
GUARANTEED ENERGY SAVINGS CONTRACT

This Guaranteed Energy Savings Contract ("Contract") is made and entered into as of March 23, 2012, by and between **GRP MECHANICAL CO., INC.** ("GRP"), having its principal offices at 1 Mechanical Drive, Bethalto, IL 62010, and the **DIETERICH CUSD #30**, ("DISTRICT") having its principal offices at 205 South Pine Street, Dieterich, IL.

RECITALS

District owns and operates elementary and junior/senior high school facilities ("Premises") in central Illinois, and wishes to acquire equipment and services to reduce energy costs and related expenses, and to make health and life safety improvements, in the schools.

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

GRP has delivered to District a Proposal in response to District's Request for Proposal ("RFP"), dated September 30, 2011, pertaining to the design, equipment selection, procurement, contractor selection, subcontracting process, and project management of ECMs at District's facilities.

In accordance with the provisions of the RFP, GRP analyzed the facilities of the District 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 for the design, installation, project management, coordination, and scheduling of the ECMs as set forth herein.

GRP 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 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 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 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
Schedule B	Energy Savings Guarantee
Schedule C	Compensation to GRP
Schedule D	Construction and Installation Schedule

Section 1.3. Other Documents. The provisions of this Contract shall govern in the event of any inconsistencies with the Schedules.

SECTION 2. GENERAL

Section 2.1. District engages and GRP agrees to perform and provide the Energy Conservation 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, 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 Completion of the entire Project, as defined in Section 3.2. 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.

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 Completion of the Project has occurred. "***Final Completion***" shall be deemed to have occurred when: (i) GRP 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 (**Scope of Work to be performed by GRP**) and in accordance with the provisions of Section 8 (**Construction Schedule and Equipment Installation; Approval**); and (ii) District has

inspected and accepted said installation and operation and signed GRP'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 within ten (10) business days of any discrepancies. To the extent GRP does not dispute the discrepancies raised by the District, GRP 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 disagrees with the discrepancies raised by the District, GRP 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 within ten (10) 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.

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

Section 4.1. Energy Savings Guarantee. GRP has formulated and, subject to the adjustments provided for in Section 14, **(Material Changes)** guaranteed the energy and operations savings to be achieved as a result of the installation and operation of the Work and equipment and provision of 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 **(Stipulated Savings)**. These Stipulated Savings shall be based on GRP's customary standards and methodologies and include avoided maintenance, avoided capital investments, operational savings or avoided personnel costs. The District and GRP 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'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 has failed to achieve the annual Energy Savings Guarantee specified in Schedule C, GRP 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 shall remit such payments to District within ninety (90) days of the energy savings calculation. 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 for compensation for services as set forth in Schedule C **(Compensation to GRP)**,

such excess savings may be credited toward future years. GRP shall annually prepare and provide a report to the District documenting the performance of the ECMs.

Section 4.3. GRP 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 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 Compensation and Fees: GRP 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 under this Contract . District shall pay GRP the Contract Sum of One Million Eight Hundred Thirty Thousand Dollars (\$1,830,000) for the provision of services as set forth and in accordance with the provisions of Schedule C (**Compensation to GRP**).

Section 4.5. Billing Information Procedure. Payments due to GRP under this Section 4 shall be calculated in accordance with the provisions of Schedule C. GRP shall provide District with an invoice of the total amount due. Payments shall be made in accordance with the Illinois Local Government Prompt Payment Act. For any Work not covered by Schedule C, GRP shall invoice District on a monthly basis.

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

SECTION 5. PERMITS AND APPROVALS; COORDINATION

Section 5.1. Permits and Approvals. District shall use its best efforts to assist GRP in obtaining all necessary permits and approvals for installation of the Equipment. In no event shall District be responsible for payment of any permit fees. The Work shall at all times conform to all federal, state and local code requirements. GRP shall furnish copies of each permit or license, which is required to perform the work to District. GRP shall pay for plumbing and electrical permits required by applicable authorities having jurisdiction over the facilities. GRP 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 shall coordinate GRP's performance of the Work with the District. GRP 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. Upon request from GRP, District shall provide, with reasonable promptness, full and complete information in its possession 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's performance of the Work.

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

Section 6.3. District shall promptly notify GRP 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. District shall furnish GRP with written notice of any known defects in GRP's Work.

