and submit Drawings to Contractor for Contractor’s approval if required by Contractor in the Scope of Work or if required under the Prime Agreement and Contract Documents.

(b) The Subcontractor shall submit to Contractor simultaneous with the execution of this Agreement a schedule of values allocated to the various parts of the Work, aggregating to the Contract Sum under this Agreement, made out in sufficient detail as reasonably

requested by Contractor or as required under the Prime Agreement. All progress payment requests submitted by Subcontractor shall be based on such original schedule of values.

(c) The Subcontractor shall furnish to Contractor periodic progress reports on the Work as requested by Contractor, including information on the status of materials and equipment which have been ordered or are being prepared or manufactured.

(d) The Subcontractor shall perform all Work required by the Contract Documents and in conformance with all Contract Documents, including, but not limited to, the Prime Agreement, and shall perform all obligations of Contractor under the Prime Agreement and the Contract Documents to the extent they pertain to the Work.

(e) The Subcontractor shall supervise and direct the Work and shall be solely responsible for all construction means, methods, and procedures unless otherwise agreed in writing with Contractor.

(f) Unless otherwise agreed in writing by Contractor, Subcontractor shall pay for all labor, materials, equipment, tools, construction equipment, utilities, and other facilities and services necessary for the proper execution and completion of the Work.

(g) Subcontractor and all its sub-subcontractors and suppliers shall at all times be in good standing with their vendors, suppliers, labor unions and benefit funds.

(h) Subcontractor shall pay all sales, use, and similar taxes required by law on the contract sum and shall secure all permits, fees, and licenses necessary for execution of the Work.

(i) Subcontractor shall comply with, in all material respects, all applicable laws, ordinances, rules, and regulations and orders of any governmental authority relating to the execution of the Work.

(j) Subcontractor shall be responsible for the acts and omissions of all of the Subcontractor's employees and subcontractors, and the agents and employees of Subcontractor's subcontractors.

(k) The Subcontractor shall keep the Site free from the accumulation of waste materials caused by Subcontractor's Work, and upon completion of the Work, Subcontractor shall remove all of the Subcontractor's waste materials and rubbish from the Site and all tools, construction equipment, and surplus materials belonging to Subcontractor.

3. Contractor Responsibilities.

(a) Contractor represents and warrants to Subcontractor that Contractor has full authority to engage Subcontractor to perform the Work and construct the improvements in accordance with the Contract Documents.

(b) Contractor will arrange with Prime Party to provide Subcontractor with access to the Site as required by Subcontractor to perform and execute the Work, including, but not limited to, access to roads, driveways, and parking areas as reasonably requested by Subcontractor, storage areas and trailer areas as are reasonably required by Subcontractor to perform the Work and to store construction materials, equipment, tools, and machinery.

4. Payment.

Subject to the conditions stated below, the Contractor shall make progress payments to Subcontractor as the Work progresses on account of the Contract Sum pursuant to monthly progress payment applications submitted by Subcontractor as further provided below. Subcontractor's applications for progress payments shall be submitted on documents approved by Contractor and as required by the Prime Agreement and shall be completed with sufficient breakdown of the materials and labor provided to date by Subcontractor based on the original schedule of values submitted by Subcontractor. **Certified payroll reports are required for all prevailing wage jobs and also all Ohio School jobs. These must be submitted to our Accounts Payables Department (accounts.payable@feldmech.com) on a weekly basis. No pay request will be made without them.**

(a) Contractor will use and incorporate Subcontractor's application in an application for progress payment which Contractor will submit to Prime Party each month. All progress payments shall be subject to the applicable retainage.

