SPECIAL BOARD OF ALDERMEN

OCTOBER 6, 2020

7:00 PM

To access Zoom:
https://us02web.zoom.us/j/87400650849?pwd=ZENhd29vWTM3dU9UTjRZRENIRUszUT09

Meeting ID: 874 0065 0849 Passcode: 988380

To join by phone: 1-929-205-6099 - Meeting ID: 874 0065 0849 Passcode: 988380

If for some reason you cannot connect to Zoom, please contact us at (603) 821-2049 and they will help you with connectivity. The public may also view the meeting via Channel 16.

PRESIDENT LORI WILSHIRE CALLS ASSEMBLY TO ORDER

PRAYER OFFERED BY CITY CLERK SUSAN K. LOVERING

PLEDGE TO THE FLAG LED BY ALDERMAN PATRICIA KLEE

ROLL CALL

PUBLIC HEARING

R-20-076

AUTHORIZING AN ENERGY PERFORMANCE CONTRACT AND LEASE FINANCING ARRANGEMENT

Testimony in Favor

Testimony in Opposition

Testimony in Favor

Testimony in Opposition

ADJOURNMENT

R-20-076

RESOLUTION

AUTHORIZING AN ENERGY PERFORMANCE CONTRACT AND LEASE FINANCING ARRANGEMENT

CITY OF NASHUA

In the Year Two Thousand and Twenty

WHEREAS, the City of Nashua, New Hampshire (the "City"), is a political subdivision duly organized under the constitution and laws of the State of New Hampshire; and

WHEREAS, it is hereby determined that a true and real need exists for the acquisition and installation of certain energy savings equipment to be acquired and installed at certain facilities of the Nashua School District (the "Equipment"); and

WHEREAS, it is necessary and desirable and in the best interest of the City of Nashua, New Hampshire, on behalf of Nashua School District, as lessee, to enter into an Equipment Lease Purchase Agreement (the "Agreement") with Municipal Leasing Consultants, LLC, as initial lessor (the "Lessor"), for the purposes described therein, including the leasing of the Equipment;

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF ALDERMEN OF THE CITY OF NASHUA, NEW HAMPSHIRE, AS FOLLOWS:

Section 1. The Agreement, in substantially the same form as presented to this meeting, and the terms and performance thereof are hereby approved, and the Mayor of the City is hereby authorized to execute and deliver the Agreement on behalf of the City, with such changes therein as shall be approved by such officer, such approval to be conclusively evidenced by such officer's execution thereof.

Section 2. The Escrow Agreement (the "Escrow Agreement"), among the City, the Lessor and the escrow agent named therein, in substantially the same form as attached and the terms and performance thereof are hereby approved, and the Escrow Agreement is hereby authorized to be executed and delivered on behalf of the City by a duly authorized officer of the City, with such changes therein as shall be approved by such officer, such approval to be conclusively evidenced by such officer's execution thereof.

Section 3. The Energy Performance Contract (the "Energy Contract"), between Nashua School District and Energy Efficient Investments, Inc. in substantially the same form as attached, and the Energy Contract is hereby authorized to be executed and delivered.

Section 4. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments, as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the City with respect to the Agreement, the Escrow Agreement and the Energy Contract.

Section 5. The City has made certain capital expenditures in connection with the acquisition of the Equipment prior to the date hereof, and the City expects to make additional capital expenditures in connection with the acquisition of the Equipment in the future. The City intends to reimburse itself for all or a portion of such expenditures, to the extent permitted by law, with the proceeds of the Agreement or other tax-exempt obligations to be delivered by the City. The maximum principal amount of the Agreement or other tax-exempt obligations expected to be delivered for the Equipment is not expected to exceed $6,671,814.

Section 6. This Resolution shall take effect and be in full force immediately after its adoption by the Board of Aldermen of the City.

LEGISLATIVE YEAR 2020

RESOLUTION: **R-20-076**

PURPOSE: **Authorizing an energy performance contract and lease financing arrangement**

ENDORSERS: **Mayor Jim Donchess**
Alderman Richard A. Dowd

COMMITTEE ASSIGNMENT:

FISCAL NOTE: The maximum principal amount of the Agreement or other tax-exempt obligations expected to be delivered for the Equipment is not expected to exceed $6,671,814.

