



**MINOOKA COMMUNITY HIGH SCHOOL DISTRICT #111
SPECIAL BOARD MEETING
WEDNESDAY, APRIL 27, 2022, 6:00 PM**

The Special Board Meeting will be held at the
Academic Resource Center
301 South Wabena Avenue
Minooka, Illinois 60447

In order to make a public comment, please sign up 5 minutes prior to Roll Call. The public comment portion of the meeting will be in accordance with Policy 2:230. Please review said policy prior to the Board of Education Meeting. To view the meeting via YouTube, click [here](#).

AGENDA

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Public Comments**
5. **Discussion**
 - A. Buildings & Grounds - Performance Contract 2
 - B. Superintendent Search 71
6. **Executive Session** - To adjourn the meeting to executive session for discussion on matters related to minutes; the appointment, compensation, discipline, dismissal, employment and performance of specific employees of the District.
 - A. Personnel (Mr. Brozovich)
 - B. Return to Open Session
7. **Action Items** - Consideration and Possible Approval of Performance Contract with GRP Wegman as presented
8. **Announcements and Communications**
9. **Adjourn**

GUARANTEED ENERGY SAVINGS CONTRACT

This Guaranteed Energy Savings Contract ("Contract") is made and entered into as of February 9, 2015 between **GRP Mechanical Company, Inc. d/b/a GRP WEGMAN COMPANY**. ("GRP|WEGMAN"), having its principal offices at 1 Mechanical Drive, Bethalto, IL 62010, and the Minooka Community High School District 111, ("DISTRICT") having its principal offices at Address, City, State, Zip Code 26655 W. Eames Street, Channahon, IL 60410.

RECITALS

District owns and operates ~~elementary and~~ high school facilities ("Premises") in Grundy County, Illinois, and wishes to acquire equipment and services to reduce energy consumption or operating costs, provide operational savings, and to make health and life safety improvements, in the schools.

GRP|WEGMAN has the experience and project management capabilities to identify and evaluate Energy Cost Savings Measures ("ECMs"), and provide recommendations for designing and implementing such measures.

GRP|WEGMAN has delivered to District a Proposal in response to District's Request for Proposal ("RFP"), dated September 11, 2014 January 10, 2022, pertaining to GRP|WEGMAN's furnishing in a phased approach (for all District's buildings over a period of several years) of all labor, material, equipment, and services necessary for the execution and completion of all items of Energy Cost Savings as specified in this Contract.

In accordance with the provisions of the RFP, the facilities of the District were analyzed to identify and evaluate viable ECMs that would improve the learning environment, as well as estimates of expected energy and operational savings and associated project costs for each recommended ECM.

District desires to contract with GRP|WEGMAN for the design, installation, project management, coordination, and scheduling of the ECMs as set forth herein.

GRP|WEGMAN and District acknowledge that the purpose of this Contract is to achieve the ECMs contemplated by this Contract for the benefit of District and agree to cooperate to achieve the purpose of this Contract.

NOW, THEREFORE, the parties agree as follows:

SECTION 1. ENERGY SURVEY

Section 1.1. Details. GRP|WEGMAN has prepared a survey of the District's facilities ("Survey") in response to District's RFP. The Survey has been approved and accepted by District. The Survey includes all identified ECMs .

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Section 1.2. Schedules and Exhibit. GRP | WEGMAN has prepared and District has approved and accepted the Schedules and Exhibit as set forth below, copies of which are attached hereto (or will be as provided for in this Contract) and are made a part of this Contract by reference. "Contract Documents" means this Contract with the conditions described herein, the Schedules identified below, exhibits attached to such Schedules, the Design & Engineering Documents prepared by GRP | WEGMAN and approved by the District, the Construction Schedule, any Change Orders, other documents listed in the Contract, and any modifications to the foregoing documents issued after execution of this Contract.

Schedules:

- Schedule A Scope of Work to be performed by GRP | WEGMAN
- Schedule B Energy Savings Guarantee
- Schedule C Compensation to GRP | WEGMAN
- Schedule D Construction and Installation Schedule
- Schedule E Required Standards of Comfort
- Schedule F Project Cash Flow
- Schedule G Final Delivery and Acceptance Certificate

~~Schedule H Section 179D Allocation~~

SCHEDULE H Terms of the Request for Performance Contracting Proposal for a Guaranteed Energy Savings Contract ("Terms of the RFP")

Section 1.3. Other Documents. The provisions of ~~this the Request for Performance Contracting Proposal Contract~~ shall govern in the event of any inconsistencies with ~~the this Contract~~, Schedules and the terms Request for Performance Contracting Proposal.

SECTION 2. GENERAL

Section 2.1. District engages and GRP | WEGMAN agrees to perform and provide the Energy Cost Savings Measures, and such other goods and services (collectively the "Work") described in Contract Documents for the Project and in accordance with the terms of this Contract.

Section 2.2. District has furnished or shall furnish (or cause its energy suppliers to furnish if reasonably possible) to GRP | WEGMAN, upon request, all of its records and complete data concerning energy usage and energy-related maintenance for the Premises, including the following data for the most current twelve (12) month period; utility records; occupancy information; descriptions of any changes in the building structure or its heating, cooling, lighting or other systems or energy requirements; descriptions of all energy consuming or saving equipment used in the Premises; bills and records relating to maintenance of energy-related equipment, and a description of energy management procedures presently utilized

SECTION 3. CONTRACT TIME

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Section 3.1. The Contract Time consists of the Installation Period and the Guarantee Period. The "**Installation Period**" is the period of time from the Notice of Commencement until Final Acceptance of the Work identified in Schedule A, Scope of Work. The "**Guarantee Period**" is the period of time from the Guarantee Commencement Date, as defined in Section 3.2, until the end of the Guarantee Term. A separate installation period and guarantee period shall apply to any subsequent work added by Contract Change Order after final acceptance of the work identified in Exhibit A, Scope of Work.

Section 3.2. Guarantee Commencement Date. The Guarantee Commencement Date shall be the first day of the month after the month in which the Final Acceptance of the Work included in Schedule A, Scope of Work has occurred. "**Final Acceptance**" shall be deemed to have occurred when: (i) GRP | WEGMAN has delivered a Certificate of Substantial Completion and/or Punch List to the District indicating that it has installed and commenced operating all of the Work and equipment specified in Schedule A and in accordance with the provisions of Section 8, and (ii) District has inspected and accepted said installation and operation and signed GRP | WEGMAN's Certificate of Substantial Completion and/or Punch List. If the District does not concur that the Work has achieved Substantial Completion and/or that the Punch List is not complete or correct, then the District shall notify GRP | WEGMAN within ~~ten-thirty~~ (1030) business days of any discrepancies. To the extent GRP | WEGMAN does not dispute the discrepancies raised by the District, GRP | WEGMAN shall (i) promptly and diligently correct the Work to conform to the description of the Work set forth herein, and resubmit the certificate of Substantial Completion to the District, and (ii) promptly complete all items on the Punch List. If GRP | WEGMAN disagrees with the discrepancies raised by the District, GRP | WEGMAN shall notify the District of a dispute and such dispute shall be resolved in as provided under this Contract. If the District does not deliver written notice to GRP | WEGMAN within ~~ten-thirty~~ (1030) business days of receiving the certificate of Substantial Completion and the Punch List, the District will be deemed to have agreed to, signed and returned the certificate of Substantial Completion and the Punch List. Any Work added to this Contract by Contract Change Order subsequent to Final Acceptance shall have a separate guarantee period commencing on the Guarantee Commencement date for such Work shall not: 1) Extend the Guarantee Period for the Work included in Schedule A, Scope of Work, or any other Work for which Final Acceptance has occurred, or; 2) Extend either the contractual liability of GRP | Wegman, or liability of its bond surety under payment or performance bonds for the Work included in Schedule A, Scope of Work, or any other Work for which final acceptance has occurred.

Section 3.3. Term of Contract. Subject to the following sentence, the term of this Contract shall be twenty (20) years measured beginning with the Commencement Date.

SECTION 4. COMPENSATION TO GRP | WEGMAN

Section 4.1. Energy Savings Guarantee. GRP | WEGMAN has formulated and, subject to the adjustments provided for in Section 14, guaranteed the energy

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consumption, operating costs, and operational savings to be achieved as a result of the installation and operation of the Work and equipment and services provided for in this Contract. The Energy Savings Guarantee for the Work performed under this Contract is specified in Schedule B (Energy Savings Guarantee). All or some portion of the Energy Savings Guarantee may consist of energy and operations savings stipulated to by the District and GRP | WEGMAN (Stipulated Savings). These Stipulated Savings shall be based on GRP | WEGMAN's customary standards and methodologies and include avoided maintenance, avoided capital investments, operational savings or avoided personnel costs. The District and GRP | WEGMAN acknowledge that Stipulated Savings are being used to avoid the high costs for measuring the categories of savings included in the parties' stipulation. The District acknowledges that it has evaluated sufficient information to accept the determination of Stipulated Savings contained in the Energy Savings Guarantee of this Contract. The Stipulated Savings shall be deemed achieved on the date the District accepts and signs GRP | WEGMAN's Certificate of Substantial Completion. The parties agree that Stipulated Savings shall not be measured or monitored at any time in connection with the Energy Savings Guarantee.

Section 4.2. Review and Reimbursement/Reconciliation. To the extent not included in the Stipulated Savings referenced in Section 4.1, and if, at the end of any calendar year during the guarantee period as specified in Schedule B (Energy Savings Guarantee) , GRP | WEGMAN has failed to achieve the annual Energy Savings Guarantee specified in Schedule B, upon written request by District, which shall be given no earlier than the end of such year and no later than thirty (30) days thereafter, GRP | WEGMAN will pay District the difference between the annual amount guaranteed and the amount of actual energy and operations savings achieved at the District's Premises in accordance with the provisions of Schedule B. GRP | WEGMAN shall remit such payments to District within ninety (90) days of written notice by District of such monies due. When the total energy savings in any one year during the guarantee period exceed the Energy Savings Guarantee set forth in Schedule B and are in addition to those monies due GRP | WEGMAN for compensation for services as set forth in Schedule C, (Compensation to GRP | WEGMAN), such excess savings shall be first be applied to reimburse GRP | WEGMAN for any payment GRP | WEGMAN made to the District to meet GRP | WEGMAN's guarantee for previous years in which the energy savings fell short of the Energy Savings Guarantee specified in Schedule B. GRP | WEGMAN shall annually prepare and provide a report to the District documenting the performance of the ECMs.

Section 4.3. GRP | WEGMAN and District agree to work in good faith to resolve any disagreement over the calculation of the energy savings. Should an irresolvable disagreement arise as to the calculation of energy savings, an independent public accounting firm may be engaged by either party to conduct a review and give an opinion on whether the calculation of savings or deficiencies as prepared by GRP | WEGMAN is fairly stated in accordance with this Contract. The independent public accounting firm shall be mutually agreed upon by the parties. Exercise of the right to request a review shall in no way affect District's obligation to make current payments pursuant to this Contract unless otherwise described herein. Any payments

between the parties necessary to resolve any irregularities identified in the review will be made within sixty (60) days after submission of the review to the parties

Section 4.4. GRP|WEGMAN Compensation and Fees: GRP|WEGMAN has structured the Energy Savings Guarantee referred to in Section 4.1 above; so as to be sufficient to equal or exceed the sum of any and all payments required to be made by District in connection with the Work to be performed by GRP|WEGMAN under this Contract. District shall pay GRP|WEGMAN the Contract Sum of ~~Three Million Two Hundred Thousand Dollars (\$3,200,000)~~ for the provision of services as set forth and in accordance with the provisions of Schedule C (Compensation to GRP|WEGMAN).

Section 4.5. Billing Information Procedure. Payments due to GRP|WEGMAN under this Section 4 shall be calculated in accordance with the provisions of Schedule C. GRP|WEGMAN shall provide District with an invoice of the total amount due. Payments shall be made by the District ~~within ten (10) days of GRP|WEGMAN's presentation of its invoice according to the district's normal and customary board approval and bill payment procedure.~~ For any Work not covered by Schedule C, GRP|WEGMAN shall invoice District on a monthly basis with payment due upon presentation of an invoice. ~~GRP|WEGMAN reserves the right to suspend or terminate its Work if payment is not received within thirty (30) days of an invoice due date. Interest charges on unpaid Work shall be added to the invoice at the lesser of 12% per annum or the maximum rate allowed by law.~~

Section 4.6. Extra work requested by the District shall be compensated at GRP|WEGMAN's customary billing rates with reimbursement for all costs and expenses incurred by GRP|WEGMAN in the performance of the Work.

SECTION 5. PERMITS AND APPROVALS; COORDINATION

Section 5.1. Permits and Approvals. District shall assist in obtaining all necessary permits and approvals required by local law for installation of the Equipment, except as otherwise provided in the Contract Documents. District shall furnish copies of each permit or license to GRP|WEGMAN, which is required to perform the work for the District. GRP|WEGMAN shall obtain and pay for all licenses and permits and shall pay all fees and charges for connections to outside services and for the use of municipal or private property for storage of materials, parking, temporary obstructions, enclosures, or the opening and patching of streets, arising from the construction and completion of the Work contemplated by this Contract.

Section 5.2. Coordination During Installation. District and GRP|WEGMAN shall coordinate GRP|WEGMAN's performance of the Work with the District. GRP|WEGMAN shall not commit or permit any act that will interfere with the performance of business activities conducted by District without prior written approval of District.

SECTION 6. DISTRICT'S RESPONSIBILITIES

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Section 6.1. District shall provide, with reasonable promptness, full and complete information regarding the Premises, including but not limited to, all building controls, systems, apparatus, equipment and machinery. District agrees to furnish surveys, legal descriptions, drawings, waste management plans and all other information pertinent to the Work and the Premises where the Work is to be performed. District shall appoint an authorized representative to approve, reject or otherwise facilitate GRP | WEGMAN's performance of the Work.

Section 6.2. District shall provide sufficient space on the Premises for the performance of the Work and shall take reasonable steps to protect all material and equipment from harm, theft and misuse. District shall provide access to the Premises for GRP | WEGMAN to perform any function related to this Contract during regular business hours, or such other reasonable hours as may be requested by GRP | WEGMAN and acceptable to District. District shall not unreasonably restrict GRP | WEGMAN's access to Premises to make emergency repairs or corrections as GRP | WEGMAN may determine are needed.

Section 6.3. District shall promptly notify GRP | WEGMAN of all known unusual or materially changed operating conditions that affect any equipment or building condition that may affect Work to be performed by GRP | WEGMAN. District shall furnish GRP | WEGMAN with prompt written notice of any defects in GRP | WEGMAN's Work.

SECTION 7. WORK PERFORMED BY GRP | WEGMAN

Section 7.1. GRP | WEGMAN shall perform the Work under this Contract in accordance with the Scope of Work contained in Schedule A. GRP | WEGMAN shall act as an independent contractor with responsibility for the means, methods, techniques, sequences, procedures and coordination of the Work. All Work performed under this Contract shall be coordinated by GRP | WEGMAN with local utilities, subcontractors, equipment suppliers and District's facility personnel. GRP | WEGMAN shall arrange for, prepare, or otherwise furnish, for written approval by the District, working drawings and specifications setting forth in detail the requirements of the construction and installation of the Project in accordance with the Contract Documents ("Design & Engineering Documents"). The Design & Engineering Documents shall include all drawings, specifications, schedules, diagrams, and plans, and such content and detail as is necessary to properly complete the construction of the Project. All engineering services shall be rendered by an employee or sub consultant of GRP | WEGMAN who is properly registered as a Professional Engineer in the State of Illinois, and designated as a Certified Energy Manager. The Work shall be performed in a manner consistent with the degree of skill and care ordinarily exercised by similar contractors performing the same or similar work in the same locale under similar circumstances and conditions. GRP | WEGMAN shall furnish or arrange for all required services, labor, materials, equipment and supervision as are necessary for the proper performance of the Work. GRP | WEGMAN shall complete its Work in accordance with the construction schedule specified in Schedule D.

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Section 7.2. GRP | WEGMAN shall remain responsible for the professional and technical accuracy of all services performed, whether by GRP | WEGMAN or its subcontractors or others on its behalf, throughout the term of this Contract.

Section 7.3. GRP | WEGMAN shall be responsible for initiating, maintaining, and supervising reasonable safety precautions and programs in connection with the performance of the Contract Services. GRP | WEGMAN shall take reasonable precautions for safety of, and shall provide reasonable and appropriate protection to prevent damage, injury or loss to (1) employees on the Work and other persons who may be affected thereby; (2) the Work and materials and equipment to be incorporated therein; and (3) other property at the Site or adjacent thereto. GRP | WEGMAN shall not be required to conduct safety, reacceptance or other tests, install new devices or equipment or make modifications in other equipment beyond the Scope contained in this Contract.

Section 7.4. GRP | WEGMAN shall conduct the training program described in Schedule A. The training specified shall be completed prior to acceptance of the Work. GRP | WEGMAN shall provide ongoing training whenever needed with respect to updated or altered Work, including upgraded software, and including newly hired maintenance personnel, for a period of one year following final completion of the Work. Such training shall be provided at no charge to the District.