(b) Subject to satisfaction of the conditions below, Contractor shall make payment on each monthly request for progress payment within thirty (30) days after application for progress payment is made by Subcontractor. Notwithstanding the foregoing, Contractor shall not be obligated to pay Subcontractor for any progress draw until such time as Contractor receives payment on the request for progress payment from Prime Party; such payment being a condition precedent to payment to Subcontractor. Each request for progress payment shall be accompanied by such affidavits, lien waivers and other documents as provided by the Contract Documents or as requested by Contractor, including affidavits of subcontractor and all material suppliers and subcontractors of Subcontractor verifying that all laborers, employees, benefit funds, material suppliers, and subcontractors have been paid in full; lien releases from Subcontractor and all of its material suppliers and subcontractors who have furnished labor, materials, and/or equipment at the Site (the "Required Documents"). Subcontractor shall be responsible for removal of any liens placed on the Site by the foregoing and costs incurred by Contractor, including attorney fees, as a result of the failure to comply with this provision.

(c) The remaining balance of the contract sum and any retainage shall be paid by Contractor to Subcontractor only after Contractor has been paid the remaining balance owed to Contractor under the Prime Agreement, including all retainage, such payment being a condition precedent to payment to Subcontractor, and within thirty (30) days after receipt by Contractor of (i) a certification from Subcontractor that the Work has been fully completed in accordance with the Contract Documents, (ii) receipt by Contractor of all Required Documents from Subcontractor,

including, but not limited to, full and complete lien releases from Subcontractor and all subcontractors and material suppliers who have furnished labor, materials, and/or equipment pursuant to a contract with the Subcontractor.

5. Change Orders.

(a) By Request. During the course of construction Contractor shall have the right to request changes in the Work. Any changes to the Work or any amendments or modifications to this Agreement or to the Contract Documents which are not required under section 5(b) below, shall be effective only if contained in a "Change Order" signed by both parties, which provides for (a) the adjustment, if any, in the Contract Sum; (b) the method of payment of any increase in the Contract Sum; (c) the extension, if any, of the time for completion of the Work; and (d) a description of the additional Work.

(b) By Order. Subsequent to the execution of this Agreement, when a change in the Work is required to comply with the Prime Agreement and the Contract Documents, or to comply with changes imposed on Contractor in accordance with the Prime Agreement and the Contract Documents, Contractor shall have the right to order changes in the Work by written directive to Subcontractor and such changes shall be binding on the Subcontractor. Subcontractor shall promptly notify Contractor in writing, prior to commencement of such changed or revised Work, and at least two business days prior to the time Contractor must submit a claim for an adjustment under the Prime Agreement and Contract Documents, a claim for adjustment in the Contract Sum or schedule for completion of the Work as a result of the change order. Such claim must include a revised schedule of values showing the revisions to the parts of the Work affected by the change order. If Subcontractor fails to make a claim for an adjustment to the Contract Sum or the schedule for completion of the Work prior to commencement of such changed or revised Work, Subcontractor shall be barred from making any claim for an adjustment to the Contract Sum against Contractor and shall be required to perform the Work as revised by the change order without any adjustment in price or the Contract Sum and in accordance with the schedule for completion in the Contract Documents. Notwithstanding the foregoing, in the event of any such change order, if Subcontractor timely submits a claim for adjustment, Subcontractor shall be required to accept the consequences imposed on Contractor under the Prime Agreement and the Contract Documents even if Subcontractor's claim for adjustment is denied in whole or in part.

6. Substantial Completion. Subcontractor shall provide Contractor with a Certificate of Substantial Completion upon Subcontractor achieving substantial completion of the Work and as required by the Contract Documents. Contractor and Subcontractor shall conduct a joint walk through inspection of the Work at such time for purposes of documenting all incomplete items in order to formulate a punch list (the "Punch List"). Subcontractor agrees to proceed with due diligence to complete the items listed in the Punch List. Upon completion of all of the Punch List items, Subcontractor will provide Contractor with the Required Documents, including, but not limited to, final affidavits and release of liens as reasonably requested by Contractor, when Subcontractor makes request for payment of the remaining balance of the Contract Sum. Final payment to Subcontractor and payment of any retainage shall be paid in accordance with Section

4 above.