ANALYSIS

This resolution authorizes the City of Nashua to enter into an energy performance contract and lease financing arrangement with Municipal Leasing Consultants, LLC for energy saving equipment for the city's two high schools.

Pursuant to Nashua City Charter §54-a, this resolution requires a "duly advertised public hearing". Also see NH RSA 33:9, which requires a 2/3 vote for passage of this resolution.

Approved as to form: **Office of Corporation Counsel**

By: /s/ Steven Bolton

Date: September 17, 2020

ENERGY PERFORMANCE CONTRACT
BETWEEN

Nashua School District

AND

Energy Efficient Investments, Inc.

Preamble

This Energy Performance Contract (hereinafter "Contract") is entered into as of ("Effective Date") by _EEI, Inc. (hereinafter "ESCO"), a corporation having its principal offices at, with offices at, 19 D Star Drive, Merrimack, NH 03054 and Nashua School District (hereinafter "the Customer"), having its principal offices at 141 Ledge St, Nashua, NH 03060 for the purpose of furnishing equipment and work specified herein ("Work") designed to improve energy efficiency and reduce operating costs at Customer properties (hereinafter the "Premises") listed in the Final Investment Grade Audit in Attachment 1.

This Contract is conditional on the Customer obtaining financing from a reasonably acceptable lender or lessor in an amount not less than the Contract Price in Attachment 3 - Project Cost on terms satisfactory to the Customer, provided Customer shall diligently pursue such financing on such terms as are customary, reasonable and in compliance with pertinent laws and regulations including, without limitation, financing arranged by ESCO.

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1. Definitions

The following terms used within this Contract are defined as follows:

Energy Baseline - A calculation or measure of each type of energy consumed (or, as appropriate, water consumed or operating and maintenance costs) in existing facilities at the Premises prior to the installation of energy conservation measures or energy efficiency measures as described in Attachment 4 - M & V Plan.

Energy Cost Savings Measures (ECMs)/Operating Cost Savings Measures (OCMs) - A set of activities that result in savings of energy, water or operating and maintenance costs at the Premises and described in detail in Attachment 2 - Maintenance and Service Agreement. OCMs include any measures that eliminate and/or avoid expense as a result of the installation or modification of equipment, or services performed by ESCO. OCMs do not include any measures that produce savings solely because of a shift in the cost of personnel or other similar short-term cost savings.

Energy Savings - The reduction in energy consumption or demand resulting from ESCO's ECMs/OCMs which shall include electric energy savings, gas energy savings, operational savings, maintenance savings, water consumption savings and any other savings achieved as a result of the Work as shall be determined after adjustments for variations in other factors that might substantially affect the data such as weather, changes in operating practices or other external influences.

Energy savings shall be determined by comparing the Energy Baseline with the energy consumed (or demand) after ESCO has implemented ECMs/OCMs. A description of the promised savings and the terms of the Performance Guarantee with respect to promised Energy Savings is included in Attachment 4 - M & V Plan.

Final Completion - The date on which ESCO warrants by written notice in the form provided in Attachment 1 - Final Investment Grade Audit and that all Work is completed including all remaining items of Work identified in the notice contained in Attachment 10 – Substantial Completion delivered at Substantial Completion.

Project Acceptance - The date when the Customer approves all Work warranted by ESCO to be at Final Completion, including all remaining items of Work identified in the notice delivered at the Substantial Completion date. Project Acceptance will not be made until ESCO has demonstrated, through the Guidelines for Project Acceptance as described in Attachment 11 - Final Acceptance, that all ECMs/OCMs are achieving all of the stated savings in Attachment 4 - M & V Plan. Project Acceptance shall be by written notice in the form provided in Attachment 11 - Final Acceptance.

Substantial Completion - The date on which ESCO warrants by written notice in the form provided in Attachment 10 – Substantial Completion that installation of ECMs/OCMs is substantially complete and the Customer has accepted such ECM/OCM as installed.

2. Contract Documents

The Contract consists of this document and all attachments, schedules and any amendments or addenda thereto. In addition, all requirements set forth in the request for proposals/qualifications (RFP) issued by Customer and in ESCO's response, shall be part of the Contract unless specifically excluded.