SECTION 7. WORK PERFORMED BY GRP

Section 7.1. GRP shall perform the Work under this Contract in accordance with the Scope of Work contained in Schedule A. GRP shall act as an independent contractor with responsibility for the design, engineering, means, methods, techniques, sequences, procedures and coordination of the Work. All Work performed under this Contract shall be coordinated by GRP with local utilities, subcontractors, equipment suppliers and District's facility personnel. GRP 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 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 shall furnish or arrange for all required services, labor, materials, equipment and supervision as are necessary for the proper performance of the Work. GRP shall complete its Work in accordance with the construction schedule specified in Schedule D.

GRP warrants and represents that it is experienced in the type of work and services to be performed as part of this Agreement and shall perform all work and services in a good and workmanlike manner in accordance with the standards of all contractors with such experience.

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

Section 7.3. GRP shall be responsible for initiating, maintaining, and supervising reasonable safety precautions and programs in connection with the performance of the Contract Services. GRP 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 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 shall conduct the training program described in Schedule A. The training specified shall be completed prior to acceptance of the Work. GRP 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. GRP 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 are Instruments of Service (“Instruments”) and shall remain the property of GRP. All Deliverables and Instruments provided to the District are only for the purposes disclosed to GRP 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’s written consent. Any reuse of such Deliverables and Instruments, without GRP’s participation or approval, shall be at the District’s sole risk and without further liability to GRP.

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 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 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 and/or manufacturers of the Equipment. GRP shall be responsible for correcting and/or adjusting all deficiencies in systems and Equipment operations that may be observed during system commissioning procedures. GRP 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 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'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 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, reckless or wrongful acts or omissions of GRP, 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, 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 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. Equipment provided shall be accompanied by a manufacturer's warranty against defects in workmanship and materials. GRP 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. District's sole and exclusive remedy for any equipment or services not conforming to the requirements of this warranty is limited to, at GRP's option, (i) repair or replacement of defective components of covered equipment, or (ii) re-performance of the defective services. All warranties required hereunder shall be in force for a period of one (1) year from the date of Final 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 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 have discussed the risk and rewards associated with the Work, as well as GRP's compensation for its services. District and GRP agree that GRP shall procure and maintain insurance policies with such coverages and amounts and for such period of time as required by this Contract. District further agrees that, to the fullest extent permitted by law, GRP's total liability to District for any and all injuries, claims, losses, expenses or damages whatsoever, arising out of or in any way related to the project or this Contract, shall not exceed the sum of Six Million Dollars (\$6,000,000).

Section 11.2 District and GRP 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. GRP 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 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 of any emergency condition affecting the Equipment. GRP, 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 from District. If District unreasonably delays in notifying GRP 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 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. 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 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. 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 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 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 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.

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 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 (**Construction Schedule and Equipment Installation; Approval**).

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 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 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 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. The adjustment to the Contract Sum shall be based on the mutual acceptance of a lump sum price for the Change Order work.

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

Section 15.3. Concealed Conditions. GRP 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 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's cost of, or time required for, performance of any part of the Work, GRP 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 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 conservation procedures and methods of operation set forth in Schedule A.

District agrees that GRP 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 for and during each monthly inspection, and shall have the right to witness each inspection.

Section 16.3. GRP 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 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**), 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 conservation 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 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 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 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. Umbrella Excess Coverage in an amount not less than Five Million and 00/100 Dollars (\$5,000,000.00).

e. GRP shall maintain in full force and effect, at GRP's expense, an Errors and Omissions or Professional Liability Insurance Policy in the amount of \$1,000,000 minimum coverage. Such coverage may be on a "claims made" basis. If such insurance is on a "claims made" basis, it shall remain in effect for the duration of the applicable statute of limitations for claims against professionals such as GRP. GRP shall submit a Certificate of Insurance verifying said coverage upon execution of this Contract and also any notices of renewals of such policy as they occur.

f. GRP shall maintain in full force and effect, at GRP'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'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.

Section 17.2. District will maintain, at its own expense, property insurance written on a builder's risk "all risk" or equivalent policy form to the full insurable value thereof on a replacement cost basis.. Such policy shall be maintained until final payment has been made to GRP 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 pay any costs not covered due to deductibles or retention. 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 required under this section shall include the interests of the District, and GRP and its subcontractors of every tier as Additional Named Insureds.