Section 7.5. All reports and drawings specifically prepared for District under this Contract ("Deliverables") shall become District's property upon final payment to GRP | WEGMAN. GRP | WEGMAN may retain file copies of such information. All other reports, calculations, data, drawings, estimates, specifications, manuals, computer programs, codes and computerized materials prepared by or for GRP | WEGMAN are Instruments of Service ("Instruments") and shall remain the property of GRP | WEGMAN. ~~All Deliverables and Instruments provided to the District are only for the purposes disclosed to GRP | WEGMAN by the District, and District agrees not to transfer them to others of use or permit them to be used for any extension of the Work without GRP | WEGMAN's written consent. Any reuse of such Deliverables and Instruments, without GRP | WEGMAN's participation or approval, shall be at the District's sole risk and without further liability to GRP | WEGMAN.~~

SECTION 8. CONSTRUCTION SCHEDULE AND EQUIPMENT
INSTALLATION; APPROVAL

Section 8.1. Construction and equipment installation shall proceed in accordance with the construction schedule approved by District and attached as Schedule D. Work shall be performed during normal working hours, Monday through Friday, unless otherwise agreed herein.

Section 8.2. Systems Startup and Equipment Commissioning: GRP | WEGMAN shall conduct a thorough and systematic performance test of each element and total system of the installed Equipment in accordance with the procedures specified in Schedule A and prior to acceptance by District. GRP | WEGMAN shall provide notice to

District of the scheduled test(s) and District and/or its designees shall have the right to be present at any or all such tests conducted by GRP | WEGMAN and/or manufacturers of the Equipment. GRP | WEGMAN shall be responsible for correcting and/or adjusting all deficiencies in systems and Equipment operations that may be observed during system commissioning procedures. GRP | WEGMAN shall furnish District with Certificates of Substantial or Final Completion upon completion of the Work, or portion thereof.

Section 8.3. Inspection and Final Approval: District has the right to inspect, test and approve the work conducted in the facilities during construction and operation. District shall have the right and access to the records, and other compilations of data that pertain to the performance of the provisions and requirements of this Contract. Records shall be retained for three (3) years after close-out.

Section 8.4. GRP | WEGMAN shall not be responsible for loss, delay, or failure of performance caused by circumstances beyond its control, including but not limited to acts or omissions of the District or its employees, agents or contractors, Acts of God, war, civil unrest, acts or threatened acts of terrorism, acts or omissions of government authorities, fire, theft, corrosion, flood, water damage, lightning, freeze-ups, strikes, lockouts, explosions, delays in transportation, fuel, labor or materials. In the event of such delays or failure, GRP | WEGMAN's time for performance shall be extended by a period of time equal to that lost.

SECTION 9. INDEMNITY

Section 9.1. To the fullest extent permitted by law, GRP | WEGMAN shall indemnify and hold harmless the District, its agents and employees from and against claims, damages, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from performance of the Contract provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused in whole or in part by negligent acts or omissions of GRP | WEGMAN, its subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. In no event shall the preceding indemnification apply to liability to the extent caused by the negligence or willful misconduct of the party indemnified or held harmless. This indemnification shall not be limited to damages, compensation or benefits payable under insurance policies, workers' compensation act, disability benefit acts, or other employees' benefit acts.

Section 9.2. To the fullest extent permitted by law, District shall indemnify and hold harmless GRP | WEGMAN, its subcontractors, agents and employees from and against claims, damages, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from performance of the Contract provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused in whole or in part by negligent acts or omissions of District, its contractors, agents and employees, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. In no event shall the preceding

indemnification apply to liability to the extent caused by the negligence or willful misconduct of the party indemnified or held harmless. This indemnification shall not be limited to damages, compensation or benefits payable under insurance policies, workers' compensation act, disability benefit acts, or other employees' benefit acts.

SECTION 10. WARRANTY

Section 10.1. GRP|WEGMAN covenants and agrees that all Work performed, and equipment installed, as part of this Contract, shall be new, in good and proper working condition and protected by appropriate written warranties covering all parts and equipment performance. The Work of all Subcontractors shall be warranted for a period of one (1) year from the date of acceptance of their Work, unless otherwise stipulated for a longer period of time. Equipment provided by GRP|WEGMAN shall be accompanied by a manufacturer's warranty against defects in workmanship and materials. GRP|WEGMAN agrees to deliver to District for inspection and approval all such written warranties and to transfer such warranties to District.

Section 10.2. Claims under this warranty section shall be made in writing to GRP|WEGMAN within ~~thirty-sixty~~ (30/60) days after discovery of the claimed defect unless discovered by GRP|WEGMAN. District's sole and exclusive remedy for any equipment or services not conforming to the requirements of this warranty is limited to, at GRP|WEGMAN's option, (i) repair or replacement of defective components of covered equipment, or (ii) re-performance of the defective services, or (iii) to the extent previously paid, a refund for the purchase price of such defective component of the equipment or services. All warranties required hereunder shall be in force for a period of one (1) year from the date of Substantial Completion.

Section 10.3. The warranties set forth in this section will be void and not apply to, any equipment (i) repaired, altered or improperly installed by any person other than GRP|WEGMAN or its subcontractors; or (ii) subjected to unreasonable or improper use or storage, or otherwise subjected to improper maintenance.

Section 10.4. THE EXPRESS LIMITED WARRANTIES PROVIDED ABOVE ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, STATUTORY, EXPRESS, OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED.

SECTION 11. LIMITATION OF LIABILITY

~~Section 11.1 District and GRP|WEGMAN have discussed the risk and rewards associated with the Work, as well as GRP|WEGMAN's compensation for its services. District and GRP|WEGMAN agree to allocate certain of the risks so that, to the fullest extent permitted by law, GRP|WEGMAN's total aggregate liability to the District under this Contract shall be limited to the proceeds of any insurance or an amount equal to the Contract Sum contained in Schedule C, whichever is greater.~~

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Section 11.2 ~~District and GRP|WEGMAN mutually agree that neither party shall be liable to the other under this Contract for any consequential, special, contingent or punitive damages, including but not limited to, loss of revenue, loss of profit, operating costs or business interruption losses, regardless of cause, including breach of contract, tort (including sole or concurrent negligence), strict liability or otherwise.~~

SECTION 12. EQUIPMENT SERVICE

Section 12.1. Actions by GRP|WEGMAN. GRP|WEGMAN shall provide all service, repairs, and adjustments to the Equipment installed under terms of this Contract pursuant to Schedule A.

Section 12.2. Malfunctions and Emergencies. District shall use its best efforts to notify GRP|WEGMAN or its designee(s) within twenty-four (24) hours after District's actual knowledge and occurrence of: (i) any malfunction in the operation of the Equipment or any preexisting energy related equipment that might materially impact upon the guaranteed energy savings, (ii) any interruption or alteration to the energy supply to the Premises, or (iii) any alteration or modification in any energy-related equipment or its operation.

Section 12.3. District shall notify GRP|WEGMAN within twenty-four (24) hours upon its having actual knowledge of any emergency condition affecting the Equipment. GRP|WEGMAN, or its designee(s) shall respond within twenty-four (24) hours and shall promptly proceed with corrective measures. Any telephonic notice of such conditions by District shall be followed within three (3) business days by written notice to GRP|WEGMAN from District. If District unreasonably delays in notifying GRP|WEGMAN of a malfunction or emergency, and the malfunction or emergency is not otherwise corrected or remedied, such conditions will be treated as a Material Change and the applicable provisions of Section 14 (Material Changes) shall be applied.

Section 12.4. GRP|WEGMAN will provide a written record of all service work performed. This record will indicate the reason for the service, description of the problem and the corrective action performed.

Section 12.5. Actions by District. District shall not move, remove, modify, alter, or change in any way the Work or any part thereof without the prior written approval of GRP|WEGMAN. Notwithstanding the foregoing, District may take reasonable steps to protect the Work if, due to an emergency, it is not possible or reasonable to notify GRP|WEGMAN before taking any such actions. In the event of such an emergency, District shall take reasonable steps to protect the Work from damage or injury and shall follow instructions for emergency action provided in advance by GRP|WEGMAN. District agrees to maintain the Premises in good repair and to protect and preserve all portions thereof, which may in any way affect the operation or maintenance of the Work.

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SECTION 13. UPGRADING OR ALTERING THE EQUIPMENT

Section 13.1. GRP | WEGMAN shall at all times have the right, subject to District's prior written approval, which approval shall not be unreasonably withheld, to change the equipment included in the Work, revise any procedures for the operation of the equipment or implement other energy saving actions in the Premises, provided that:

(i) GRP | WEGMAN complies with the standards set forth in Schedule A;

(ii) such modifications or additions to, or replacement of equipment, and any operational changes, or new procedures are necessary to enable GRP | WEGMAN to achieve the energy savings at the Premises and;

(iii) any cost incurred relative to such modifications, additions or replacement of the equipment, or operational changes or new procedures shall be the responsibility of GRP | WEGMAN.

Section 13.2. All modifications, additions or replacements of the equipment or revisions to operating or other procedures shall be described in a supplemental Schedule(s) to be provided to District for approval, which shall not be unreasonably withheld, provided that any replacement of the equipment shall be new as set forth in Section 10 and have equal or better potential to reduce energy consumption at the Premises than the Equipment being replaced. GRP | WEGMAN shall update any and all software to be used in connection with the Equipment in accordance with the provisions of Section 18.1 (Ownership of Certain Proprietary Rights). All replacements of and alterations or additions to the equipment shall become part of the equipment described in Schedule A and shall be covered by the provisions and terms of Section 8.

SECTION 14. MATERIAL CHANGES

Section 14.1. Material Change Defined: A Material Change shall include any change in or to the Premises, whether structural, operational or otherwise in nature which reasonably could be expected, in the judgment of District, to increase or decrease annual energy consumption in accordance with the provisions and procedures set forth in Schedule B by five percent (5%) or more after adjustments for climatic variations. Actions by District which may result in a Material Change include, but are not limited to the following:

(i) manner of use of the Premises by District; or

(ii) hours of operation for the Premises or for any equipment or energy using systems operating at the Premises; or

(iii) permanent changes in the comfort and service parameters set forth in Schedule A; or

(iv) occupancy of the Premises; or

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- (v) structure of the Premises; or
- (vi) types and quantities of equipment used at the Premises or
- (vii) modification, renovation or construction at the Premises; or
- (viii) District's failure to provide maintenance of and repairs to the equipment as specified in Schedule A; or
- (ix) any other conditions other than climate affecting energy use at the Premises.

Section 14.2. Reported Material Changes; Notice by District: District shall use its best efforts to deliver to GRP|WEGMAN a written notice describing all actual or proposed Material Changes in the Premises or in the operations of the Premises at least sixty (60) days before any actual or proposed Material Change is implemented or as soon as is practicable after an emergency or other unplanned event. Notice to GRP|WEGMAN of Material Changes which result because of a bona fide emergency or other situation which precludes advance notification shall be deemed sufficient if given by District within twenty-four (24) hours after having actual knowledge that the event constituting the Material Change occurred or was discovered by District to have occurred.

SECTION 15. CHANGES IN THE WORK

Section 15.1. Change Orders. District may order, or GRP|WEGMAN may request, changes in the Work consisting of additions, deletions, or modifications to the Work. Such changes in the Work shall be authorized only by written Change Order signed by District and GRP|WEGMAN. The adjustment to the Contract Sum shall be based on the mutual acceptance of a lump sum price for the Change Order work. Change Orders entered into after Final Acceptance of the scope of work in Schedule A of this Contract will be performed under the terms and conditions of this Contract. It is the intent of both parties that a Change Order entered into after Final Acceptance of the Work in Schedule A, Scope of Work, will not extend the Guarantee under the original scope of work in Schedule A of this Contract or extend the Guarantee for Work subject to Final Acceptance under any subsequent Change Orders will require a separate bond as detailed in Section 24.12 of this Contract.

Section 15.2. No Changes That Impact Guarantee. To the extent GRP|WEGMAN reasonably determines that any change in the Work requested or directed by District will materially and adversely impact the GRP|WEGMAN's ability to meet or sustain achievement of the Guarantee set forth in Schedule B, GRP|WEGMAN has the right, in its sole and absolute discretion, to decline such change in the Work.

Section 15.3. Concealed Conditions. GRP|WEGMAN shall immediately notify District if it encounters Concealed Conditions (1) that differ materially from those indicated in the Contract Documents or (2) of an unknown physical condition, that

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differ materially from those ordinarily found to exist and generally recognized as inherent in the Work to be performed. GRP | WEGMAN shall give prompt notice to the District of such conditions prior to significantly disturbing the same. If such Concealed Conditions cause an increase in GRP | WEGMAN's cost of, or time required for, performance of any part of the Work, GRP | WEGMAN and District shall agree, by Change Order, to an equitable adjustment to the time required for performance of the Work and to the Contract Sum.

SECTION 16. REPRESENTATIONS AND WARRANTIES

Section 16.1. Each party warrants and represents to the other that:

(i) it has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, to execute and deliver this Contract and perform its obligations hereunder;

(ii) its execution, delivery, and performance of this Contract have been duly authorized by, or are in accordance with, its organic instruments, and this Contract has been duly executed and delivered for it by the signatories so authorized, and it constitutes its legal, valid, and binding obligation;

(iii) its execution, delivery, and performance of this Contract will not breach or violate, or constitute a default under any Contract, lease or instrument to which it is a party or by which it or its properties may be bound or affected; or

(iv) it has not received any notice, nor to the best of its knowledge is there pending or threatened any notice, of any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially and adversely affect its ability to perform hereunder.

Section 16.2. District hereby warrants, represents and promises that it has not entered into any undisclosed leases, or contracts with other persons or entities regarding the leasing of energy efficiency equipment or the provision of energy management services for the Premises or with regard to servicing any of the energy related equipment located in the Premises. District shall provide GRP | WEGMAN with copies of any successor or additional leases of energy efficiency equipment and contracts for management or servicing of preexisting equipment at Premises that may be executed from time to time hereafter within sixty (60) days after execution thereof.

District agrees that it shall adhere to, follow and implement the energy Cost Savings procedures and methods of operation set forth in Schedule B.

District agrees that GRP | WEGMAN shall have the right once a month, with prior notice, to inspect Premises to determine if District is complying, and shall have complied with such obligations. District shall make the Premises available to GRP | WEGMAN for and during each monthly inspection, and shall have the right to witness each inspection.

Section 16.3. GRP|WEGMAN warrants, represents and promises that before commencing performance of this Contract, (a) it is licensed or otherwise permitted to do business in the State of Illinois; and (b) it shall have provided proof and documentation of required insurance pursuant to Section 17 (Insurance Requirements).

Section 16.4. The parties acknowledge and agree that GRP|WEGMAN has entered into this Contract in reliance upon the prospect of earning compensation based on guaranteed energy savings in energy used at Premises, as set forth on Schedules B (Energy Saving Guarantee) and C (Compensation to GRP|WEGMAN), attached hereto and made a part hereof. The parties further acknowledge and agree that the said guaranteed energy savings would not likely be obtained unless certain procedures and methods of operation designed for energy Cost Savings shall be implemented, and followed by District on a regular and continuous basis.

SECTION 17. PROPERTY/CASUALTY/INSURANCE; INDEMNIFICATION

Section 17.1. Prior to commencement of any work and for the duration of this Contract, GRP|WEGMAN shall provide and maintain insurance as set forth below. Insurance required by this section shall name the District as an additional named insured and shall be with insurers rated A-VII or better in the latest *Bests Rating Guide*. The coverage provided by such policy shall be primary and shall provide that the insurance afforded applies separately to each insured against whom a claim is made, except with respect to the limitation of liability. All policies shall contain waivers of subrogation. GRP|WEGMAN waives all rights against the District and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the required policies.

The following are required:

a. Workers' Compensation Insurance with statutory limits as required by statute, and Employer's Liability Insurance with limits of not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) per Accident, Five Hundred Thousand and 00/100 Dollars (\$500,000.00) Disease, Policy Limit and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) Disease, Each Employee.

b. Automobile Liability, including non-owned and hired with a limit not less than One Million and 00/100 Dollars (\$1,000,000.00).

c. Commercial General Liability including premises, operation, products and completed operations liability, personal injury liability (including employee acts), broad form property damage liability and blanket contractual liability in amounts of not less than One Million and 00/100 Dollars (\$1,000,000.00). GRP|WEGMAN shall maintain Commercial General Liability and, if necessary, commercial umbrella or excess liability with a limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) each occurrence/Annual Aggregate and the Annual Aggregate shall be endorsed to apply separately to each job site or location. In the event any of the hazards of

explosion, collapse and underground, normally referred to as XCU, exist, then such hazards shall be covered and protection afforded under the policy.

d. GRP | WEGMAN shall maintain in full force and effect, at GRP | WEGMAN's expense, an Installation Floater, with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00), for coverage of the GRP | WEGMAN's labor, materials, and any equipment to be used for completion of work under this contract. Coverage is to be on an all risk of physical damage form, including earthquake and flood. This insurance shall include the District, and all contractors as their interests may appear.

e. Umbrella liability, \$5 million.