7. Hazardous Materials.

(a) Discovery of Hazardous Materials. In the event Subcontractor encounters Hazardous Materials during performance of the Work, Subcontractor shall promptly stop work in the area affected and report the condition to Contractor in writing. Work in the affected area shall not thereafter be resumed, except by written agreement of Contractor and Subcontractor, until the Hazardous Material has been properly removed or when it has been rendered harmless in accordance with a determination by the appropriate Governmental Authority.

(b) Subcontractor's Hazardous Materials. Subcontractor shall not, and shall assure that its subcontractors shall not, bring to the Site and shall not leave on the Site, any Hazardous Materials. In the event any Hazardous Materials introduced by Subcontractor or any of its subcontractors are discovered, Subcontractor shall have the responsibility, at Subcontractor's sole cost, of removing the same and/or rendering such material harmless, all in compliance with applicable law, to the reasonable satisfaction of Contractor and Prime Party.

(c) Notice of Investigations. During the term of this Agreement, each party shall promptly notify the other party of any summons, citation, directive, notice, complaint, letter or other communication, written or oral, received by that party from any state environmental protection agency, the United States Environmental Protection Agency or any other entity concerning (i) any alleged violations of any Environmental Law or (ii) any investigation or request for information relating to the generation, use, handling, packing, transportation, treatment, storage, release, or disposal of Hazardous Materials with respect to the Work or the Site. "Hazardous Materials," as used herein, shall mean (i) pollutants, contaminants, hazardous wastes, toxic substances and Hazardous Materials, as those terms are defined under any federal or state environmental law, (ii) oil and petroleum products, including constituents thereof or additions thereto, (iii) asbestos and asbestos containing materials, and (iv) polychlorinated biphenyls ("PCBs") or PCB-containing materials.

8. Indemnity. Subcontractor shall indemnify, defend and hold harmless Contractor, Prime Party and their affiliates, partners, joint ventures, representatives, members, officers, directors, shareholders, employees, agents, successors, and assigns ("Indemnified Parties") from and against any and all claims, costs, expenses, attorney fees and liabilities relating to damage or harm to persons or property which arise from or in any way connected to the performance Subcontractor's Work, its subcontractors, or their respective employees, or agents ("Claims"). These obligations apply whether or not the Claims arise out of the concurrent act, omission, or negligence of the Indemnified Parties, whether active or passive but not as to Claims found to be due to the sole negligence or willful misconduct of any Indemnified Parties. These obligations extend to Claims arising after the termination of this Agreement and until such Claims against the Insured Parties are fully and finally barred by applicable law.

9. Warranty.

(a) Warranty and Warranty Period. Subcontractor warrants that all Work shall be performed in a workmanlike manner in accordance with generally accepted standards of construction and in compliance with the requirements of the Contract Documents. Subcontractor warrants that materials and equipment incorporated into the Work shall be new unless otherwise agreed in writing, and free from defects. Subcontractor shall remedy any breach of the warranty set forth in this Section 9 which Contractor or Prime Party notifies Subcontractor of in writing during the Contractor's warranty period described in the Prime Agreement or within twelve (12) months after the date of Contractor's Certificate of Completion with Prime Party, whichever is longer (the "Subcontractor Warranty Period").

(b) Remedy. If the warranty set forth in Section 9(a) hereof is breached or a defect or deficiency is discovered during the Subcontractor Warranty Period, Subcontractor shall, upon notice from Prime Party or Contractor of a warranty claim during the Subcontractor Warranty Period, at Subcontractor's option, repair, replace, and/or correct the applicable Work on a reasonably expedited basis. If the Work is not properly repaired after the first attempt, then Subcontractor shall replace the Work if so directed by Contractor. Subcontractor shall have access to the Site as necessary to perform its warranty obligations under this Agreement. All costs incidental to Subcontractor's performance of its warranty obligations shall be borne by Subcontractor, including the removal, replacement and reinstallation of all equipment and materials necessary to gain access to defective Work.