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 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 pursuant to this Contract. If applicable, GRP 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 which equipment and materials should not be disposed of off-site by GRP. 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 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 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.

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 any sum due for period of more than thirty (30) days after written notification by GRP that District is delinquent in making payment and provided that GRP 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 written 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. Each of the following events or conditions shall constitute an "Event of Default" by GRP:

(i) the requirements set forth in Schedule A are not met due to failure of GRP 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 demanding that such failure be cured, shall be deemed cured for purposed of this Contract;

(ii) any representation or warranty furnished by GRP 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 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 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;

(vi) the filing of a bankruptcy petition whether by GRP or its creditors against GRP 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;

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

(viii) failure by GRP 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 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. In the Event of Default by GRP, 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. With respect to any claim or dispute, 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 22.2. Continuation of Work. Pending final resolution of any dispute under this Contract, GRP 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. GRP acknowledges that District is induced to enter into this Contract by, among other things, the qualifications of GRP. GRP 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 for all of its obligations under this Contract.

SECTION 24. MISCELLANEOUS PROVISIONS

Section 24.1. Waiver of Claims/Liens. GRP 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 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 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 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 Effingham 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: **GRP MECHANICAL CO., INC.**
 Attention: Mr. John Jaskot
 1 Mechanical Drive,
 Bethalto, IL 62010

TO DISTRICT: **DIETRICH CUDS #30**
 Attention: Superintendent of Schools
 205 South Pine Street
 Dietrich, IL 62424

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 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 or its subcontractors, are not the GRP's responsibility. Should GRP become aware, discover or based on reasonable evidence suspect the presence of Hazardous Materials or Mold beyond those addressed in Schedule A, GRP will immediately cease work in the affected area, and will promptly notify District of the conditions discovered. Should GRP 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 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 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 pursuant to this Contract. District further represents that it has not retained GRP 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 under this Contract. District specifically agrees, to the extent allowed by state law, to indemnify and to hold the GRP, 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.

Section 24.12. Bonding Requirements: GRP will provide to District separate performance and labor and material payment bonds, covering GRP's installation and faithful performance of the energy conservation measures included in 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.

Section 24.13. As-Built Drawings: Where applicable, GRP 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 for all equipment replacements and/or upgrades at each location.

Section 24.15. Non-Discrimination: GRP shall comply with all applicable state and federal laws, rules and regulations involving non-discrimination on the basis of race, color, religion, national origin, 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 with applicable documentation to certify District's tax exempt status. GRP 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 Termination for Convenience: The District shall have the right to terminate this Contract at any time for convenience by providing GRP with a thirty (30) day notice of termination. Upon such termination, GRP shall be entitled to be paid for all Work properly performed prior to the date of termination.

Section 24.19 Prevailing Wage Act: GRP 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 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 24.20 Criminal Background Check: GRP 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 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 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

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- said Registry; and said persons have no criminal convictions for the offenses listed under 105 ILCS 5/10-21.9;
- (2). GRP will provide the District, upon request, a copy of the criminal background check conducted on each such person.

In the event GRP 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 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 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, or caused by an employee of a subcontractor to GRP, then in that event the GRP 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 Mechanical Contracting Co. Inc.

Dietrich CUDS #30

By: _____
(Signature)
John Jaskot, Chief Operating Officer

By: _____
(Signature)
Bruce Owen, Superintendent

ATTACHMENT I: Schedules

- SCHEDULE A: SCOPE OF WORK TO PERFORMED BY GRP
- SCHEDULE B: ENERGY SAVINGS GUARANTEE
- SCHEDULE C: COMPENSATION TO GRP
- SCHEDULE D: CONSTRUCTION AND INSTALLATION SCHEDULE