~~Section 17.2. Contractor will furnish, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, a comprehensive risk property insurance ("Builder's Risk") for the replacement value of the Work performed. The form of policy for this Builder's Risk coverage must be in completed value and valued at replacement cost with non-standard (broad) form comprehensive risk policy. The value utilized must be 100% of the completed value of the Project. Such Builder's Risk policy may be terminated by Contractor following the Owner's completion of the Final Acceptance Certificate. District will maintain, at its own expense, property insurance written on a builder's risk "all risk" or equivalent policy form in the amount indicated on Schedule C. Such policy shall be maintained until final payment has been made to GRP | WEGMAN and no person or entity has an insurable interest in Premises, whichever is later. The policy shall include insurance against the perils of fire and physical loss or damage, including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, testing and start up, rebuilding and debris removal. District shall also purchase and maintain boiler and machinery coverage which shall specifically cover such insured objects during installation and until acceptance by the District. The insurance policies required under this section shall include the interests of the District, GRP | WEGMAN, and its subcontractors and these insurance policies shall be primary over the other policies required in Section 17.~~

~~Section 17.3. District and GRP | WEGMAN waive all rights against each other and their subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by insurance under this section, and for any other property insurance applicable to the Work, except such rights as they may have to proceeds of insurance held by the District as fiduciary.~~

SECTION 18. OWNERSHIP

Section 18.1. Ownership of Certain Proprietary Property Rights. District shall not, by virtue of this Contract, acquire any interest in any formulas, patterns, secret inventions or processes, copyrights, patents, or other intellectual or proprietary rights that are or may be used in connection with the Equipment. GRP | WEGMAN shall grant to District a perpetual, irrevocable royalty-free license for any and all software or other intellectual property rights necessary for District to continue to operate, maintain, and

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repair the Equipment in a manner that will yield maximal energy consumption reductions.

Section 18.2. Ownership of Existing Equipment. The equipment and materials at the Premises at the time of execution of this Contract shall remain the property of District even if it is replaced or its operation made unnecessary by work performed by GRP|WEGMAN pursuant to this Contract. If applicable, GRP|WEGMAN shall advise District in writing of all equipment and materials to be replaced at the Premises and District shall within thirty (30) days designate in writing to GRP|WEGMAN which equipment and materials should not be disposed of off-site by GRP|WEGMAN. It is understood and agreed to by both Parties that District shall be responsible for and designate the storage location for any equipment and materials that should not be disposed of off-site. GRP|WEGMAN shall be responsible for the disposal of all equipment and materials designated by District as disposable off-site in accordance with all applicable laws and regulations regarding such disposal.

Section 18.3 Ownership of Drawings. All drawings, reports and materials prepared by GRP|WEGMAN specifically in performance of this Contract shall become the property of District and will be delivered to District no later than forty-five (45) days after completion and final payment to GRP|WEGMAN.

SECTION 19. EVENTS OF DEFAULT

Section 19.1. Events of Default by District. Each of the following events or conditions shall constitute an "Event of Default" by District:

(i) any failure by District to pay GRP|WEGMAN any sum due for period of more than ~~thirty-sixty~~ (30/60) days after written notification by GRP|WEGMAN that District is delinquent in making payment and provided that GRP|WEGMAN is not in default in its performance under the terms of this Contract;

(ii) any other material failure by District to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein, provided that such failure continues for thirty (30) days after notice to District demanding that such failures to perform be cured or if such cure cannot be effected in thirty (30) days, District shall be deemed to have cured default upon the commencement of a cure within thirty (30) days and diligent subsequent completion thereof; or

(iii) any representation or warranty furnished by District in this Contract, which was false, or misleading in any material respect when made.

Section 19.2. Events of Default by GRP|WEGMAN. Each of the following events or conditions shall constitute an "Event of Default" by GRP|WEGMAN:

(i) the requirements set forth in Schedule A are not met due to failure of GRP|WEGMAN to properly design, install, maintain, repair or adjust the equipment

except that such failure, if corrected or cured within thirty (30) days after written notice by District to GRP | WEGMAN demanding that such failure be cured, shall be deemed cured for purposes of this Contract;

(ii) any representation or warranty furnished by GRP | WEGMAN in this Contract is false or misleading in any material respect when made;

(iii) failure to furnish and install the Work and make it ready for use within the time specified by this Contract as set forth in Schedules A (Scope of Work) and D (Construction and Installation Schedule);

(iv) provided that the operation of the facility is not adversely affected and provided that the standards in Schedule A are maintained, any failure by GRP | WEGMAN to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein except that such failure, if corrected or cured within thirty (30) days after written notice by the District to GRP | WEGMAN demanding that such failure to perform be cured, shall be deemed cured for purposes of this Contract;

(v) any lien or encumbrance is placed upon the Work by any subcontractor, laborer, supplier or lender of GRP | WEGMAN;

(vi) the filing of a bankruptcy petition whether by GRP | WEGMAN or its creditors against GRP | WEGMAN which proceeding shall not have been dismissed within ninety (90) days of its filing, or an involuntary assignment for the benefit of all creditors or the liquidation of GRP | WEGMAN;

(vii) Any change in ownership or control of GRP | WEGMAN without the prior approval of District, which shall not be unreasonably withheld; or

(viii) failure by GRP | WEGMAN to pay any amount due District or perform any obligation under the terms of this Contract or the Energy Savings Guarantee as set forth in Schedule B (Energy Savings Guarantee).

SECTION 20. REMEDIES UPON DEFAULT

Section 20.1. Remedies upon Default by District. If an Event of Default by District occurs, GRP | WEGMAN may exercise all remedies available at law or in equity or other appropriate proceedings including bringing an action or actions from time to time for recovery of amounts due and unpaid by District, and/or for damages which shall include all costs and expenses reasonably incurred in exercise of its remedy. Election of one remedy is not a waiver of other available remedies.

Section 20.2. Remedies Upon Default by GRP | WEGMAN. In the Event of Default by GRP | WEGMAN, District may exercise and any all remedies at law or equity, or institute other proceedings, including, without limitation, bringing an action or actions from time to time for specific performance, and/or for the recovery of amounts due and unpaid and/or for damages, which shall include all costs and expenses reasonably

incurred, including attorney's fees. Election of one remedy is not a waiver of other available remedies.

SECTION 21. CONDITIONS BEYOND CONTROL OF THE PARTIES

If a Party to the Contract ("Performing Party") shall be unable to reasonably perform any of its obligations under this Contract due to acts of God, insurrections or riots, or other event beyond its control, this Contract shall at the other party's option (i) remain in effect but said Performing Party's obligations shall be suspended until the said events shall have ended; or, (ii) be terminated upon ten (10) days' notice to the Performing Party, in which event neither party shall have any further liability to the other.

SECTION 22. DISPUTES

~~Section 22.1. Any controversy or claim arising out of or relating to this Contract, including any such controversy or claim involving the parent company, subsidiaries, or affiliates under common control of any party to this Contract (a "Dispute"), shall first be submitted to mediation according to the Commercial Mediation Procedures of the American Arbitration Association ("AAA"). Such mediation shall be attended on behalf of each party for at least one session by a senior business person with authority to resolve the Dispute. Any period of limitations that would otherwise expire between the initiation of mediation and its conclusion shall be extended until 20 days after the conclusion of the mediation.~~

~~Section 22.2. Any Dispute that cannot be resolved by mediation within 45 days of notice by one party to the other of the existence of a Dispute (unless the parties agree to extend that period) shall be resolved by arbitration in accordance with the Construction Industry Arbitration Rules of the AAA ("AAA Rules") and the Federal Arbitration Act, 9 U.S.C. §1 et seq.. The arbitration shall be conducted in the state where the Work is performed, by one arbitrator appointed in accordance with the AAA Rules. No arbitration arising out of or related to this Contract shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Contract, except with the written consent of the District, GRP | WEGMAN, and the other party sought to be joined.~~

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~~Section 22.3. The arbitrator shall follow the ICDR Guidelines for Arbitrators Concerning Exchanges of Information in managing and ruling on requests for discovery. The arbitrator, by accepting appointment, undertakes to exert her or his best efforts to conduct the process so as to issue an award within eight months of her or his appointment, but failure to meet that timetable shall not affect the validity of the award.~~

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~~Section 22.4. The arbitrator shall decide the Dispute in accordance with the substantive law governing this Contract as provided herein. The arbitrator may not award punitive or consequential damages, nor may the arbitrator apply any multiplier to any award of actual damages, except as may be required by statute. The award of the arbitrator may be entered in any court of competent jurisdiction.~~

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Section 22.5. ~~With respect to any claim or dispute resolved by arbitration, the prevailing Party shall be entitled to recover attorney's fees from the non-prevailing Party. A prevailing Party is a Party that recovers at least 75% of its total claims or that is required to pay no more than 25% of the claims made against it.~~

Section 22.6. Continuation of Work. Pending final resolution of any dispute under this Contract, GRP | WEGMAN will proceed diligently with the performance of its duties and obligations under the Contract Documents, and the District will continue to make payments of undisputed amounts in accordance with the Contract Documents.

SECTION 23. ASSIGNMENT

Section 23.1. Assignment by GRP | WEGMAN. GRP | WEGMAN acknowledges that District is induced to enter into this Contract by, among other things, the qualifications of GRP | WEGMAN. GRP | WEGMAN agrees that neither this Contract nor any right or obligations hereunder may be assigned in whole or in part to another firm, without the prior written approval of the District.

Section 23.2. Assignment by District. District may transfer or assign this Contract and its rights and obligations herein to a successor or purchaser of the Premises subject to this Contract or an interest therein. The District shall remain jointly and severally liable with its assignee or transferee to GRP | WEGMAN for all of its obligations under this Contract.

SECTION 24. MISCELLANEOUS PROVISIONS

Section 24.1. Waiver of Claims/Liens. GRP | WEGMAN shall obtain and furnish to District a Waiver of Liens from each vendor, material manufacturer and laborer in the supply, installation and servicing of the Work.

Section 24.2. Compliance with Law and Standard Practices. GRP | WEGMAN shall perform its obligations hereunder in compliance with any and all applicable federal, state, and local laws, rules, and regulations, in accordance with sound engineering and safety practices and in compliance with any and all reasonable rules relative to the Premises. GRP | WEGMAN shall be responsible for obtaining all governmental permits, consents, and authorizations as may be required to perform its obligations hereunder.

Section 24.3. Independent Capacity of the Contractor. GRP | WEGMAN is an independent contractor in the performance of each and every part of this Contract, and solely and personally liable for all labor, taxes, insurance, required bonding and other expenses, and for any and all damages in connection with the operation of this Contract, whether it may be for personal injuries or damages of any other kind.

Section 24.4. Confidential Information.

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Section 24.4.1 The term "Confidential Information" means any documentation or information (i) that is marked as "proprietary" or "confidential", (ii) that is supplied orally with a contemporaneous confidential designation, or (iii) that is known by the receiving Party to be confidential or proprietary information or documentation of the disclosing Party. Confidential Information does not include information that can be demonstrated: (i) to have been rightfully in the possession of the receiving Party from a source other than the disclosing Party prior to the time of disclosure of said information under this Contract; (ii) to have been in the public domain prior to disclosure; (iii) to have become part of the public domain after disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Contract; or (iv) to have been supplied to the receiving Party without restriction by a third party who is under no obligation to the disclosing Party to maintain such information in confidence.

Section 24.4.2. Each Party acknowledges that it may, in connection with the performance of this Contract, have access to, or be directly or indirectly exposed to Confidential Information of the other Party. Each Party shall hold confidential all Confidential Information of the other Party and shall not disclose or use such Confidential Information without express prior written consent of the disclosing Party, except as may be legally required. Each Party shall use reasonable measures at least as strict as those the Party uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors to execute a non-disclosure agreement before obtaining access to the other Party's Confidential Information.

Section 24.5. Severability. In the event that any clause or provision of this Contract or any part thereof shall be declared invalid, void, or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Contract unless the result would be manifestly inequitable or unconscionable.

Section 24.6. Complete Contract. This Contract, when executed, together with all Schedules attached hereto or to be attached hereto, as provided for by this Contract shall constitute the entire Contract between both parties and this Contract may not be amended, modified, or terminated except by a written amendment signed by the parties hereto.

Section 24.7. Further Documents. The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Contract.

Section 24.8. Applicable Law. This Contract shall be construed in accordance with, and governed by the laws of the state of Illinois. Any action to enforce the provisions of this Contract shall be brought in state court in Grundy County, Illinois. In the event any term of this Contract is held to be invalid or unenforceable by a court, the remaining terms of this Contract will remain in force.

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Section 24.9. Notice. Any notice required or permitted hereunder shall be deemed sufficient if given in writing and delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, or delivered to a nationally recognized express mail service, charges prepaid, receipt obtained, to the address shown below or to such other persons or addresses as are specified by similar notice.

TO GRP | WEGMAN: **GRP WEGMAN COMPANY**
Attention: Mr. Tom DeClue, III
1 Mechanical Drive,
Bethalto, IL 62010

TO DISTRICT: **(District)**
Attention: (Superintendent)
Superintendent of Schools
Address
City, State, Zip Code

Section 24.10. Headings. Headings and subtitles used throughout this Contract are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

Section 24.11. Handling of Hazardous Materials: All work completed under this Contract shall be in compliance with all applicable federal, state and local laws, rules and regulations regarding waste disposal and treatment/disposal of any hazardous materials that could result from this project.

Section 24.11.1. The Work performed by GRP | WEGMAN under this Contract excludes any work or service of any nature associated or connected with the identification, abatement, cleanup, control, or removal of any currently existing Hazardous Materials or Mold on, in or nearby the Premises beyond what may be identified in Schedule A. District agrees that all duties and obligations in connection with any Hazardous Materials or Mold currently located in, on or nearby the Premises or brought into the Premises by a party other than the GRP | WEGMAN or its subcontractors, are not the GRP | WEGMAN's responsibility. Should GRP | WEGMAN become aware, discover or based on reasonable evidence suspect the presence of Hazardous Materials or Mold beyond those addressed in Schedule A, GRP | WEGMAN will immediately cease work in the affected area, and will promptly notify District of the conditions discovered. Should GRP | WEGMAN stop work because of such discovery or suspicion of Hazardous Materials or Mold, then the Contract Time will be reasonably extended by Change Order to cover the period required for abatement, cleanup, or removal of the Hazardous Materials or Mold. GRP | WEGMAN will not be held responsible for any claims, damages, costs, or expenses of any kind associated with such period during which work has been stopped as a result of Hazardous Materials or Mold.

Section 24.11.2. ~~District warrants and represents that to the best of its knowledge, other than as disclosed to GRP | WEGMAN in writing, there are no~~

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~~Hazardous Materials or Mold in or on the premises that will affect, be affected by, come in contact with, or otherwise impact upon or interfere with the Work to be performed by the GRP|WEGMAN pursuant to this Contract. District further represents that it has not retained GRP|WEGMAN to discover, inspect, investigate, identify, or remediate Hazardous Materials or Mold or conditions caused by Hazardous Materials or Mold, except to the extent specified in Schedule A.~~ Unless otherwise specified in Schedule A, District will be responsible for taking all necessary steps to correct, abate, clean up, or control Hazardous Materials or Mold not addressed by the GRP|WEGMAN under this Contract. District specifically agrees, to the extent allowed by state law, to indemnify and to hold the GRP|WEGMAN, 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 its release of Hazardous Materials or Mold into the air, soil, or any water system or water course, or any actions taken in connection with same, or any failure to act unless such action was due to GRP|WEGMAN's negligence.

Section 24.12. Bonding Requirements: GRP|WEGMAN will provide to District separate performance and labor and material payment bonds, covering GRP|WEGMAN's installation and faithful performance of the Energy Conservation Measures specified in GRP|WEGMAN's Scope of Work, Schedule A to this Contract, each in the sum of one hundred percent (100%) of the Contract Sum. Bonds shall be issued by a surety in good standing and authorized to transact business in Illinois. Bonds covering Work under any subsequent Change Orders issued after Final Acceptance of the Work in Schedule A, Scope of Work, are obligations separate from those under the bonds issued for the Work in Schedule A, and shall not extend the bonding obligations for work in Schedule A of this Contract or for any other Work for to which Final Acceptance has occurred.

Section 24.13. As-Built Drawings: Where applicable, GRP|WEGMAN shall provide reproducible record drawings from the "as-built drawings" of all existing and modified conditions associated with the project, conforming to typical engineering standards.

Section 24.14. Operation and Maintenance Manuals: Three (3) maintenance manuals for each site will be provided by GRP|WEGMAN for all equipment replacements and/or upgrades at each location.

Section 24.15. Non-Discrimination: GRP|WEGMAN shall comply with all applicable state and federal laws, rules and regulations involving non-discrimination on the basis of any protected classification, including but not limited to race, color, religion, national origin, sexual orientation, veteran status, age or sex.

Section 24.16 Tax-Exempt Status: The District is exempt from payment of Illinois sales and use taxes on purchases of tangible personal property or services, including materials, supplies and equipment purchased for construction of buildings and other structures. District will provide GRP|WEGMAN with applicable documentation to certify District's tax exempt status. GRP|WEGMAN shall use its best efforts to furnish District's

documentation in all applicable transactions and comply with all applicable statutory requirements related to such transactions.