(c) Warranty Limitation. The warranty obligations of Subcontractor do not extend to Work that is damaged by the negligent acts or omissions of Prime Party or Contractor or their respective agents, employees, contractors, and subcontractors (other than Subcontractor) or that are not maintained and operated in accordance with all applicable instructions, practices and procedures.

10. Insurance. Subcontractor and each of its subcontractors shall purchase, at their cost, and maintain such insurance as will protect the Subcontractor, Contractor and the Prime Party from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from the Subcontractor's performance of the Work as provided in the Liability Insurance Requirement (attached as Exhibit B) and in accordance with the Contract Documents whether such operations are performed by the Subcontractor or by any subcontractor or anyone directly or indirectly employed by either of them. The insurance shall be in place prior to the commencement of the Work and be maintained in effect until final acceptance of Subcontractor's work or as otherwise required by the Contract Documents. The insurance shall include contractual liability insurance covering the Subcontractor's obligations under paragraph 8, above. Certificates of such insurance shall be delivered to the Contractor prior to commencement of the Work and shall name the Contractor, Prime Party, and Prime Party's lender and their officers, employees and agents as additional insureds. General Liability certificates shall reference additional insured forms per the CG 2010 11/85 or CG 2010 10/01 and CG 2037 10/01 or using

substitute forms that provide equivalent coverage. Copies of additional insurance forms shall be supplied or provided upon execution of the certificate of insurance. Such Coverage shall apply on a primary and non-contributory basis along with a waiver of subrogation. Subcontractor shall require all of its subcontractors to comply with the requirements of this section and carry such insurance.

11. Termination; Default. If the Subcontractor defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to perform any provision of this Agreement, the Contractor may, after seventy two (72) hours written notice to the Subcontractor and failure by the Subcontractor to cure the default during the notice period, and without prejudice to any other remedy the Contractor may have at law or in equity, (a) correct such deficiencies and deduct the cost thereof from the payment then or thereafter due the Subcontractor, and Subcontractor shall be liable for any cost to complete such deficiencies in excess of the amount due Subcontractor, and then require Subcontractor to complete the remaining Work in accordance with the Contract Documents; or (b) terminate this Agreement and take possession of the Subcontractors materials at the Site which are to be incorporated into the Site as part of the Work and finish the Work by whatever commercially reasonable method the Contractor may deem expedient, and Subcontractor shall be responsible for the cost to complete the Work in excess of the remaining balance on the Contract Sum and shall not be entitled to payment for Work previously performed except to the extent the total cost to complete the remaining Work is less than the balance on the Contract Sum. This Agreement also may be terminated by Contractor if Contractor terminates the Prime Agreement with Prime Party for any reason. In the event of any breach of this Agreement the prevailing party shall also be entitled to an award of all litigation costs, including attorney fees.

12. Risk of Loss; Title. Subcontractor shall have the full responsibility for care, custody and control of and shall bear the risk of loss in connection with all material and equipment placed at the Site or used in the Work until such time as the same are incorporated into the Work and paid for by Prime Party pursuant to a progress payment, at which time risk of loss and title shall pass to Prime Party.

13. Miscellaneous.

(a) Assignment. This Agreement shall not be assigned by any party without the prior written consent of the other party.

(b) Amendment. This Agreement may be amended or modified at any time and in all respects, or any provision hereof may be waived, only by an instrument in writing executed by all of the parties hereto.

(c) Governing Law. For purposes of construction, enforcement and interpretation, this Agreement shall be construed, enforced and interpreted in accordance with the laws of the State of Ohio.

(d) Successor and Assigns. All terms and provisions of this Agreement shall

be binding upon, inure to the benefit of, and be enforceable by, Contractor and Subcontractor and their successors and permitted assigns.

(e) Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof. It is the intention of the parties hereto that any provision of this Agreement which may be found to be invalid or unenforceable shall be modified to the extent necessary to make such provision valid and enforceable.