SCHEDULE A: SCOPE OF WORK TO PERFORMED BY GRP

Mechanical Scope of Work

1. High School Shop Gas Unit Heaters
 - a. Remove two standard efficiency gas unit heaters and install new condensing unit heater or furnace. New unit's heating capacity shall be at least 80% of existing unit's capacity.
2. High School Gym HVAC System
 - a. Replace two existing locker room gas furnaces with new condensing furnaces, 90 plus percent efficient typical, with minimum capacity of 80% of existing unit's capacity.
 - b. Remove two existing gym heating and ventilation systems. Install (3) five ton condensing furnaces in tandem at each location. The installation to include new do coils and remote grade mounted condensers. The installation to include new outside air dampers and supply diffusers.
3. High School Gym-Office Exhaust
 - a. Rework dryer vent to route directly to the outside.
 - b. Repair office exhaust duct and install new exhaust fan on the system.
4. Junior High Gym-HVAC System
 - a. Remove existing heating system and install two, one on each side of stage, condensing furnaces with remote mounted 5 ton condensing units.
5. Junior High Gym-Locker Rooms

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- a. Replace two existing locker room gas furnaces with new condensing furnaces with minimum capacity of 80% of existing unit's capacity.
 6. Kitchen Storage
 - a. Install new exhaust fan and intake damper in the storage room where the ice maker and hot water heater exists. Reuse the existing wall penetrations to provide intake and exhaust to the room.
 7. Kitchen Freezer
 - a. The existing freezer condenser will remain in its present location with an exhaust system installed to evacuate the hot air off the condenser to the atmosphere.
 - b. Install insulated panel on interior of exterior wall penetration.
 8. Junior High Boiler Room
 - a. Replace 8 existing Hydrothermal boilers with 3 new condensing boilers. The new boilers will be Loch Invar Knight commercial Boilers with an individual capacity of 400,000 BTU/HR. Distribution pumps to remain.
 - b. Scope to include the following:
 - i. Vent one regulator to outside that is presently not vented
 - ii. Install dielectric coupling on two lines that come off main line in the boiler room.
 - iii. Install new expansion tank, bladder type, and reuse existing air separator. Install new air vent on the top the existing air separator.
 9. Grade School Wing (1997 and 1976 sections) New HVAC Systems
 - a. Install new vertical condensing furnace heating and cooling systems constructed by Custom Mechanical Equipment (CME) as indicated on the HVAC Schedule labeled attached as Exhibit A-1 and include as part of this scope of work.
 - b. The scope to include the demolition of the existing air cooled chiller and air handling unit in the penthouse. All ductwork that is no longer going to be used will be removed in the areas where the drop ceiling is to be replaced.
 - ~~b.c.~~ Extend new gas line to Elementary office and provide valve and cap for potential future use.

Controls Scope of Work- Expand Existing Control System.

10. Shop gas unit heaters (qty. 2) and split systems (qty. 2)
 - a. Install new DID controls for the shop heating only units.
 - b. Install new DID controls for the classroom existing furnaces with remote condensers.
11. Large Gym HVAC System
 - a. Install DID controls on new locker room condensing furnaces.
 - b. Install DID controls on 3 tandem controlled condensing furnace with remote condensers in the two mechanical rooms.
12. Small Gym HVAC System
 - a. Install DID controls on new locker room condensing furnaces.
13. Small Gym-Locker Rooms
 - a. Install DDC controls on new locker room condensing furnaces.
14. Boiler Room
 - a. Control system will enable the boiler system and the boiler system sequence will be accomplished with boiler controls.

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- b. New boiler installation will not replace existing hot water pumps. Pump control will tied into existing control system.
15. Elementary Wing HVAC (1997 and 1976 sections) Installation.
- a. All the CME equipment will come complete with open protocol controls that will be networked into the existing control system.
 - b. Install DDC controls on the new HVAC equipment for the cafeteria.

Electrical Scope of Work

- 16. Disconnect power to existing HVAC equipment to be removed.
- 17. Power up all new HVAC equipment per Exhibit A-1.
- 18. Rework fire alarm system for new HVAC Equipment.

Ceiling Scope of Work 1976 Section of Grade School

- 19. Remove the existing aged 2' x 4' drop ceiling, grid, and the batt insulation.
- 20. Support existing light fixtures and install new 2'x 2' humidity guard tile and grid.