Section 24.17. Drafting Not to be Construed Against any Party: All parties acknowledge and agree that each has had a full opportunity to review and have input into this Contract and that any ambiguity found shall not be construed against any party as drafter. Reference to "year" shall mean calendar year unless a fiscal year is specified. If a fiscal year is specified that year is July 1 through June 30.

Section 24.18 Prevailing Wage Act: GRP|WEGMAN and all subcontractors performing Work pursuant to this Agreement shall pay prevailing wages in accordance with the Prevailing Wage Act, 820 ILCS 130/0.01, *et seq.* GRP|WEGMAN agrees to fully defend and indemnify, including reimbursement of attorney's fees and costs, the District against any claims brought by any employee or the Illinois Department of Labor arising out of the scope of its contract with the District for violations of the Prevailing Wage Act.

Section 24.19 Criminal Background Check: GRP|WEGMAN understands and acknowledges that its work, in whole or in part, will be performed on public school property where there may be direct, daily contact with school students. GRP|WEGMAN further understands and acknowledges that the State of Illinois requires that all employees of vendors, licensees, contractors or others having direct, daily contact with students are subject to a criminal background check and may not be listed on the State Sex Offender Registry. Prior to allowing any of its employees who will be performing the scope of work access to school property, the GRP|WEGMAN agrees to provide the District with the following:

- (1). Evidence that each employee, agent, contractor or other person performing work on school property under this Agreement was subjected to a criminal background check in conformity with 105 ILCS 5/10-21.9; that said persons are not listed on said Registry; and said persons have no criminal convictions for the offenses listed under 105 ILCS 5/10-21.9;
- (2). GRP|WEGMAN will provide the District, upon request, a copy of the criminal background check conducted on each such person.

In the event GRP|WEGMAN plans to subcontract with or use the services of another person or firm that may have direct, daily contact with students on school property, in order to fulfill its obligations under its Agreement with the District then in that event GRP|WEGMAN will require all such persons or firms to comply with the provisions of this paragraph and 105 ILCS 5/10-21.9.

In the event GRP|WEGMAN fails to comply with the provisions of this paragraph and 105 ILCS 5/10-21.9, and as a result a suit or claim is instituted by a student for harm caused by an employee of the GRP|WEGMAN, or caused by an employee of a subcontractor to GRP|WEGMAN, then in that event the GRP|WEGMAN agrees to fully defend and indemnify, including reimbursement of attorney's fees and costs, the District against any such claims.

IN WITNESS WHEREOF, the parties hereto have signed their names to this Contract by their duly authorized officers on the date first above written.

GRP WEGMAN Company

School District

By: _____
(Signature)

By: _____
(Signature)

Bob Fogarty
Vice President

(Printed Name)
(Title)

Date: _____

Date: _____

ATTACHMENT I: Schedules

SCHEDULE A: SCOPE OF WORK TO PERFORMED BY GRP | WEGMAN

SCHEDULE B: ENERGY SAVINGS GUARANTEE

SCHEDULE C: COMPENSATION TO GRP | WEGMAN

SCHEDULE D: CONSTRUCTION AND INSTALLATION SCHEDULE

SCHEDULE E: REQUIRED STANDARDS OF COMFORT

SCHEDULE F: PROJECT CASH FLOW

SCHEDULE G: FINAL DELIVERY AND ACCEPTANCE CERTIFICATE

January SCHEDULE H: SECTION 179D ALLOCATION

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SCHEDULE A: SCOPE OF WORK

District's Scope of Work

1. District is responsible for removing school and personnel items from the work area to provide clear access to implement above scope of work.
2. District is responsible for keeping all non-essential school employees out of the building work zones during construction and implementation of the scope of work listed within this contract.
3. All District employees are required to notify GRP WEGMAN project management before accessing and/or entering work zones during the construction process.
4. District is responsible for any asbestos abatement and/or testing. The District is responsible for the asbestos ceiling below the roof replacement at Washington Elementary.

Future Phased Work

The above scope of work is expected to be expanded to include:

1. HVAC replacement and associated electrical work
2. Restroom renovations
3. Site work

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SCHEDULE B: ENERGY SAVINGS GUARANTEE

Definitions. The following terms are defined for purposes of this Schedule as follows:

Annual Guaranteed Savings are the portion of the Total Guaranteed Savings guaranteed be achieved in any one year of the Guarantee Term, calculated and adjusted as set forth in this Schedule.

Annual Savings are the Measurable Savings that occur in any one-year of the Guarantee Term plus the Stipulated Savings deemed achieved for that year.

Excess Savings are the amount by which the Annual Savings exceed the Annual Guaranteed Savings in any one-year of the Guarantee term.

Guarantee Term is the term of this Energy Savings Guarantee. As provided in Section 3.3 of the Contract, the Guarantee Term shall commence with the Guarantee Commencement Date and continue for a period of twenty (20) years.

Installation Period means the period between the Commencement Date and the first day of the month following the Substantial Completion Date. For purpose of the annual reconciliation, savings achieved during the Installation Period shall be considered savings achieved during the first year of the Guarantee Term.

Stipulated Savings are the savings that have been agreed by the parties shall be deemed achieved on the Substantial Completion Date and are set forth on Exhibit 1 of this Schedule. GRP|WEGMAN and the District agree that Stipulated Savings may include, but are not limited to, future equipment replacement or other operational costs avoided as a result of this Contract. District agrees and acknowledges that GRP|WEGMAN shall not be responsible for the achievement of such Stipulated Savings, as the actual realization of those savings is not within GRP|WEGMAN's control. District acknowledges that it has evaluated sufficient information to believe that the stipulated Savings shall occur. As a result, Stipulated Savings shall not be measured or monitored at any time during the Guarantee Term, but rather shall be deemed achieved on the Substantial Completion Date.

Total Guaranteed Savings are the amount of savings guaranteed that shall be achieved or deemed achieved during the Guarantee Term, calculated and adjusted as set forth in this Schedule.

Total Savings are the amount of savings actually achieved plus the Stipulated Savings, calculated and adjusted as set forth in this Schedule. Total Savings

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include all savings achieved during the Installation Period as well as Annual Guaranteed Savings during each year of the Guarantee Term.

2. **GUARANTEE.** GRP|WEGMAN guarantees that the District shall save **\$3,200,000** during the Guarantee Term, calculated and adjusted as set forth in the attached Utility Evaluation, Exhibit 2 to this Schedule. If the Annual Savings in any year of the Guarantee Term are less than the Annual Guaranteed Savings for that year, GRP|WEGMAN shall pay or credit the District with the difference, as described in paragraph 5 of this Schedule. Such payment or credit shall be the sole and exclusive remedy of the District for any failure by GRP|WEGMAN to achieved guaranteed savings under this Guaranteed Energy Savings Contract, including any alleged breach of any other express or implied warranty of savings.
3. **RECONCILIATION.** GRP|WEGMAN shall calculate the savings achieved during the Installation Period and advise the District of the amount of such savings. The frequency and the methods of reconciliation to be used during the Guarantee Term have been approved by the District at the time that this Contract was executed and are defined in the Exhibits attached to this Schedule. Except by mutual agreement of the parties, no changes to the frequency or methods of reconciliation may be made during the Guarantee Term; but, if a utility providing energy to the District modifies its method of billing during the Guarantee Term, or if the District changes its utility suppliers or method of purchasing, GRP|WEGMAN may, at is option, adjust the reconciliation methods to methods appropriate to the utility's revised method of billing.
4. **CHANGES IN USE.** The District agrees to notify GRP|WEGMAN, within five (5) business days, of any actual or intended change, whether before or during the Guarantee Term, in the use of any facility to which this Schedule applies, or of any other condition arising before or during the Guarantee Term, that reasonably could be expected to change the amount of energy used at any facility to which this Schedule applies. Such a change or condition would include but is not limited to: changes in the primary use of any facility; changes to the hours of operation of any facility; changes or modifications to the Equipment or Services provided under this Guaranteed Energy Savings Contract; failure of the premises to meet local building codes; changes in utility suppliers, method of utility billing, or method of utility purchasing; improper maintenance of the Equipment or of any related equipment other than by GRP|WEGMAN; change to the Equipment or to any facility required by changes to local building codes; or additions or deletions of energy-consuming equipment at any facility. Such a change or condition need not be identified in the Base Line or Benchmark in order to permit GRP|WEGMAN to make an adjustment.

Upon receipt of such notice, or if GRP|WEGMAN independently learns of any such change or condition, GRP|WEGMAN shall calculate and send to the District a notice of adjustment to the Base Lien or Benchmark to reflect the impact of

such change or condition, and the adjustment shall become effective upon approval by the District as of the date that the change or condition first arose. Should the District fail to provide GRP | WEGMAN with notice of any such change or condition, GRP | WEGMAN may make reasonable estimates as to the impact of such change or condition and as to the date on which such change or condition first arose in calculating the impact of such change or condition, and such estimates upon approval by the District shall be accepted.

- 5. SAVINGS SHORTFALLS.** If the Annual Savings during a specific year of the Guarantee Term are less than the Annual Guaranteed Savings for that year, GRP | WEGMAN will at the District's written election, pay the District the Shortfall amounts or upon the mutual agreement of the parties, GRP | WEGMAN may also provide additional products or services, in the value of the shortfall, at no additional cost to the District. Where shortfalls have occurred, GRP | WEGMAN reserves the right, subject to the approval of the District, which shall not be unreasonably withheld, to implement additional operational improvements or conservation measures, at no cost to the District that shall generate additional savings in future years of the Guarantee Term.

The following Exhibit is attached and made part of the schedule:

Exhibit 1: Stipulated Savings

Exhibit 2: Architectural Layout A-1

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EXHIBIT 1: Stipulated Savings

The savings identified below shall be Stipulated Savings (as defined above) under this Schedule. These savings are based on the verification approach prescribed for projects in which year over year savings are stipulated based on procedures for verifying that (1) baseline conditions have been defined; (2) the Work and equipment contracted to be installed have been installed; (3) installed Work and equipment , as completed at the end of construction, meets the requirements of the Contract in terms of quality; and (4) installed Work and equipment is operating and performing in accordance with the requirements of the Contract and the Contract Documents. This protocol is based on the guidelines for measurement and verification contained in the guidelines of the Federal Energy Management Program of the U.S. Department of Energy.

Savings

1. The operational savings for parts, labor, material, and supplies for maintaining and replacing equipment as required by HLS Amendments and additional scope results in avoided costs of \$XXX,XXX/year of operational savings and \$XXX,XXX over the term of the contract.
2. The energy and operational savings has been verified prior to contract acceptance and will be stipulated as cost savings going forward after the project has been accepted as being complete by the District.
3. The bases for the energy savings is the period from (DATE) to (DATE) The District presently purchases electricity from the (Electric Utility Provider) and natural gas from (Gas Utility Divider) during the above period of time.
4. The energy usage reduction outline in the savings exhibit utilizes the base year utility rates for the Elementary School at \$0.13/kWh and natural gas at market rates. Actual dollar savings may vary based on fluctuations in utility cost. Adjustments to the savings will be required based on the installation of air conditioning, ventilation increase and the operation of additional air conditioning at the Elementary School. Overall energy reduction in the area of heating, windows, lighting and controls will be partially offset by an increase in ventilation. The net utility expenditure, based on the combination of savings and increase in ventilation will be close to zero based on how the district operates the system during the summer.
5. It is the District's responsibility to maintain the existing and new equipment at its full efficiency so no adjustments to the energy savings will be required.
6. The base year utility usage:
Elementary School:
Electric Meter total usage of XXX,XXX KWH

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Gas Meter total usage of XX,XXX Therms

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SCHEDULE C: COMPENSATION TO GRP | WEGMAN

1. **CONTRACT SUM AND PAYMENT TERM.** The District shall make payments to GRP | WEGMAN for Work performed, as well as payments for Services rendered pursuant to the Services Schedule.
- (a) The Contract Sum to be paid by the District for the Work shall be an amount of _____ Dollars (\$XXXXX). Progress payments (including payment for materials delivered to GRP | WEGMAN and work performed on and off-site) shall be made to GRP | WEGMAN.
 - (b) GRP | WEGMAN's initial application for payment will include 30% mobilization and will be submitted within 10 days of commencement date. Subsequent payment applications shall be submitted monthly based on the value of labor and materials incorporated in the work and for materials stored at the site. GRP | WEGMAN will develop a schedule of values and submit the schedule of values to the District for review. Progress payments shall be submitted on AIA standard documents to the District. Progress payments, less 5% retainage, shall be made no later than 30 days after submission. All applications for payment shall include certified payroll records in accordance with the Illinois Prevailing Wage Act.
 - (c) If application is made for material not installed in the work, but delivered and stored at the site, GRP | WEGMAN shall submit a stored material log.
 - (d) Partial waivers of lien shall be provided for the prior month's application with the current application for payment submission.

Final payment, including retainage, constituting the entire unpaid balance for the Work, shall be made to GRP | WEGMAN within 30 days after the Substantial Completion Date. Payments may be withheld on account of any breach of this Contract by GRP | WEGMAN and claims by third parties (including GRP | WEGMAN subcontractors and material suppliers), but only to the extent that written notice has been provided to GRP | WEGMAN and GRP | WEGMAN has failed, within ten days of the date of receipt of such notice, to provide adequate security to protect District from any loss, cost, or expense related to such claims.

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SCHEDULE D: CONSTRUCTION AND INSTALLATION SCHEDULE

GRP | WEGMAN shall prepare and submit to the District a detailed progress schedule for the Work which shall be reasonably consistent with the anticipated completion date of October 15, 2015 after heating checkout. The schedule shall show GRP | WEGMAN's anticipated plan for substantial completion date for occupancy of 8/15/2015 of the Work and in a format reasonably acceptable to the District. The progress schedule shall be attached to and incorporated by reference into this Schedule D upon its approval by District and GRP | WEGMAN.

SCHEDULE E: REQUIRED STANDARDS OF COMFORT

The HVAC equipment schedule as provided by the district is 6:30AM to 3:30PM Monday through Friday during the school year and reduced hours of operation on holidays and summer break. The temperatures during occupied heating periods will be maintained in the range of 70 to 72 degrees F. In unoccupied periods the heating will be set back to 55 degrees F. The temperatures during occupied cooling periods will be maintained in the range of 74 to 76 degrees F. In unoccupied periods the cooling will be set back to 82 degrees F or off completely.

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SCHEDULE F: PROJECT CASH FLOW

Year	Energy Savings	Operations, Maintenance, Future Capital Cost Avoidance
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
Total	\$XXXXX +	\$XXXXX = \$XXXXXX

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SCHEDULE G: FINAL DELIVERY AND ACCEPTANCE CERTIFICATE

Project Name: _____

Agreement Effective Date: _____

Scope-of-Work (SOW) Item/Energy Conservation Measure (ECM):

To: GRP | WEGMAN

Reference is made to the above listed Agreement between the undersigned and GRP | WEGMAN and to the Scope of Work as defined in Schedule A herein. In connection therewith, we confirm to you the following:

1. The Scope of Work (SOW) Item/Energy Conservation Measure (ECM) referenced above and also listed in Schedule A of the Agreement has been demonstrated to the satisfaction of the Owner's Representative as being substantially complete, including all punch list items generated during the Project Acceptance Procedure.
2. All of the Work has been delivered to and received by the undersigned and that said Work has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented, and that said Work has been accepted by the undersigned and complies with all terms of the Agreement. Consequently, you are hereby authorized to invoice for the Final Payment, as defined in Schedule C, The Payment Schedule.

Owner Name: _____

By: _____
(Authorized Signature)

(Printed Name and Title)

(Date)

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**SCHEDULE H:
SECTION 179D ALLOCATION**

As part of the Energy Policy Act of 2005, Congress enacted Section 179D of the Internal Revenue Code to encourage the design and construction of energy efficient commercial building property. This program allows government building owners to allocate potential Section 179D deductions to the designer that creates the technical specifications for the installation of the energy efficient commercial building property.

Under the provisions set forth by the Internal Revenue Service, (Notice 2008-40, Section 3, Special Rule for Government-Owned Buildings), the undersigned do hereby acknowledge this document as execution of transfer of allowable 179D tax deduction for the Public Building(s) detailed below from the 'Owner' to the 'Designer'.

Property Name	Property Address	Placed in Service	Cost of Project	Square Feet	Allocation Percent
					100%
					100%
					100%

Owner Information	
Governmental Entity Name ("Owner"):	
Representative Name:	
Title:	
Address:	
Phone Number:	

Designer Information	
Designer-Entity Name ("Designer"):	GRP WEGMAN
Representative Name:	Christopher Ammann
Title:	Chief Financial Officer
Address:	1 Mechanical Drive Bethalto, IL 62010
Phone Number:	618-258-9264

The authorized owner representative is not responsible for certification of the energy efficient commercial building property. The taxpayer receiving the allocation is solely responsible for obtaining the required certification, supporting documents, and ensuring their accuracy and substance.

I declare that I have examined this allocation, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this allocation are true, correct, and complete.