(f) Notices. All notices, requests, consents, claims, objections, and other communications required or permitted to be sent by this Agreement shall be in writing and shall be deemed given when delivered in person or sent by email or fax or two days after deposited pursuant to prepaid registered or certified mail, return receipt requested, and shall be sent to the other parties to this Agreement, addressed as follows:

To Contractor: **Feldkamp Enterprises, Inc.**
3642 Muddy Creek
Cincinnati, Ohio 45238
Phone :(513) 347-4500
Fax: (513) 347-4506

To Subcontractor: **National Tab**
1329 E. Kemper Road,
Suite 4210
Cincinnati, OH 45246
Phone:(855) 682-6822
Fax:

(g) Entire Agreement. This Agreement together with the other Contract Documents referenced herein constitutes the entire agreement between the parties. There are no agreements, understandings, restrictions, warranties, or representations between the parties other than those described herein. In the event of a conflict between this Agreement and the Contract Documents, the provision imposing the higher or more stringent standard on Subcontractor shall control.

(h) Equal Employment Opportunity. In connection with performance of the Work under this Agreement, Subcontractor agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination;

rates of pay or other forms of compensation; and selection training, including apprenticeship. The Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

The provisions of the Equal Opportunity Clause, as promulgated by Executive Order 11246 dated September 24, 1965, as amended, are incorporated herein by reference.

(i) Independent Contractors. Subcontractor's relationship with Contractor in performing the Work and obligations under this Agreement is that of an independent contractor, and Contractor shall not be obligated to make any payments, withhold any portion of fees, or take any other action pursuant to any federal, state, or local law dealing with income or social security tax withholding, unemployment or workers' compensation insurance, or any other law dealing with the obligations of an employer to its employees. Subcontractor shall report its income for tax purposes in the manner consistent with such independent contractor status and shall be solely responsible for payment of and shall indemnify Contractor from all taxes associated with the income derived under this Agreement.

CONTRACTOR:

FELDKAMP ENTERPRISES, INC.

By: _____

Title: _____

Date: _____

SUBCONTRACTOR:


NATIONAL TAB

By: _____

Title: _____

Date: _____

8/2023

 <small>Comfort. Under control.</small>		1329 E Kemper Rd, Ste 4210	
		CINCINNATI, OH 45246	
		513-860-2050	
		joe@nationaltab.com	
Client:	Feldkamp Enterprises, Inc.	Project:	Cincinnati College Prep Academy
Email:	blinblad@feldkamphvac.com	QUOTE #:	JMH-NT-16051
ATTN:	Brian Linblad	BID DATE:	2/1/2024
Address:		Jobsite location:	1413 Linn St. - Cincinnati, OH

Thank you for allowing National TAB this opportunity to bid on the testing and balancing of this project. The following is our understanding of the scope of work and the associated cost.

Equipment:	Qty.:	Equipment:	Qty.:
RTUs	2	ZDs	12
AHUs	2	Exhaust Fans	2
VAVs	11	Air Devices	

SCOPE OF WORK:

1. 1st Shift Work Only
2. TAB of listed equipment
3. No Lift Included. IF needed will be additional

This proposal includes a written report to be submitted upon completion of all work by National TAB.

TOTAL PRICE =	\$	6,000.00
Area 2000	\$	2300.00
Area 8950	\$	3700.00

Any parts if required will be additional. However, no parts will be provided without initial approval unless National TAB, LLC has agreed with the client for a set fee to perform specific task. Lift rental to be additional if required if not provided by owner or GC. Work to be performed 1st shift only.

Not included in price: Prevailing Wage, Sound and Vibration testing, Indoor Air Quality testing, and Pre-testing is not included unless price is specified separately above.

WE HEREBY PROPOSE to furnish labor complete in accordance with NATIONAL TAB specifications, #NAME?

Terms as specified by our acct department. New accounts are required to fill out a credit application.

<p>Acceptance of proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made in accordance to terms agreed upon.</p> <p>Client Signature _____</p> <p>Client Date of Acceptance _____</p>	<p>Authorized Signature for NT:</p> <p style="text-align: center;"><u>Joe Hertenstein</u></p> <p>Date: <u>02/01/24</u></p>
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