Roofing Scope of Work

- 21. Install metal covering around the perimeter of the Elementary equipment mezzanine to cover all exposed brick in the area.
- 22. Remove the cafeteria's equipment mezzanine's EPDM roof down to the deck. Install new 3" ISO insulation and fully adhered .060 tan TPO membrane. The installation to include affiliated roof flashing, roof edge/ fascia at the gable ends. Roof supplied with a 20 year total systems manufacturer warranty.
- 23. The 1976 Grade School Addition, Shop, High School Gym and Classrooms will have the following scope implement where standing seam metal roof exists. Install new wood blocking at the perimeters, 1.5 inch flute filler insulation, to fill void between metal roof panels, and another 1.5 inch of insulation over the entire deck. A tan TPO .060 membrane will be fully adhered and flashed at all roof penetrations. The installation will include new aluminum termination bar at gutters and roof and wall junctions and prefinished 24 gauge steel roof edge. Roof supplied with a 20 year total systems manufacturer warranty.

Windows and Exterior Doors

- 24. Install new fixed windows in the corridor connecting the shop to the main building, corridor between the Junior High and the Grade School and Junior High Restrooms.
- 25. Install new operable windows in the High School Office.
 - a. Windows shall be AW rated Projected windows
 - b. Frame depth shall be 2"
 - c. Dark Bronze Anodized Acid Etch Finish
 - d. Thermal break – poured and de-bridged
 - e. Interior snap trim with continuous base clip material at perimeter
 - f. Extended flange-frame at head, jamb and sill (and mullions at multiple openings)
 - g. Mullion covers at vertical mullions
 - h. 1" IGU (Ext – 1/4" Graylite II, tempered / Air space – 1/2" / Int – 1/4" clear tempered with Solarban 60 LowE on #3), with standard Warm Edge spacer
 - i. 1-1/2" Insulated panels by Laminators (or equal) Embossed aluminum skins on exterior and interior, tempered hardboard substrates and isocyanurate core. Both skins finished with 70% Kynar, standard color.
 - j. Cam locks and heavy duty 6-bar arms (concealed hinges)

26. Warranties:

- a. Windows (Material / Installation) – 2 years
 - b. Window Finish – 5 years
 - c. Insulated Glass (seal failure) – 10 years
27. Install new exterior doors on East side of the Junior High gym.
- a. 2" x 4-1/2" flush glazed storefront frames
 - b. Thermally improved frames
 - c. Wide stile Monumental doors with 1/8" wall thickness
 - d. HD Continuous hinges
 - e. Von Duprin 99 Series exit devices with EO trim
 - f. LCN 4021 Closers
 - g. Keyed removable mullions at pairs
 - h. Schlage cylinders and cores
 - i. Electric strikes, power transfer, power supply at buzz-in locations
 - j. 1" IGU (Ext – 1/4" Graylite II, tempered / Air space – 1/2" / Int – 1/4" clear tempered with Solarban 60 LowE on #3), with standard Warm Edge spacer at Top Lite
 - k. 1" Insulated panels by Laminators (or equal)
28. Install new metal doors to be painted by the district on the gym lobby doors. New doors to have continuous hinges, egress hardware, and no mullions.
29. Install new pair of wooden doors in the corridor between the Elementary and the JR High. Doors to be connected to fire alarm system with door magnetics, egress hardware and no mullion.

Plumbing Scope of Work

- 30. Install new above grade grease traps to eliminate one of the in floor grease traps in the kitchen.
- 31. Install new gas piping to the new HVAC equipment.
- 32. Install new condensate and refrigerant lines for new HVAC equipment.

District's Scope of Work

- 33. Remove personal and district own equipment and furniture from areas of major construction.
- 34. Abate any asbestos containing materials.

SCHEDULE B: ENERGY SAVINGS GUARANTEE

1. 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 to 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 and the District agree that Stipulated Savings may include, but are not limited to, future capital or operational costs avoided as a result of this Contract. District agrees and acknowledges that GRP shall not be responsible for the achievement of such Stipulated Savings, as the actual realization of those savings is not within GRP'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 Savings during each year of the Guarantee Term.

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2. **GUARANTEE.** GRP guarantees that the District shall save \$129,060 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 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 to achieved guaranteed savings under this Guaranteed Energy Savings Contract, including any alleged breach of any other express or implied warranty of savings. GRP may credit any Excess Savings, in whole or in part, toward the Annual Guaranteed Savings in any future year of the Guarantee Term.
 3. **RECONCILIATION.** Within 60 days after the Substantial Completion Date, or earlier if otherwise specified in this Performance Contract, GRP 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 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, 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; 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 to make an adjustment.