AGREED TO AND ACCEPTED:

_____ Signature (Owner Representative)	_____ Signature (Designer Representative)
_____ Print Name	Christopher S. Ammann Print Name
_____ Date:	_____ Date:

PCXX-XXXX

GUARANTEED ENERGY SAVINGS CONTRACT

This Guaranteed Energy Savings Contract ("Contract") is made and entered into as of **February 9, 2015** between **GRP Mechanical Company, Inc. d/b/a GRP WEGMAN COMPANY**. ("GRP|WEGMAN"), having its principal offices at 1 Mechanical Drive, Bethalto, IL 62010, and the **Minooka Community High School District 111_**, ("DISTRICT") having its principal offices at 26655 W. Eames Street, Channahon, IL 60410.

RECITALS

District owns and operates high school facilities ("Premises") in **Grundy** County, Illinois, and wishes to acquire equipment and services to reduce energy consumption or operating costs, provide operational savings, and to make health and life safety improvements, in the schools.

GRP|WEGMAN has the experience and project management capabilities to identify and evaluate Energy Cost Savings Measures ("ECMs"), and provide recommendations for designing and implementing such measures.

GRP|WEGMAN has delivered to District a Proposal in response to District's Request for Proposal ("RFP"), dated **January 10, 2022**, pertaining to GRP|WEGMAN's furnishing in a phased approach (for all District's buildings over a period of several years) of all labor, material, equipment, and services necessary for the execution and completion of all items of Energy Cost Savings as specified in this Contract.

In accordance with the provisions of the RFP, the facilities of the District were analyzed to identify and evaluate viable ECMs that would improve the learning environment, as well as estimates of expected energy and operational savings and associated project costs for each recommended ECM.

District desires to contract with GRP|WEGMAN for the design, installation, project management, coordination, and scheduling of the ECMs as set forth herein.

GRP|WEGMAN and District acknowledge that the purpose of this Contract is to achieve the ECMs contemplated by this Contract for the benefit of District and agree to cooperate to achieve the purpose of this Contract.

NOW, THEREFORE, the parties agree as follows:

SECTION 1. ENERGY SURVEY

Section 1.1. Details. GRP|WEGMAN has prepared a survey of the District's facilities ("Survey") in response to District's RFP. The Survey has been approved and accepted by District. The Survey includes all identified ECMs.

Section 1.2. Schedules and Exhibit. GRP|WEGMAN has prepared and District has approved and accepted the Schedules and Exhibit as set forth below, copies of which are attached hereto (or will be as provided for in this Contract) and are made a part of this Contract by reference. "Contract Documents" means this Contract with the conditions described herein, the Schedules identified below,

exhibits attached to such Schedules, the Design & Engineering Documents prepared by GRP|WEGMAN and approved by the District, the Construction Schedule, any Change Orders, other documents listed in the Contract, and any modifications to the foregoing documents issued after execution of this Contract.

Schedules:

- Schedule A Scope of Work to be performed by GRP|WEGMAN
- Schedule B Energy Savings Guarantee
- Schedule C Compensation to GRP|WEGMAN
- Schedule D Construction and Installation Schedule
- Schedule E Required Standards of Comfort
- Schedule F Project Cash Flow
- Schedule G Final Delivery and Acceptance Certificate
- SCHEDULE H Terms of the Request for Performance Contracting Proposal for a Guaranteed Energy Savings Contract (“Terms of the RFP”)

Section 1.3. Other Documents. The provisions of the Request for Performance Contracting Proposal shall govern in the event of any inconsistencies with this Contract, Schedules and the terms Request for Performance Contracting Proposal.

SECTION 2. GENERAL

Section 2.1. District engages and GRP|WEGMAN agrees to perform and provide the Energy Cost Savings Measures, and such other goods and services (collectively the “Work”) described in Contract Documents for the Project and in accordance with the terms of this Contract.

Section 2.2. District has furnished or shall furnish (or cause its energy suppliers to furnish if reasonably possible) to GRP|WEGMAN, upon request, all of its records and complete data concerning energy usage and energy-related maintenance for the Premises, including the following data for the most current twelve (12) month period; utility records; occupancy information; descriptions of any changes in the building structure or its heating, cooling, lighting or other systems or energy requirements; descriptions of all energy consuming or saving equipment used in the Premises; bills and records relating to maintenance of energy-related equipment, and a description of energy management procedures presently utilized

SECTION 3. CONTRACT TIME

Section 3.1. The Contract Time consists of the Installation Period and the Guarantee Period. The "**Installation Period**" is the period of time from the Notice of Commencement until Final Acceptance of the Work identified in Schedule A, Scope of Work. The "**Guarantee Period**" is the period of time from the Guarantee Commencement Date, as defined in Section 3.2, until the end of the Guarantee Term. A separate installation period and guarantee period shall apply to any subsequent work added by Contract Change Order after final acceptance of the work identified in Exhibit A, Scope of Work.

Section 3.2. Guarantee Commencement Date. The Guarantee Commencement Date shall be the first day of the month after the month in which the Final Acceptance of the Work included in Schedule A, Scope of Work has occurred. "**Final Acceptance**" shall be deemed to have occurred when: (i)

GRP|WEGMAN has delivered a Certificate of Substantial Completion and/or Punch List to the District indicating that it has installed and commenced operating all of the Work and equipment specified in Schedule A and in accordance with the provisions of Section 8, and (ii) District has inspected and accepted said installation and operation and signed GRP|WEGMAN's Certificate of Substantial Completion and/or Punch List. If the District does not concur that the Work has achieved Substantial Completion and/or that the Punch List is not complete or correct, then the District shall notify GRP|WEGMAN within thirty (30) business days of any discrepancies. To the extent GRP|WEGMAN does not dispute the discrepancies raised by the District, GRP|WEGMAN shall (i) promptly and diligently correct the Work to conform to the description of the Work set forth herein, and resubmit the certificate of Substantial Completion to the District, and (ii) promptly complete all items on the Punch List. If GRP|WEGMAN disagrees with the discrepancies raised by the District, GRP|WEGMAN shall notify the District of a dispute and such dispute shall be resolved in as provided under this Contract. If the District does not deliver written notice to GRP|WEGMAN within thirty (30) business days of receiving the certificate of Substantial Completion and the Punch List, the District will be deemed to have agreed to, signed and returned the certificate of Substantial Completion and the Punch List. Any Work added to this Contract by Contract Change Order subsequent to Final Acceptance shall have a separate guarantee period commencing on the Guarantee Commencement date for such Work shall not: 1) Extend the Guarantee Period for the Work included in Schedule A, Scope of Work, or any other Work for which Final Acceptance has occurred, or; 2) Extend either the contractual liability of GRP|Wegman, or liability of its bond surety under payment or performance bonds for the Work included in Schedule A, Scope of Work, or any other Work for which final acceptance has occurred.

Section 3.3. Term of Contract. Subject to the following sentence, the term of this Contract shall be twenty (20) years measured beginning with the Commencement Date.

SECTION 4. COMPENSATION TO GRP|WEGMAN

Section 4.1. Energy Savings Guarantee. GRP|WEGMAN has formulated and, subject to the adjustments provided for in Section 14, guaranteed the energy consumption, operating costs, and operational savings to be achieved as a result of the installation and operation of the Work and equipment and services provided for in this Contract. The Energy Savings Guarantee for the Work performed under this Contract is specified in Schedule B (Energy Savings Guarantee). All or some portion of the Energy Savings Guarantee may consist of energy and operations savings stipulated to by the District and GRP|WEGMAN (Stipulated Savings). These Stipulated Savings shall be based on GRP|WEGMAN's customary standards and methodologies and include avoided maintenance, avoided capital investments, operational savings or avoided personnel costs. The District and GRP|WEGMAN acknowledge that Stipulated Savings are being used to avoid the high costs for measuring the categories of savings included in the parties' stipulation. The District acknowledges that it has evaluated sufficient information to accept the determination of Stipulated Savings contained in the Energy Savings Guarantee of this Contract. The Stipulated Savings shall be deemed achieved on the date the District accepts and signs GRP|WEGMAN's Certificate of Substantial Completion. The parties agree that Stipulated Savings shall not be measured or monitored at any time in connection with the Energy Savings Guarantee.

Section 4.2. Review and Reimbursement/Reconciliation. To the extent not included in the Stipulated Savings referenced in Section 4.1, and if, at the end of any calendar year during the guarantee period as specified in Schedule B (Energy Savings Guarantee) , GRP|WEGMAN has failed to

achieve the annual Energy Savings Guarantee specified in Schedule B, upon written request by District, which shall be given no earlier than the end of such year and no later than thirty (30) days thereafter, GRP|WEGMAN will pay District the difference between the annual amount guaranteed and the amount of actual energy and operations savings achieved at the District's Premises in accordance with the provisions of Schedule B. GRP|WEGMAN shall remit such payments to District within ninety (90) days of written notice by District of such monies due. When the total energy savings in any one year during the guarantee period exceed the Energy Savings Guarantee set forth in Schedule B and are in addition to those monies due GRP|WEGMAN for compensation for services as set forth in Schedule C, (Compensation to GRP|WEGMAN), such excess savings shall be first be applied to reimburse GRP|WEGMAN for any payment GRP|WEGMAN made to the District to meet GRP|WEGMAN's guarantee for previous years in which the energy savings fell short of the Energy Savings Guarantee specified in Schedule B. GRP|WEGMAN shall annually prepare and provide a report to the District documenting the performance of the ECMs.

Section 4.3. GRP|WEGMAN and District agree to work in good faith to resolve any disagreement over the calculation of the energy savings. Should an irresolvable disagreement arise as to the calculation of energy savings, an independent public accounting firm may be engaged by either party to conduct a review and give an opinion on whether the calculation of savings or deficiencies as prepared by GRP|WEGMAN is fairly stated in accordance with this Contract. The independent public accounting firm shall be mutually agreed upon by the parties. Exercise of the right to request a review shall in no way affect District's obligation to make current payments pursuant to this Contract unless otherwise described herein. Any payments between the parties necessary to resolve any irregularities identified in the review will be made within sixty (60) days after submission of the review to the parties

Section 4.4. GRP|WEGMAN Compensation and Fees: GRP|WEGMAN has structured the Energy Savings Guarantee referred to in Section 4.1 above; so as to be sufficient to equal or exceed the sum of any and all payments required to be made by District in connection with the Work to be performed by GRP|WEGMAN under this Contract. District shall pay GRP|WEGMAN the Contract Sum of ~~Three Million Two Hundred Thousand Dollars (\$3,200,000)~~ for the provision of services as set forth and in accordance with the provisions of Schedule C (Compensation to GRP|WEGMAN).

Section 4.5. Billing Information Procedure. Payments due to GRP|WEGMAN under this Section 4 shall be calculated in accordance with the provisions of Schedule C. GRP|WEGMAN shall provide District with an invoice of the total amount due seven (7) days prior to District's board meeting. Payments shall be made by the District within ten (10) days of board approval. For any Work not covered by Schedule C, GRP|WEGMAN shall invoice District on a monthly basis with payment due upon presentation of an invoice. GRP|WEGMAN reserves the right to suspend or terminate its Work if payment is not received within thirty (30) days of an invoice due date.

Section 4.6. Extra work requested by the District shall be compensated at GRP|WEGMAN's customary billing rates with reimbursement for all costs and expenses incurred by GRP|WEGMAN in the performance of the Work.

SECTION 5. PERMITS AND APPROVALS; COORDINATION

Section 5.1. Permits and Approvals. District shall assist in obtaining all necessary permits and approvals required by local law for installation of the Equipment, except as otherwise provided in the Contract Documents. District shall furnish copies of each permit or license to GRP|WEGMAN, which is required to perform the work for the District. GRP|WEGMAN shall obtain and pay for all licenses and permits and shall pay all fees and charges for connections to outside services and for the use of municipal or private property for storage of materials, parking, temporary obstructions, enclosures, or the opening and patching of streets, arising from the construction and completion of the Work contemplated by this Contract.

Section 5.2. Coordination During Installation. District and GRP|WEGMAN shall coordinate GRP|WEGMAN's performance of the Work with the District. GRP|WEGMAN shall not commit or permit any act that will interfere with the performance of business activities conducted by District without prior written approval of District.

SECTION 6. DISTRICT'S RESPONSIBILITIES

Section 6.1. District shall provide, with reasonable promptness, full and complete information regarding the Premises, including but not limited to, all building controls, systems, apparatus, equipment and machinery. District agrees to furnish surveys, legal descriptions, drawings, waste management plans and all other information pertinent to the Work and the Premises where the Work is to be performed. District shall appoint an authorized representative to approve, reject or otherwise facilitate GRP|WEGMAN's performance of the Work.

Section 6.2. District shall provide sufficient space on the Premises for the performance of the Work and shall take reasonable steps to protect all material and equipment from harm, theft and misuse. District shall provide access to the Premises for GRP|WEGMAN to perform any function related to this Contract during regular business hours, or such other reasonable hours as may be requested by GRP|WEGMAN and acceptable to District. District shall not unreasonably restrict GRP|WEGMAN's access to Premises to make emergency repairs or corrections as GRP|WEGMAN may determine are needed.

Section 6.3. District shall promptly notify GRP|WEGMAN of all known unusual or materially changed operating conditions that affect any equipment or building condition that may affect Work to be performed by GRP|WEGMAN. District shall furnish GRP|WEGMAN with prompt written notice of any defects in GRP|WEGMAN's Work.

SECTION 7. WORK PERFORMED BY GRP|WEGMAN

Section 7.1. GRP|WEGMAN shall perform the Work under this Contract in accordance with the Scope of Work contained in Schedule A. GRP|WEGMAN shall act as an independent contractor with responsibility for the means, methods, techniques, sequences, procedures and coordination of the Work. All Work performed under this Contract shall be coordinated by GRP|WEGMAN with local utilities, subcontractors, equipment suppliers and District's facility personnel. GRP|WEGMAN shall arrange for, prepare, or otherwise furnish, for written approval by the District, working drawings and specifications setting forth in detail the requirements of the construction and installation of the Project in accordance with the Contract Documents ("Design & Engineering Documents"). The Design & Engineering Documents shall include all drawings, specifications, schedules, diagrams, and plans, and such content

and detail as is necessary to properly complete the construction of the Project. All engineering services shall be rendered by an employee or sub consultant of GRP|WEGMAN who is properly registered as a Professional Engineer in the State of Illinois, and designated as a Certified Energy Manager. The Work shall be performed in a manner consistent with the degree of skill and care ordinarily exercised by similar contractors performing the same or similar work in the same locale under similar circumstances and conditions. GRP|WEGMAN shall furnish or arrange for all required services, labor, materials, equipment and supervision as are necessary for the proper performance of the Work. GRP|WEGMAN shall complete its Work in accordance with the construction schedule specified in Schedule D.

Section 7.2. GRP|WEGMAN shall remain responsible for the professional and technical accuracy of all services performed, whether by GRP|WEGMAN or its subcontractors or others on its behalf, throughout the term of this Contract.

Section 7.3. GRP|WEGMAN shall be responsible for initiating, maintaining, and supervising reasonable safety precautions and programs in connection with the performance of the Contract Services. GRP|WEGMAN shall take reasonable precautions for safety of, and shall provide reasonable and appropriate protection to prevent damage, injury or loss to (1) employees on the Work and other persons who may be affected thereby; (2) the Work and materials and equipment to be incorporated therein; and (3) other property at the Site or adjacent thereto. GRP|WEGMAN shall not be required to conduct safety, reacceptance or other tests, install new devices or equipment or make modifications in other equipment beyond the Scope contained in this Contract.

Section 7.4. GRP|WEGMAN shall conduct the training program described in Schedule A. The training specified shall be completed prior to acceptance of the Work. GRP|WEGMAN shall provide ongoing training whenever needed with respect to updated or altered Work, including upgraded software, and including newly hired maintenance personnel, for a period of one year following final completion of the Work. Such training shall be provided at no charge to the District.

Section 7.5. All reports and drawings specifically prepared for District under this Contract (“Deliverables”) shall become District’s property upon final payment to GRP|WEGMAN. GRP|WEGMAN may retain file copies of such information. All other reports, calculations, data, drawings, estimates, specifications, manuals, computer programs, codes and computerized materials prepared by or for GRP|WEGMAN are Instruments of Service (“Instruments”) and shall remain the property of GRP|WEGMAN.

SECTION 8. CONSTRUCTION SCHEDULE AND EQUIPMENT INSTALLATION; APPROVAL

Section 8.1. Construction and equipment installation shall proceed in accordance with the construction schedule approved by District and attached as Schedule D. Work shall be performed during normal working hours, Monday through Friday, unless otherwise agreed herein.

Section 8.2. Systems Startup and Equipment Commissioning: GRP|WEGMAN shall conduct a thorough and systematic performance test of each element and total system of the installed Equipment in accordance with the procedures specified in Schedule A and prior to acceptance by District. GRP|WEGMAN shall provide notice to District of the scheduled test(s) and District and/or its designees shall have the right to be present at any or all such tests conducted by GRP|WEGMAN and/or

manufacturers of the Equipment. GRP|WEGMAN shall be responsible for correcting and/or adjusting all deficiencies in systems and Equipment operations that may be observed during system commissioning procedures. GRP|WEGMAN shall furnish District with Certificates of Substantial or Final Completion upon completion of the Work, or portion thereof.

Section 8.3. Inspection and Final Approval: District has the right to inspect, test and approve the work conducted in the facilities during construction and operation. District shall have the right and access to the records, and other compilations of data that pertain to the performance of the provisions and requirements of this Contract. Records shall be retained for three (3) years after close-out.

Section 8.4. GRP|WEGMAN shall not be responsible for loss, delay, or failure of performance caused by circumstances beyond its control, including but not limited to acts or omissions of the District or its employees, agents or contractors, Acts of God, war, civil unrest, acts or threatened acts of terrorism, acts or omissions of government authorities, fire, theft, corrosion, flood, water damage, lightning, freeze-ups, strikes, lockouts, explosions, delays in transportation, fuel, labor or materials. In the event of such delays or failure, GRP|WEGMAN's time for performance shall be extended by a period of time equal to that lost.

SECTION 9. INDEMNITY

Section 9.1. To the fullest extent permitted by law, GRP|WEGMAN shall indemnify and hold harmless the District, its agents and employees from and against claims, damages, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from performance of the Contract provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused in whole or in part by negligent acts or omissions of GRP|WEGMAN, its subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. In no event shall the preceding indemnification apply to liability to the extent caused by the negligence or willful misconduct of the party indemnified or held harmless. This indemnification shall not be limited to damages, compensation or benefits payable under insurance policies, workers' compensation act, disability benefit acts, or other employees' benefit acts.

Section 9.2. To the fullest extent permitted by law, District shall indemnify and hold harmless GRP|WEGMAN, its subcontractors, agents and employees from and against claims, damages, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from performance of the Contract provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused in whole or in part by negligent acts or omissions of District, its contractors, agents and employees, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. In no event shall the preceding indemnification apply to liability to the extent caused by the negligence or willful misconduct of the party indemnified or held harmless. This indemnification shall not be limited to damages, compensation or benefits payable under insurance policies, workers' compensation act, disability benefit acts, or other employees' benefit acts.

SECTION 10. WARRANTY

Section 10.1. GRP|WEGMAN covenants and agrees that all Work performed, and equipment installed, as part of this Contract, shall be new, in good and proper working condition and protected by appropriate written warranties covering all parts and equipment performance. The Work of all Subcontractors shall be warranted for a period of one (1) year from the date of acceptance of their Work, unless otherwise stipulated for a longer period of time. Equipment provided by GRP|WEGMAN shall be accompanied by a manufacturer's warranty against defects in workmanship and materials. GRP|WEGMAN agrees to deliver to District for inspection and approval all such written warranties and to transfer such warranties to District.

Section 10.2. Claims under this warranty section shall be made in writing to GRP|WEGMAN within sixty (60) days after discovery of the claimed defect unless discovered by GRP|WEGMAN. District's sole and exclusive remedy for any equipment or services not conforming to the requirements of this warranty is limited to, at GRP|WEGMAN's option, (i) repair or replacement of defective components of covered equipment, or (ii) re-performance of the defective services, or (iii) to the extent previously paid, a refund for the purchase price of such defective component of the equipment or services. All warranties required hereunder shall be in force for a period of one (1) year from the date of Substantial Completion.

Section 10.3. The warranties set forth in this section will be void and not apply to, any equipment (i) repaired, altered or improperly installed by any person other than GRP|WEGMAN or its subcontractors; or (ii) subjected to unreasonable or improper use or storage, or otherwise subjected to improper maintenance.

Section 10.4. THE EXPRESS LIMITED WARRANTIES PROVIDED ABOVE ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, STATUTORY, EXPRESS, OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED.

SECTION 11. LIMITATION OF LIABILITY

Section 11.1 District and GRP|WEGMAN have discussed the risk and rewards associated with the Work, as well as GRP|WEGMAN's compensation for its services. District and GRP|WEGMAN agree to allocate certain of the risks so that, to the fullest extent permitted by law, GRP|WEGMAN's total aggregate liability to the District under this Contract shall be limited to the proceeds of any insurance or an amount equal to the Contract Sum contained in Schedule C, whichever is greater.

SECTION 12. EQUIPMENT SERVICE

Section 12.1. Actions by GRP|WEGMAN. GRP|WEGMAN shall provide all service, repairs, and adjustments to the Equipment installed under terms of this Contract pursuant to Schedule A.

Section 12.2. Malfunctions and Emergencies. District shall use its best efforts to notify GRP|WEGMAN or its designee(s) within twenty-four (24) hours after District's actual knowledge and occurrence of: (i) any malfunction in the operation of the Equipment or any preexisting energy related equipment that might materially impact upon the guaranteed energy savings, (ii) any interruption or

alteration to the energy supply to the Premises, or (iii) any alteration or modification in any energy-related equipment or its operation.

Section 12.3. District shall notify GRP|WEGMAN within twenty-four (24) hours upon its having actual knowledge of any emergency condition affecting the Equipment. GRP|WEGMAN, or its designee(s) shall respond within twenty-four (24) hours and shall promptly proceed with corrective measures. Any telephonic notice of such conditions by District shall be followed within three (3) business days by written notice to GRP|WEGMAN from District. If District unreasonably delays in notifying GRP|WEGMAN of a malfunction or emergency, and the malfunction or emergency is not otherwise corrected or remedied, such conditions will be treated as a Material Change and the applicable provisions of Section 14 (Material Changes) shall be applied.

Section 12.4. GRP|WEGMAN will provide a written record of all service work performed. This record will indicate the reason for the service, description of the problem and the corrective action performed.

Section 12.5. Actions by District. District shall not move, remove, modify, alter, or change in any way the Work or any part thereof without the prior written approval of GRP|WEGMAN. Notwithstanding the foregoing, District may take reasonable steps to protect the Work if, due to an emergency, it is not possible or reasonable to notify GRP|WEGMAN before taking any such actions. In the event of such an emergency, District shall take reasonable steps to protect the Work from damage or injury and shall follow instructions for emergency action provided in advance by GRP|WEGMAN. District agrees to maintain the Premises in good repair and to protect and preserve all portions thereof, which may in any way affect the operation or maintenance of the Work.

SECTION 13. UPGRADING OR ALTERING THE EQUIPMENT

Section 13.1. GRP|WEGMAN shall at all times have the right, subject to District's prior written approval, which approval shall not be unreasonably withheld, to change the equipment included in the Work, revise any procedures for the operation of the equipment or implement other energy saving actions in the Premises, provided that:

(i) GRP|WEGMAN complies with the standards set forth in Schedule A;

(ii) such modifications or additions to, or replacement of equipment, and any operational changes, or new procedures are necessary to enable GRP|WEGMAN to achieve the energy savings at the Premises and;

(iii) any cost incurred relative to such modifications, additions or replacement of the equipment, or operational changes or new procedures shall be the responsibility of GRP|WEGMAN.

Section 13.2. All modifications, additions or replacements of the equipment or revisions to operating or other procedures shall be described in a supplemental Schedule(s) to be provided to District for approval, which shall not be unreasonably withheld, provided that any replacement of the equipment shall be new as set forth in Section 10 and have equal or better potential to reduce energy consumption at the Premises than the Equipment being replaced. GRP|WEGMAN shall update any and all software to be used in connection with the Equipment in accordance with the provisions of Section 18.1 (Ownership

of Certain Proprietary Rights). All replacements of and alterations or additions to the equipment shall become part of the equipment described in Schedule A and shall be covered by the provisions and terms of Section 8.

SECTION 14. MATERIAL CHANGES

Section 14.1. Material Change Defined: A Material Change shall include any change in or to the Premises, whether structural, operational or otherwise in nature which reasonably could be expected, in the judgment of District, to increase or decrease annual energy consumption in accordance with the provisions and procedures set forth in Schedule B by five percent (5%) or more after adjustments for climatic variations. Actions by District which may result in a Material Change include, but are not limited to the following:

- (i) manner of use of the Premises by District; or
- (ii) hours of operation for the Premises or for any equipment or energy using systems operating at the Premises; or
- (iii) permanent changes in the comfort and service parameters set forth in Schedule A; or
- (iv) occupancy of the Premises; or
- (v) structure of the Premises; or
- (vi) types and quantities of equipment used at the Premises or
- (vii) modification, renovation or construction at the Premises; or
- (viii) District's failure to provide maintenance of and repairs to the equipment as specified in Schedule A; or
- (ix) any other conditions other than climate affecting energy use at the Premises.

Section 14.2. Reported Material Changes; Notice by District: District shall use its best efforts to deliver to GRP|WEGMAN a written notice describing all actual or proposed Material Changes in the Premises or in the operations of the Premises at least sixty (60) days before any actual or proposed Material Change is implemented or as soon as is practicable after an emergency or other unplanned event. Notice to GRP|WEGMAN of Material Changes which result because of a bona fide emergency or other situation which precludes advance notification shall be deemed sufficient if given by District within twenty-four (24) hours after having actual knowledge that the event constituting the Material Change occurred or was discovered by District to have occurred.

SECTION 15. CHANGES IN THE WORK

Section 15.1. Change Orders. District may order, or GRP|WEGMAN may request, changes in the Work consisting of additions, deletions, or modifications to the Work. Such changes in the Work shall be authorized only by written Change Order signed by District and GRP|WEGMAN. The adjustment

to the Contract Sum shall be based on the mutual acceptance of a lump sum price for the Change Order work. Change Orders entered into after Final Acceptance of the scope of work in Schedule A of this Contract will be performed under the terms and conditions of this Contract. It is the intent of both parties that a Change Order entered into after Final Acceptance of the Work in Schedule A, Scope of Work, will not extend the Guarantee under the original scope of work in Schedule A of this Contract or extend the Guarantee for Work subject to Final Acceptance under any subsequent Change Orders will require a separate bond as detailed in Section 24.12 of this Contract.

Section 15.2. No Changes That Impact Guarantee. To the extent GRP|WEGMAN reasonably determines that any change in the Work requested or directed by District will materially and adversely impact the GRP|WEGMAN's ability to meet or sustain achievement of the Guarantee set forth in Schedule B, GRP|WEGMAN has the right, in its sole and absolute discretion, to decline such change in the Work.

Section 15.3. Concealed Conditions. GRP|WEGMAN shall immediately notify District if it encounters Concealed Conditions (1) that differ materially from those indicated in the Contract Documents or (2) of an unknown physical condition, that differ materially from those ordinarily found to exist and generally recognized as inherent in the Work to be performed. GRP|WEGMAN shall give prompt notice to the District of such conditions prior to significantly disturbing the same. If such Concealed Conditions cause an increase in GRP|WEGMAN's cost of, or time required for, performance of any part of the Work, GRP|WEGMAN and District shall agree, by Change Order, to an equitable adjustment to the time required for performance of the Work and to the Contract Sum.

SECTION 16. REPRESENTATIONS AND WARRANTIES

Section 16.1. Each party warrants and represents to the other that:

(i) it has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, to execute and deliver this Contract and perform its obligations hereunder;

(ii) its execution, delivery, and performance of this Contract have been duly authorized by, or are in accordance with, its organic instruments, and this Contract has been duly executed and delivered for it by the signatories so authorized, and it constitutes its legal, valid, and binding obligation;

(iii) its execution, delivery, and performance of this Contract will not breach or violate, or constitute a default under any Contract, lease or instrument to which it is a party or by which it or its properties may be bound or affected; or

(iv) it has not received any notice, nor to the best of its knowledge is there pending or threatened any notice, of any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially and adversely affect its ability to perform hereunder.

Section 16.2. District hereby warrants, represents and promises that it has not entered into any undisclosed leases, or contracts with other persons or entities regarding the leasing of energy efficiency equipment or the provision of energy management services for the Premises or with regard to servicing any of the energy related equipment located in the Premises. District shall provide

GRP|WEGMAN with copies of any successor or additional leases of energy efficiency equipment and contracts for management or servicing of preexisting equipment at Premises that may be executed from time to time hereafter within sixty (60) days after execution thereof.

District agrees that it shall adhere to, follow and implement the energy Cost Savings procedures and methods of operation set forth in Schedule B.

District agrees that GRP|WEGMAN shall have the right once a month, with prior notice, to inspect Premises to determine if District is complying, and shall have complied with such obligations. District shall make the Premises available to GRP|WEGMAN for and during each monthly inspection, and shall have the right to witness each inspection.

Section 16.3. GRP|WEGMAN warrants, represents and promises that before commencing performance of this Contract, (a) it is licensed or otherwise permitted to do business in the State of Illinois; and (b) it shall have provided proof and documentation of required insurance pursuant to Section 17 (Insurance Requirements).

Section 16.4. The parties acknowledge and agree that GRP|WEGMAN has entered into this Contract in reliance upon the prospect of earning compensation based on guaranteed energy savings in energy used at Premises, as set forth on Schedules B (Energy Saving Guarantee) and C (Compensation to GRP|WEGMAN), attached hereto and made a part hereof. The parties further acknowledge and agree that the said guaranteed energy savings would not likely be obtained unless certain procedures and methods of operation designed for energy Cost Savings shall be implemented, and followed by District on a regular and continuous basis.

SECTION 17. PROPERTY/CASUALTY/INSURANCE; INDEMNIFICATION

Section 17.1. Prior to commencement of any work and for the duration of this Contract, GRP|WEGMAN shall provide and maintain insurance as set forth below. Insurance required by this section shall name the District as an additional named insured and shall be with insurers rated A-VII or better in the latest *Bests Rating Guide*. The coverage provided by such policy shall be primary and shall provide that the insurance afforded applies separately to each insured against whom a claim is made, except with respect to the limitation of liability. All policies shall contain waivers of subrogation. GRP|WEGMAN waives all rights against the District and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the required policies.

The following are required:

a. Workers' Compensation Insurance with statutory limits as required by statute, and Employer's Liability Insurance with limits of not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) per Accident, Five Hundred Thousand and 00/100 Dollars (\$500,000.00) Disease, Policy Limit and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) Disease, Each Employee.

b. Automobile Liability, including non-owned and hired with a limit not less than One Million and 00/100 Dollars (\$1,000,000.00).

c. Commercial General Liability including premises, operation, products and completed operations liability, personal injury liability (including employee acts), broad form property damage liability and blanket contractual liability in amounts of not less than One Million and 00/100 Dollars (\$1,000,000.00). GRP|WEGMAN shall maintain Commercial General Liability and, if necessary, commercial umbrella or excess liability with a limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) each occurrence/Annual Aggregate and the Annual Aggregate shall be endorsed to apply separately to each job site or location. In the event any of the hazards of explosion, collapse and underground, normally referred to as XCU, exist, then such hazards shall be covered and protection afforded under the policy.

d. GRP|WEGMAN shall maintain in full force and effect, at GRP|WEGMAN's expense, an Installation Floater, with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00), for coverage of the GRP|WEGMAN's labor, materials, and any equipment to be used for completion of work under this contract. Coverage is to be on an all risk of physical damage form, including earthquake and flood. This insurance shall include the District, and all contractors as their interests may appear.

e. Umbrella liability, with a limit of not less than Five Million and 00/100 Dollars (\$5,000,000.00) each occurrence/Annual Aggregate.

Section 17.2. At School District cost contractor will furnish, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, a comprehensive risk property insurance ("Builder's Risk") for the replacement value of the Work performed. The form of policy for this Builder's Risk coverage must be in completed value and valued at replacement cost with non-standard (broad) form comprehensive risk policy. The value utilized must be 100% of the completed value of the Project. Such Builder's Risk policy may be terminated by Contractor following the Owner's completion of the Final Acceptance Certificate

SECTION 18. OWNERSHIP

Section 18.1. Ownership of Certain Proprietary Property Rights. District shall not, by virtue of this Contract, acquire any interest in any formulas, patterns, secret inventions or processes, copyrights, patents, or other intellectual or proprietary rights that are or may be used in connection with the Equipment. GRP|WEGMAN shall grant to District a perpetual, irrevocable royalty-free license for any and all software or other intellectual property rights necessary for District to continue to operate, maintain, and repair the Equipment in a manner that will yield maximal energy consumption reductions.

Section 18.2. Ownership of Existing Equipment. The equipment and materials at the Premises at the time of execution of this Contract shall remain the property of District even if it is replaced or its operation made unnecessary by work performed by GRP|WEGMAN pursuant to this Contract. If applicable, GRP|WEGMAN shall advise District in writing of all equipment and materials to be replaced at the Premises and District shall within thirty (30) days designate in writing to GRP|WEGMAN which equipment and materials should not be disposed of off-site by GRP|WEGMAN. It is understood and agreed to by both Parties that District shall be responsible for and designate the storage location for any equipment and materials that should not be disposed of off-site. GRP|WEGMAN shall be responsible for

the disposal of all equipment and materials designated by District as disposable off-site in accordance with all applicable laws and regulations regarding such disposal.

Section 18.3 Ownership of Drawings. All drawings, reports and materials prepared by GRP|WEGMAN specifically in performance of this Contract shall become the property of District and will be delivered to District no later than forty-five (45) days after completion and final payment to GRP|WEGMAN.