Upon receipt of such notice, or if GRP independently learns of any such change or condition, GRP 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 as of the date that the change or condition first arose. Should the District fail to provide GRP with notice of any such change or condition, GRP 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 shall be conclusive.

5. SAVINGS SHORTFALLS. If the Annual Savings during a specific year of the Guarantee Term, plus amounts credited from the Installation period and earlier years of the Guarantee Term, are less than the Annual Guaranteed Savings for that year, GRP may apply the difference against any unpaid balances from the District then existing under the Guaranteed Energy Savings Contract . If there are any remaining amounts, GRP may (a) carry over the difference to the next year of the Guaranteed Energy Savings Contract so as to increase the Annual Guaranteed Savings in that year or (b) at the District's written election, pay the District the remaining amounts. Upon the mutual agreement of the parties, GRP 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 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 this Schedule:

Exhibit 1 Stipulated Savings
Exhibit 2 Utility Evaluation

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.

Energy and Operational Savings

1. An annual energy savings of \$6,453/ year for a non-escalated savings of \$129,060 over the term of the contract.
2. The operational savings for parts, labor, material and supplies for maintaining the facility as well as addressing the operational needs outlined in the Health Life Safety Amendment #1 for the Jr/HS High School and #6 for the Elementary School will provide for \$1,700,940 of operational savings over the term of the contract.
3. 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 customer.
4. The bases for the energy savings is the period from November 2010 to November 2011. The district presently purchase electricity from Ameren Energy Marketing and it is delivered by Ameren at a combined rate of \$.082/KWH to the two electric meters on the campus. Natural gas is presently purchased by Constellation Energy and the total cost of gas and distribution at the site for the base year was \$.71/ Therm.
5. The energy usage reduction outline in the savings exhibit utilizes the base year utility rates. Actual dollar savings will vary based on fluctuations in utility cost. The HVAC equipment schedule as provide by the district is 6:30 AM to 3:30 PM Monday through Friday during the school year and reduced hours of operation on holidays and summer break. The temperatures during occupied periods to be maintained in the range of 70 to 74 degrees F. In unoccupied periods the air conditioning will be off and the heating will be set back to 60 degrees F. Adjustments to the savings may be required based on the installation of air condition and ventilation increase.
6. It is the customer's responsibility to maintain the existing and new equipment at it full efficiency so no adjustments to the energy savings will be required.
7. The base year utility usage:
 - Electric meter 09479088 KWH usage: 220,032
 - Electric meter 55979141 KWH usage: 256,503
 - Gas Account # 20260-06310 Therms usage: 33,047

EXHIBIT 2 Utility Evaluation

NEW HEATING EQUIPMENT EVALUATION

Customer: Dieterich K-12
Equipment: New High Efficiency Condensing Furnaces and boilers
Date: 12/20/2011
Engineer: Bob Fogarty, PE

Total Therms Used	33047	
Estimated % by building heating equipment	95%	
Building Heating Equipment Usage	31395	
Existing Efficiency	82%	
Proposed Efficiency	93%	
Estimated Gas Cost	0.71	\$/therm
Usage Reduction-Therms	3,713	
Cost Savings @ \$.71/Therm	\$	
	2,636	

ROOF REPLACEMENT EVALUATION

Customer	Dieterich
Building	K-12
Engineer	Bob Fogarty
Date	12/20/2011

Existing Roof Description:	Standing Seam Metal Roof	U value
Elementary estimated overall R-value:	19	0.053
Elementary Area:	16300	
High School estimated overall R-value:	19	0.053
High School Area:	9600	
Shop estimated overall R-value:	13	0.077
Shop Area:	8800	
High School Gym estimated overall R-value	6	0.167
Gym Area:	10500	

Proposed Roofing System:	Tan TPO roof with 3" iso insulation	
Elementary estimated overall R-value:	23	0.0435
Elementary Area:	16300	
High School estimated overall R-value:	23	0.0435
High School Area:	9600	
Shop estimated overall R-value:	33	0.0303
Shop Area:	8800	
High School Gym estimated overall R-value	25	0.0400
Gym Area:	8800	

Heating Savings = U*delta Temp*Area *hours

Elementary Existing BTUH	86475789
Elementary New BTUH	71436522
Savings	15039268
High School Existing BTUH	50930526
High School New BTUH	42073043