SECTION 19. EVENTS OF DEFAULT

Section 19.1. Events of Default by District. Each of the following events or conditions shall constitute an "Event of Default" by District:

(i) any failure by District to pay GRP|WEGMAN any sum due for period of more than thirty (30) days after written notification by GRP|WEGMAN that District is delinquent in making payment and provided that GRP|WEGMAN is not in default in its performance under the terms of this Contract;

(ii) any other material failure by District to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein, provided that such failure continues for thirty (30) days after notice to District demanding that such failures to perform be cured or if such cure cannot be effected in thirty (30) days, District shall be deemed to have cured default upon the commencement of a cure within thirty (30) days and diligent subsequent completion thereof; or

(iii) any representation or warranty furnished by District in this Contract, which was false, or misleading in any material respect when made.

Section 19.2. Events of Default by GRP|WEGMAN. Each of the following events or conditions shall constitute an "Event of Default" by GRP|WEGMAN:

(i) the requirements set forth in Schedule A are not met due to failure of GRP|WEGMAN to properly design, install, maintain, repair or adjust the equipment except that such failure, if corrected or cured within thirty (30) days after written notice by District to GRP|WEGMAN demanding that such failure be cured, shall be deemed cured for purposes of this Contract;

(ii) any representation or warranty furnished by GRP|WEGMAN in this Contract is false or misleading in any material respect when made;

(iii) failure to furnish and install the Work and make it ready for use within the time specified by this Contract as set forth in Schedules A (Scope of Work) and D (Construction and Installation Schedule);

(iv) provided that the operation of the facility is not adversely affected and provided that the standards in Schedule A are maintained, any failure by GRP|WEGMAN to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein except that such failure, if corrected or cured within thirty (30) days after written notice by the District to GRP|WEGMAN demanding that such failure to perform be cured, shall be deemed cured for purposes of this Contract;

(v) any lien or encumbrance is placed upon the Work by any subcontractor, laborer, supplier or lender of GRP|WEGMAN;

(vi) the filing of a bankruptcy petition whether by GRP|WEGMAN or its creditors against GRP|WEGMAN which proceeding shall not have been dismissed within ninety (90) days of its filing, or an involuntary assignment for the benefit of all creditors or the liquidation of GRP|WEGMAN;

(vii) Any change in ownership or control of GRP|WEGMAN without the prior approval of District, which shall not be unreasonably withheld; or

(viii) failure by GRP|WEGMAN to pay any amount due District or perform any obligation under the terms of this Contract or the Energy Savings Guarantee as set forth in Schedule B (Energy Savings Guarantee).

SECTION 20. REMEDIES UPON DEFAULT

Section 20.1. Remedies upon Default by District. If an Event of Default by District occurs, GRP|WEGMAN may exercise all remedies available at law or in equity or other appropriate proceedings including bringing an action or actions from time to time for recovery of amounts due and unpaid by District, and/or for damages which shall include all costs and expenses reasonably incurred in exercise of its remedy. Election of one remedy is not a waiver of other available remedies.

Section 20.2. Remedies Upon Default by GRP|WEGMAN. In the Event of Default by GRP|WEGMAN, District may exercise and any all remedies at law or equity, or institute other proceedings, including, without limitation, bringing an action or actions from time to time for specific performance, and/or for the recovery of amounts due and unpaid and/or for damages, which shall include all costs and expenses reasonably incurred, including attorney's fees. Election of one remedy is not a waiver of other available remedies.

SECTION 21. CONDITIONS BEYOND CONTROL OF THE PARTIES

If a Party to the Contract ("Performing Party") shall be unable to reasonably perform any of its obligations under this Contract due to acts of God, insurrections or riots, or other event beyond its control, this Contract shall at the other party's option (i) remain in effect but said Performing Party's obligations shall be suspended until the said events shall have ended; or, (ii) be terminated upon ten (10) days' notice to the Performing Party, in which event neither party shall have any further liability to the other.

SECTION 22. DISPUTES

Section 22.1. Continuation of Work. Pending final resolution of any dispute under this Contract, GRP|WEGMAN will proceed diligently with the performance of its duties and obligations under the Contract Documents, and the District will continue to make payments of undisputed amounts in accordance with the Contract Documents.

SECTION 23. ASSIGNMENT

Section 23.1. Assignment by GRP|WEGMAN. GRP|WEGMAN acknowledges that District is induced to enter into this Contract by, among other things, the qualifications of GRP|WEGMAN. GRP|WEGMAN agrees that neither this Contract nor any right or obligations hereunder may be assigned in whole or in part to another firm, without the prior written approval of the District.

Section 23.2. Assignment by District. District may transfer or assign this Contract and its rights and obligations herein to a successor or purchaser of the Premises subject to this Contract or an interest therein. The District shall remain jointly and severally liable with its assignee or transferee to GRP|WEGMAN for all of its obligations under this Contract.

SECTION 24. MISCELLANEOUS PROVISIONS

Section 24.1. Waiver of Claims/Liens. GRP|WEGMAN shall obtain and furnish to District a Waiver of Liens from each vendor, material manufacturer and laborer in the supply, installation and servicing of the Work.

Section 24.2. Compliance with Law and Standard Practices. GRP|WEGMAN shall perform its obligations hereunder in compliance with any and all applicable federal, state, and local laws, rules, and regulations, in accordance with sound engineering and safety practices and in compliance with any and all reasonable rules relative to the Premises. GRP|WEGMAN shall be responsible for obtaining all governmental permits, consents, and authorizations as may be required to perform its obligations hereunder.

Section 24.3. Independent Capacity of the Contractor. GRP|WEGMAN is an independent contractor in the performance of each and every part of this Contract, and solely and personally liable for all labor, taxes, insurance, required bonding and other expenses, and for any and all damages in connection with the operation of this Contract, whether it may be for personal injuries or damages of any other kind.

Section 24.4. Confidential Information.

Section 24.4.1 The term "Confidential Information" means any documentation or information (i) that is marked as "proprietary" or "confidential", (ii) that is supplied orally with a contemporaneous confidential designation, or (iii) that is known by the receiving Party to be confidential or proprietary information or documentation of the disclosing Party. Confidential Information does not include information that can be demonstrated: (i) to have been rightfully in the possession of the receiving Party from a source other than the disclosing Party prior to the time of disclosure of said information under this Contract; (ii) to have been in the public domain prior to disclosure; (iii) to have become part of the public domain after disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Contract; or (iv) to have been supplied to the receiving Party without restriction by a third party who is under no obligation to the disclosing Party to maintain such information in confidence.

Section 24.4.2. Each Party acknowledges that it may, in connection with the performance of this Contract, have access to, or be directly or indirectly exposed to Confidential Information of the other Party. Each Party shall hold confidential all Confidential Information of the other Party and shall not

disclose or use such Confidential Information without express prior written consent of the disclosing Party, except as may be legally required. Each Party shall use reasonable measures at least as strict as those the Party uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors to execute a non-disclosure agreement before obtaining access to the other Party's Confidential Information.

Section 24.5. Severability. In the event that any clause or provision of this Contract or any part thereof shall be declared invalid, void, or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Contract unless the result would be manifestly inequitable or unconscionable.

Section 24.6. Complete Contract. This Contract, when executed, together with all Schedules attached hereto or to be attached hereto, as provided for by this Contract shall constitute the entire Contract between both parties and this Contract may not be amended, modified, or terminated except by a written amendment signed by the parties hereto.

Section 24.7. Further Documents. The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Contract.

Section 24.8. Applicable Law. This Contract shall be construed in accordance with, and governed by the laws of the state of Illinois. Any action to enforce the provisions of this Contract shall be brought in state court in Grundy County, Illinois. In the event any term of this Contract is held to be invalid or unenforceable by a court, the remaining terms of this Contract will remain in force.

Section 24.9. Notice. Any notice required or permitted hereunder shall be deemed sufficient if given in writing and delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, or delivered to a nationally recognized express mail service, charges prepaid, receipt obtained, to the address shown below or to such other persons or addresses as are specified by similar notice.

TO GRP|WEGMAN: **GRP WEGMAN COMPANY**

Attention: Mr. Tom DeClue, III
1 Mechanical Drive,
Bethalto, IL 62010

TO DISTRICT:

(District)
Attention: (Superintendent)
Superintendent of Schools
Address
City, State, Zip Code

Section 24.10. Headings. Headings and subtitles used throughout this Contract are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

Section 24.11. Handling of Hazardous Materials: All work completed under this Contract shall be in compliance with all applicable federal, state and local laws, rules and regulations regarding waste disposal and treatment/disposal of any hazardous materials that could result from this project.

Section 24.11.1. The Work performed by GRP|WEGMAN under this Contract excludes any work or service of any nature associated or connected with the identification, abatement, cleanup, control, or removal of any currently existing Hazardous Materials or Mold on, in or nearby the Premises beyond what may be identified in Schedule A. District agrees that all duties and obligations in connection with any Hazardous Materials or Mold currently located in, on or nearby the Premises or brought into the Premises by a party other than the GRP|WEGMAN or its subcontractors, are not the GRP|WEGMAN's responsibility. Should GRP|WEGMAN become aware, discover or based on reasonable evidence suspect the presence of Hazardous Materials or Mold beyond those addressed in Schedule A, GRP|WEGMAN will immediately cease work in the affected area, and will promptly notify District of the conditions discovered. Should GRP|WEGMAN stop work because of such discovery or suspicion of Hazardous Materials or Mold, then the Contract Time will be reasonably extended by Change Order to cover the period required for abatement, cleanup, or removal of the Hazardous Materials or Mold. GRP|WEGMAN will not be held responsible for any claims, damages, costs, or expenses of any kind associated with such period during which work has been stopped as a result of Hazardous Materials or Mold.

Section 24.11.2. District warrants and represents that to the best of its knowledge, other than as disclosed to GRP|WEGMAN in writing, there are no Hazardous Materials or Mold in or on the premises that will affect, be affected by, come in contact with, or otherwise impact upon or interfere with the Work to be performed by the GRP|WEGMAN pursuant to this Contract. District further represents that it has not retained GRP|WEGMAN to discover, inspect, investigate, identify, or remediate Hazardous Materials or Mold or conditions caused by Hazardous Materials or Mold, except to the extent specified in Schedule A. Unless otherwise specified in Schedule A, District will be responsible for taking all necessary steps to correct, abate, clean up, or control Hazardous Materials or Mold not addressed by the GRP|WEGMAN under this Contract. District specifically agrees, to the extent allowed by state law, to indemnify and to hold the GRP|WEGMAN, 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 its release of Hazardous Materials or Mold into the air, soil, or any water system or water course, or any actions taken in connection with same, or any failure to act unless such action was due to GRP WEGMAN's negligence.

Section 24.12. Bonding Requirements: GRP|WEGMAN will provide to District separate performance and labor and material payment bonds, covering GRP|WEGMAN's installation and faithful performance of the Energy Conservation Measures specified in GRP|WEGMAN's Scope of Work, Schedule A to this Contract, each in the sum of one hundred percent (100%) of the Contract Sum. Bonds shall be issued by a surety in good standing and authorized to transact business in Illinois. Bonds covering Work under any subsequent Change Orders issued after Final Acceptance of the Work in Schedule A, Scope of Work, are obligations separate from those under the bonds issued for the Work in Schedule A, and shall not extend the bonding obligations for work in Schedule A of this Contract or for any other Work for to which Final Acceptance has occurred.

Section 24.13. As-Built Drawings: Where applicable, GRP|WEGMAN shall provide reproducible record drawings from the "as-built drawings" of all existing and modified conditions associated with the project, conforming to typical engineering standards.

Section 24.14. Operation and Maintenance Manuals: Three (3) maintenance manuals for each site will be provided by GRP|WEGMAN for all equipment replacements and/or upgrades at each location.



Section 24.15. Non-Discrimination: GRP|WEGMAN shall comply with all applicable state and federal laws, rules and regulations involving non-discrimination on the basis of any protected classification, including but not limited to race, color, religion, national origin, sexual orientation, veteran status, age or sex.

Section 24.16 Tax-Exempt Status: The District is exempt from payment of Illinois sales and use taxes on purchases of tangible personal property or services, including materials, supplies and equipment purchased for construction of buildings and other structures. District will provide GRP|WEGMAN with applicable documentation to certify District's tax exempt status. GRP|WEGMAN shall use its best efforts to furnish District's documentation in all applicable transactions and comply with all applicable statutory requirements related to such transactions.

Section 24.17. Drafting Not to be Construed Against any Party: All parties acknowledge and agree that each has had a full opportunity to review and have input into this Contract and that any ambiguity found shall not be construed against any party as drafter. Reference to "year" shall mean calendar year unless a fiscal year is specified. If a fiscal year is specified that year is July 1 through June 30.

Section 24.18 Prevailing Wage Act: GRP|WEGMAN and all subcontractors performing Work pursuant to this Agreement shall pay prevailing wages in accordance with the Prevailing Wage Act, 820 ILCS 130/0.01, *et seq.* GRP|WEGMAN agrees to fully defend and indemnify, including reimbursement of attorney's fees and costs, the District against any claims brought by any employee or the Illinois Department of Labor arising out of the scope of its contract with the District for violations of the Prevailing Wage Act.

Section 24.19 Criminal Background Check: GRP|WEGMAN understands and acknowledges that its work, in whole or in part, will be performed on public school property where there may be direct, daily contact with school students. GRP|WEGMAN further understands and acknowledges that the State of Illinois requires that all employees of vendors, licensees, contractors or others having direct, daily contact with students are subject to a criminal background check and may not be listed on the State Sex Offender Registry. Prior to allowing any of its employees who will be performing the scope of work access to school property, the GRP|WEGMAN agrees to provide the District with the following:

-  Evidence that each employee, agent, contractor or other person performing work on school property under this Agreement was subjected to a criminal background check in conformity with 105 ILCS 5/10-21.9; that said persons are not listed on said Registry; and said persons have no criminal convictions for the offenses listed under 105 ILCS 5/10-21.9;
-  GRP|WEGMAN will provide the District, upon request, a copy of the criminal background check conducted on each such person.

In the event GRP|WEGMAN plans to subcontract with or use the services of another person or firm that may have direct, daily contact with students on school property, in order to fulfill its obligations under its

Agreement with the District then in that event GRP|WEGMAN will require all such persons or firms to comply with the provisions of this paragraph and 105 ILCS 5/10-21.9.

In the event GRP|WEGMAN fails to comply with the provisions of this paragraph and 105 ILCS 5/10-21.9, and as a result a suit or claim is instituted by a student for harm caused by an employee of the GRP|WEGMAN, or caused by an employee of a subcontractor to GRP|WEGMAN, then in that event the GRP|WEGMAN agrees to fully defend and indemnify, including reimbursement of attorney's fees and costs, the District against any such claims.

IN WITNESS WHEREOF, the parties hereto have signed their names to this Contract by their duly authorized officers on the date first above written.

GRP WEGMAN Company

School District

By: _____
(Signature)

Bob Fogarty
Vice President

By: _____
(Signature)

(Printed Name)
(Title)

Date: _____

Date: _____

ATTACHMENT I: Schedules

SCHEDULE A: SCOPE OF WORK TO PERFORMED BY GRP|WEGMAN

SCHEDULE B: ENERGY SAVINGS GUARANTEE

SCHEDULE C: COMPENSATION TO GRP|WEGMAN

SCHEDULE D: CONSTRUCTION AND INSTALLATION SCHEDULE

SCHEDULE E: REQUIRED STANDARDS OF COMFORT

SCHEDULE F: PROJECT CASH FLOW

SCHEDULE G: FINAL DELIVERY AND ACCEPTANCE CERTIFICATE

SCHEDULE H: Terms of the Request for Performance Contracting Proposal for a Guaranteed Energy Savings Contract ("Terms of the RFP")

SCHEDULE A: SCOPE OF WORK

District's Scope of Work

1. District is responsible for removing school and personnel items from the work area to provide clear access to implement above scope of work.
2. District is responsible for keeping all non-essential school employees out of the building work zones during construction and implementation of the scope of work listed within this contract.
3. All District employees are required to notify GRP WEGMAN project management before accessing and/or entering work zones during the construction process.
4. District is responsible for any asbestos abatement and/or testing. The District is responsible for the asbestos ceiling below the roof replacement at Washington Elementary.

Future Phased Work

The above scope of work is expected to be expanded to include:

1. HVAC replacement and associated electrical work
2. Restroom renovations
3. Site work

SCHEDULE B: ENERGY SAVINGS GUARANTEE

Definitions. The following terms are defined for purposes of this Schedule as follows:

Annual Guaranteed Savings are the portion of the Total Guaranteed Savings guaranteed be achieved in any one year of the Guarantee Term, calculated and adjusted as set forth in this Schedule.

Annual Savings are the Measurable Savings that occur in any one-year of the Guarantee Term plus the Stipulated Savings deemed achieved for that year.

Excess Savings are the amount by which the Annual Savings exceed the Annual Guaranteed Savings in any one-year of the Guarantee term.


Guarantee Term is the term of this Energy Savings Guarantee. As provided in Section 3.3 of the Contract, the Guarantee Term shall commence with the Guarantee Commencement Date and continue for a period of twenty (20) years.