	Savings	8857483
Shop Existing BTUH		68233846
Shop New BTUH		26880000
	Savings	41353846
High School Gym Existing BTUH		176400000
High School Gym New BTUH		42336000
	Savings	134064000
Total Savings-BTUH/Year		199314597
Total Therms Saved/Year		1993
Dollars Saved @ \$.71/Therm		\$ 1,415

HVAC FAN REPLACEMENT EVALUATION

Customer	Dieterich
Building	Elementary
Engineer	Bob Fogarty, PE
Date	12/20/2011

Existing HVAC Fan

Description:

Supply	25
Return	10
Total	35

New HVAC Fan Description:

Supply	16
Return	0
Total	16

Operating in

Hours:

	weeks/year	day/week	hours/day		
9 months a year	M-F	6am to 3:30 PM	hours= 9/12*52*5*9.5	1852.5	
3 months year	M-F	6am to 11 AM	hours= 3/12*52*5*5	325	
			hrs/year of fan operation	2177.5	

KWH Usages

	HP	KW/hp	loaded	eff	hours	KWH
Existing	25	0.746	0.8	0.86	2177.5	37777
New	16	0.746	0.6	0.9	2177.5	17327
					KWH Saved/year	20450

\$
Savings @ \$.084/kwh **1,718**

WINDOW RETROFIT EVALUATION

Customer	Dieterich
Building	High School
Engineer	Bob Fogarty, PE
Date	12/20/2011

Existing Window Description: Aluminum frame, clear single pane

est. overall R-value: 0.8
 est. shading coefficient 0.8

Proposed Window Description: Aluminum, low E, thermopane, & insulated Panel

est. overall R-value: 3.97 west
 est. shading coefficient 0.5 north
 east

Window Area, sq ft 400

Estimated Infiltration Reduction 40 CFM 10%

Winter Weeks per Year 26
 Avg. Winter Temperature 30
 Winter design temperature 0
 Heating System Seasonal Efficiency 94%

Gas cost, \$/therms \$
 0.71

Heating Savings

	Occupied temp	72	40%	% of Time
	Unoccupied temp	62	60%	% of Time
	Avg Space Temp to use in Calculation	66.0	100%	

Existing Heat Loss Through Windows	18,000	btu/hr
Proposed Heat Loss Through Windows	3,627	btu/hr

Annual Gas Savings 668 therms

Annual Infiltration Savings 83 therms

Total Gas Savings 751
Gas Savings \$533

Cooling Savings

Est. Equivalent Full Load Hours		1,000		0
Cooling System KW/ton		1.00		400
Square Footage:	100	100	100	100
R-Value	0.80	0.80	0.80	0.80
Shading				
Coefficient	0.80	0.80	0.80	0.80
Orientation	EAST	WEST	NORTH	SOUTH
Estimated SCL	188	193	38	130

Existing Heat Gain Through Windows
Btu/h 50,920

Square Footage:	100	100	100	100
R-Value	3.97	3.97	3.97	3.97
Shading				
Coefficient	0.50	0.50	0.50	0.50
Orientation	EAST	WEST	NORTH	SOUTH
Estimated SCL	188	193	38	130

Proposed Heat Gain Through Windows
btu/h 28,861

KW Savings 1.8
KWH Savings 1,838
Months/Year of Cooling 6

Demand Charge \$/kW/mo \$0.00
Energy Charge, \$/kWh \$0.082

Electric Savings \$151

TOTAL WINDOW SAVINGS	\$684
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SCHEDULE C: COMPENSATION TO GRP

- 1. CONTRACT SUM AND PAYMENT TERM.** The District shall make payments to GRP 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 a lump sum amount of One Million Eight Hundred Thirty Thousand Dollars (\$1,830,000). Progress payments (including payment for materials delivered to GRP and work performed on and off-site) shall be made to GRP.
 - (b) GRP 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 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 10% 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 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 within 30 days after the Substantial Completion Date. Payments may be withheld on account of any breach of this Contract by GRP and claims by third parties (including GRP subcontractors and material suppliers), but only to the extent that written notice has been provided to GRP and GRP 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 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 Fall, 2012. The schedule

shall show GRP's anticipated plan for prosecution 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.