Installation Period means the period between the Commencement Date and the first day of the month following the Substantial Completion Date. For purpose of the annual reconciliation, savings achieved during the Installation Period shall be considered savings achieved during the first year of the Guarantee Term.


Stipulated Savings are the savings that have been agreed by the parties shall be deemed achieved on the Substantial Completion Date and are set forth on Exhibit 1 of this Schedule. GRP|WEGMAN and the District agree that Stipulated Savings may include, but are not limited to, future equipment replacement or other operational costs avoided as a result of this Contract. District agrees and acknowledges that GRP|WEGMAN shall not be responsible for the achievement of such Stipulated Savings, as the actual realization of those savings is not within GRP|WEGMAN's control. District acknowledges that it has evaluated sufficient information to believe that the stipulated Savings shall occur. As a result, Stipulated Savings shall not be measured or monitored at any time during the Guarantee Term, but rather shall be deemed achieved on the Substantial Completion Date.


Total Guaranteed Savings are the amount of savings guaranteed that shall be achieved or deemed achieved during the Guarantee Term, calculated and adjusted as set forth in this Schedule.

Total Savings are the amount of savings actually achieved plus the Stipulated Savings, calculated and adjusted as set forth in this Schedule. Total Savings include all savings achieved during the Installation Period as well as Annual Guaranteed Savings during each year of the Guarantee Term.


 **GUARANTEE.** GRP|WEGMAN guarantees that the District shall save **\$3,200,000** during the

Guarantee Term, calculated and adjusted as set forth in the attached Utility Evaluation, Exhibit 2 to this Schedule. If the Annual Savings in any year of the Guarantee Term are less than the Annual Guaranteed Savings for that year, GRP|WEGMAN shall pay or credit the District with the difference, as described in paragraph 5 of this Schedule. Such payment or credit shall be the sole and exclusive remedy of the District for any failure by GRP|WEGMAN to achieved guaranteed savings under this Guaranteed Energy Savings Contract, including any alleged breach of any other express or implied warranty of savings.

 **RECONCILIATION.** GRP|WEGMAN shall calculate the savings achieved during the Installation Period and advise the District of the amount of such savings. The frequency and the methods of reconciliation to be used during the Guarantee Term have been approved by the District at the time that this Contract was executed and are defined in the Exhibits attached to this Schedule. Except by mutual agreement of the parties, no changes to the frequency or methods of reconciliation may be made during the Guarantee Term; but, if a utility providing energy to the District modifies its method of billing during the Guarantee Term, or if the District changes its utility suppliers or method of purchasing, GRP|WEGMAN may, at is option, adjust the reconciliation methods to methods appropriate to the utility's revised method of billing.

 **CHANGES IN USE.** The District agrees to notify GRP|WEGMAN, within five (5) business days, of any actual or intended change, whether before or during the Guarantee Term, in the use of any facility to which this Schedule applies, or of any other condition arising before or during the Guarantee Term, that reasonably could be expected to change the amount of energy used at any facility to which this Schedule applies. Such a change or condition would include but is not limited to: changes in the primary use of any facility; changes to the hours of operation of any facility; changes or modifications to the Equipment or Services provided under this Guaranteed Energy Savings Contract; failure of the premises to meet local building codes; changes in utility suppliers, method of utility billing, or method of utility purchasing; improper maintenance of the Equipment or of any related equipment other than by GRP|WEGMAN; change to the Equipment or to any facility required by changes to local building codes; or additions or deletions of energy-consuming equipment at any facility. Such a change or condition need not be identified in the Base Line or Benchmark in order to permit GRP|WEGMAN to make an adjustment.

Upon receipt of such notice, or if GRP|WEGMAN independently learns of any such change or condition, GRP|WEGMAN shall calculate and send to the District a notice of adjustment to the Base Lien or Benchmark to reflect the impact of such change or condition, and the adjustment shall become effective upon approval by the District as of the date that the change or condition first arose. Should the District fail to provide GRP|WEGMAN with notice of any such change or condition, GRP|WEGMAN may make reasonable estimates as to the impact of such change or condition and as to the date on which such change or condition first arose in calculating the impact of such change or condition, and such estimates upon approval by the District shall be accepted.

 **SAVINGS SHORTFALLS.** If the Annual Savings during a specific year of the Guarantee Term are less than the Annual Guaranteed Savings for that year, GRP|WEGMAN will at the District's written election, pay the District the Shortfall amounts or upon the mutual agreement of the parties, GRP|WEGMAN may also provide additional products or services, in the value of the

shortfall, at no additional cost to the District. Where shortfalls have occurred, GRP|WEGMAN reserves the right, subject to the approval of the District, which shall not be unreasonably withheld, to implement additional operational improvements or conservation measures, at no cost to the District that shall generate additional savings in future years of the Guarantee Term.

The following Exhibit is attached and made part of the schedule:













Exhibit 1: Stipulated Savings

Exhibit 2: Architectural Layout A-1

EXHIBIT 1: Stipulated Savings

The savings identified below shall be Stipulated Savings (as defined above) under this Schedule. These savings are based on the verification approach prescribed for projects in which year over year savings are stipulated based on procedures for verifying that (1) baseline conditions have been defined; (2) the Work and equipment contracted to be installed have been installed; (3) installed Work and equipment , as completed at the end of construction, meets the requirements of the Contract in terms of quality; and (4) installed Work and equipment is operating and performing in accordance with the requirements of the Contract and the Contract Documents. This protocol is based on the guidelines for measurement and verification contained in the guidelines of the Federal Energy Management Program of the U.S. Department of Energy.

Savings

-   The operational savings for parts, labor, material, and supplies for maintaining and replacing equipment as required by HLS Amendments and additional scope results in avoided costs of \$XXX,XXX/year of operational savings and \$XXX,XXX over the term of the contract.
-   The energy and operational savings has been verified prior to contract acceptance and will be stipulated as cost savings going forward after the project has been accepted as being complete by the District.
-   The bases for the energy savings is the period from (DATE) to (DATE) The District presently purchases electricity from the (Electric Utility Provider) and natural gas from (Gas Utility Divider) during the above period of time.
-   The energy usage reduction outline in the savings exhibit utilizes the base year utility rates for the Elementary School at \$0.13/kWh and natural gas at market rates. Actual dollar savings may vary based on fluctuations in utility cost. Adjustments to the savings will be required based on the installation of air conditioning, ventilation increase and the operation of additional air conditioning at the Elementary School. Overall energy reduction in the area of heating, windows, lighting and controls will be partially offset by an increase in ventilation. The net utility expenditure, based on the combination of savings and increase in ventilation will be close to zero based on how the district operates the system during the summer.
-   It is the District's responsibility to maintain the existing and new equipment at its full efficiency so no adjustments to the energy savings will be required.
-   The base year utility usage:
 - Elementary School:
 - Electric Meter total usage of XXX,XXX KWH
 - Gas Meter total usage of XX,XXX Therms

SCHEDULE C: COMPENSATION TO GRP|WEGMAN

1. **CONTRACT SUM AND PAYMENT TERM.** The District shall make payments to GRP|WEGMAN for Work performed, as well as payments for Services rendered pursuant to the Services Schedule.

☎️🕒 The Contract Sum to be paid by the District for the Work shall be an amount of _____ Dollars (\$XXXXX). Progress payments (including payment for materials delivered to GRP|WEGMAN and work performed on and off-site) shall be made to GRP|WEGMAN.

☎️🕒 GRP|WEGMAN's initial application for payment will include 30% mobilization and will be submitted within 10 days of commencement date. Subsequent payment applications shall be submitted monthly based on the value of labor and materials incorporated in the work and for materials stored at the site. GRP|WEGMAN will develop a schedule of values and submit the schedule of values to the District for review. Progress payments shall be submitted on AIA standard documents to the District. Progress payments, less 5% retainage, shall be made no later than 30 days after submission. All applications for payment shall include certified payroll records in accordance with the Illinois Prevailing Wage Act.

☎️🕒 If application is made for material not installed in the work, but delivered and stored at the site, GRP|WEGMAN shall submit a stored material log.

☎️🕒 Partial waivers of lien shall be provided for the prior month's application with the current application for payment submission.

Final payment, including retainage, constituting the entire unpaid balance for the Work, shall be made to GRP|WEGMAN within 30 days after the Substantial Completion Date. Payments may be withheld on account of any breach of this Contract by GRP|WEGMAN and claims by third parties (including GRP|WEGMAN subcontractors and material suppliers), but only to the extent that written notice has been provided to GRP|WEGMAN and GRP|WEGMAN has failed, within ten days of the date of receipt of such notice, to provide adequate security to protect District from any loss, cost, or expense related to such claims.

SCHEDULE D: CONSTRUCTION AND INSTALLATION SCHEDULE

GRP|WEGMAN shall prepare and submit to the District a detailed progress schedule for the Work which shall be reasonably consistent with the anticipated completion date of October 15, 2015 after heating checkout. The schedule shall show GRP|WEGMAN's anticipated plan for substantial completion date for occupancy of 8/15/2015 of the Work and in a format reasonably acceptable to the District. The progress schedule shall be attached to and incorporated by reference into this Schedule D upon its approval by District and GRP|WEGMAN.

SCHEDULE E: REQUIRED STANDARDS OF COMFORT

The HVAC equipment schedule as provided by the district is 6:30AM to 3:30PM Monday through Friday during the school year and reduced hours of operation on holidays and summer break. The temperatures during occupied heating periods will be maintained in the range of 70 to 72 degrees F. In unoccupied periods the heating will be set back to 55 degrees F. The temperatures during occupied cooling periods will be maintained in the range of 74 to 76 degrees F. In unoccupied periods the cooling will be set back to 82 degrees F or off completely.

SCHEDULE F: PROJECT CASH FLOW

Year	Energy Savings	Operations, Maintenance, Future Capital Cost Avoidance
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
Total	\$XXXXX +	\$XXXXX = \$XXXXXX

SCHEDULE G: FINAL DELIVERY AND ACCEPTANCE CERTIFICATE

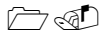
Project Name: _____

Agreement Effective Date: _____

Scope-of-Work (SOW) Item/Energy Conservation Measure (ECM): _____

To: GRP|WEGMAN

Reference is made to the above listed Agreement between the undersigned and GRP|WEGMAN and to the Scope of Work as defined in Schedule A herein. In connection therewith, we confirm to you the following:



The Scope of Work (SOW) Item/Energy Conservation Measure (ECM) referenced above and also listed in Schedule A of the Agreement has been demonstrated to the satisfaction of the Owner's Representative as being substantially complete, including all punch list items generated during the Project Acceptance Procedure.



All of the Work has been delivered to and received by the undersigned and that said Work has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented, and that said Work has been accepted by the undersigned and complies with all terms of the Agreement. Consequently, you are hereby authorized to invoice for the Final Payment, as defined in Schedule C, The Payment Schedule.

Owner Name: _____

By: _____
(Authorized Signature)

(Printed Name and Title)

(Date)



Section 4.5

Minooka Version:

Section 4.5. Billing Information Procedure. Payments due to GRP | WEGMAN under this Section 4 shall be calculated in accordance with the provisions of Schedule C. GRP | WEGMAN shall provide District with an invoice of the total amount due. Payments shall be made by the District according to the district's normal and customary board approval and bill payment procedure. For any Work not covered by Schedule C, GRP | WEGMAN shall invoice District on a monthly basis with payment due upon presentation of an invoice.

GRP | WEGMAN Version:

Section 4.5. Billing Information Procedure. Payments due to GRP | WEGMAN under this Section 4 shall be calculated in accordance with the provisions of Schedule C. GRP | WEGMAN shall provide District with an invoice of the total amount due seven (7) days prior to District's board meeting. Payments shall be made by the District within ten (10) days of board approval. For any Work not covered by Schedule C, GRP | WEGMAN shall invoice District on a monthly basis with payment due upon presentation of an invoice. GRP | WEGMAN reserves the right to suspend or terminate its Work if payment is not received within thirty (30) days of an invoice due date.

Section 11.1

Minooka Version:

Eliminate

GRP | WEGMAN Version:

Section 11.1 District and GRP | WEGMAN have discussed the risk and rewards associated with the Work, as well as GRP | WEGMAN's compensation for its services. District and GRP | WEGMAN agree to allocate certain of the risks so that, to the fullest extent permitted by law, GRP | WEGMAN's total aggregate liability to the District under this Contract shall be limited to the proceeds of any insurance or an amount equal to the Contract Sum contained in Schedule C, whichever is greater.

Section 17.1 e

Minooka Version:

e. Umbrella liability, \$5 million.

GRP | WEGMAN Version:

e. Umbrella liability, with a limit of not less than Five Million and 00/100 Dollars (\$5,000,000.00) each occurrence/Annual Aggregate.

Section 17.2

Minooka Version:

Section 17.2. Contractor will furnish, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, a comprehensive risk property insurance ("Builder's Risk") for the replacement value of the Work performed. The form of policy for this Builder's Risk coverage must be in completed value and valued at replacement cost with non-standard (broad) form comprehensive risk policy. The value utilized must be 100% of the completed value of the Project. Such Builder's Risk policy may be terminated by Contractor following the Owner's completion of the Final Acceptance Certificate

GRP|WEGMAN Version:

Section 17.2. At School District cost contractor will furnish, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, a comprehensive risk property insurance ("Builder's Risk") for the replacement value of the Work performed. The form of policy for this Builder's Risk coverage must be in completed value and valued at replacement cost with non-standard (broad) form comprehensive risk policy. The value utilized must be 100% of the completed value of the Project. Such Builder's Risk policy may be terminated by Contractor following the Owner's completion of the Final Acceptance Certificate

Section 19.1 i

Minooka Version:

(i) any failure by District to pay GRP | WEGMAN any sum due for period of more than sixty (60) days after written notification by GRP | WEGMAN that District is delinquent in making payment and provided that GRP | WEGMAN is not in default in its performance under the terms of this Contract;

GRP|WEGMAN Version:

(i) any failure by District to pay GRP | WEGMAN any sum due for period of more than thirty (30) days after written notification by GRP | WEGMAN that District is delinquent in making payment and provided that GRP | WEGMAN is not in default in its performance under the terms of this Contract;

Section 24.11.2

Minooka Version:

Section 24.11.2. Unless otherwise specified in Schedule A, District will be responsible for taking all necessary steps to correct, abate, clean up, or control Hazardous Materials or Mold not addressed by the GRP | WEGMAN under this Contract. District specifically agrees, to the extent allowed by state law, to indemnify and to hold the GRP | WEGMAN, 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 its release of Hazardous Materials or Mold into the air, soil, or any water system or water course, or any actions taken in connection with same, or any failure to act unless such action was due to GRP WEGMAN's negligence.

GRP|WEGMAN Version:

Section 24.11.2. District warrants and represents that to the best of its knowledge, other than as disclosed to GRP | WEGMAN in writing, there are no Hazardous Materials or Mold in or on the premises that will affect, be affected by, come in contact with, or otherwise impact upon or interfere with the Work to be performed by the GRP | WEGMAN pursuant to this Contract. District further represents that it has not retained GRP | WEGMAN to discover, inspect, investigate, identify, or remediate Hazardous Materials or Mold or conditions caused by Hazardous Materials or Mold, except to the extent specified in Schedule A. Unless otherwise specified in Schedule A, District will be responsible for taking all necessary steps to correct, abate, clean up, or control Hazardous Materials or Mold not addressed by the GRP | WEGMAN under this Contract. District specifically agrees, to the extent allowed by state law, to indemnify and to hold the GRP | WEGMAN, 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 its release of Hazardous Materials or Mold into the air, soil, or any water system or water course, or any actions taken in connection with same, or any failure to act unless such action was due to GRP WEGMAN's negligence.

Superintendent Resume Survey

Committee Members

Dennis Grosskopf - Teacher
 Kathy Krakowski - Support Staff
 Cheryl Cottle - Transportation
 Ryan Dooley - Parent/Community
 Elizabeth Kaufman - Parent/Commur
 Kristie Boe - Human Resources FY23
 John Troy - Admin
 Student - No Show

Committee Total

1	S	6
2	C	4
3	P	4
4	B	3
5	I	3
6	T	3
7	J	3
8	R	3
9	G	3
10	D	2
11	E	2
12	A	1
13	F	1
14	H	1
15	K	1
16	Q	1
17	L	0
18	M	0
19	N	0
20	O	0

Board Members

Mike Brozovich
 Dustin Heap
 Matt Shepard
 Jim Grzetich
 Terry Spivey
 Laura Hrechko

Board Total

1	S	6
2	B	5
3	P	5
4	I	4
5	T	4
6	D	3
7	H	2
8	K	2
9	A	1
10	N	1
11	Q	1
12	J	1
13	C	0
14	E	0
15	F	0
16	G	0
17	L	0
18	M	0
19	O	0
20	R	0

Superintendent Resume Survey

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13	F	1
14	H	1
15	K	1
16	Q	1
17	L	0
18	M	0
19	N	0
20	O	0

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10	N	1
11	Q	1
12	J	1
13	C	0
14	E	0
15	F	0
16	G	0
17	L	0
18	M	0
19	O	0
20	R	0