3. Representations and Warranties

3.1 Representations and Warranties of Both Parties

Each party hereto represents and warrants to the other that:
(i) it has adequate power and authority to conduct its business as presently conducted or contemplated hereby to be conducted, to enter into this Contract and to perform its obligations hereunder;
(ii) It possesses full authority to execute and deliver this Contract and that it does not contravene any applicable law, rule or regulation;
(iii) its execution, delivery and performance of the 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;
(iv) its execution, delivery and performance of this Contract will not result in a breach or violation of, or constitute a default under any agreement, lease or instrument to which it is a party or by which it or its properties may be bound or affected; and
(v) it is 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 that would materially and adversely affect its ability to perform hereunder.

3.2 Representations and Warranties of ESCO

ESCO hereby warrants, represents and promises that:
(i) before starting to perform the Contract ESCO shall a) provide proof and documentation that it is qualified, licensed or otherwise permitted to do business in the State of New Hampshire including all required insurance and bonds pursuant to this Contract to the extent not included in Attachment 9 - Corporate Resolution;
(ii) ESCO shall use subcontractors who are qualified, licensed and bonded in this State and approved by Customer in writing to perform the Work so subcontracted pursuant to the terms hereof;
(iii) ESCO has all requisite authority to license the use of proprietary property, both tangible and intangible, contemplated by this Contract;
(iv) equipment installed as part of the ECMs/OCMs will meet or exceed the equipment standards set forth in Attachment 5 - Major Equipment List and
(v) ESCO acknowledges that Customer reserves the right to reject all non-conforming goods and to cause their return for credit or replacement at Customer's option;
(vi) the equipment installed as part of the ECMs/OCMs is or will be compatible with all other Premises' mechanical and electrical systems, subsystems, or components with which such equipment interacts, and that, as installed, neither such equipment nor such other systems, subsystems, or components will materially adversely affect each other as a direct or indirect result of equipment installation or operation;
(vii) ESCO is financially solvent, able to pay its debts as they mature and possesses sufficient working capital to complete the work and perform its obligations underthe

Contract and has no outstanding and delinquent debt owed to the State of New Hampshire or any political subdivision thereof;
(viii) ESCO has not directly or indirectly participated in any collusion or otherwise taken any action in restraint of full competitive bidding with respect to this Contract or the solicitation process leading to this Contract; and
(ix) ESCO has not paid, and agrees not to pay, any bonus, commission, fee or gratuity to any employee or official of the state or municipal government or the Customer for the purpose of obtaining this Contract or any other contract or award and that no commissionor other payment has been or will be received from or paid to any third party contingent upon the award of any contract except as previously communicated to the Customer in writing (and ESCO acknowledges that subsequent discovery of non-compliance with this provision constitutes sufficient cause for immediate termination of this Contract and other remedial action).

3.3 Representations and Warranties of the Customer

Customer hereby represents and warrants that:
(i) It is a tax exempt entity and, therefore, the Work required by this Contract may be subject to tax exemption for New Hampshire sales or use tax purposes upon compliance with the appropriate process.

4. Price and Terms

4.1 Contract Price

ESCO will submit a schedule of values to Customer for parts of the Work that ESCO shall have performed on a form issued by the American Institute of Architects ("Schedule of Values"). Customer shall approve and authorize release of construction financing from the Escrow Agent/Trustee to the ESCO within thirty (30) days following Customer's receipt of a Schedule of Values. Customer shall not be required to approve release of construction financing for Work yet to be performed. In the event that the Customer disputes a portion of a Schedule of Values, Customer shall make a timely authorization to release construction financing in an amount equal to the undisputed part of the Schedule of Values.

Upon submittal of any schedule of values for payment, ESCO shall furnish signed lien waivers from ESCO and any subcontractors or material suppliers that contributed to the Work that is the subject of the schedule of values. With respect to such Work, the authorized person executing each lien waiver shall voluntarily and with knowledge of that contractor's or supplier's legal rights, waive and release any right that it has or in the future may have to claim a mechanic's lien or any other lien rights, and waive and release all other claims of any kind against (a) the real property where the Work is located; (b) the improvements and other property located thereon; (c) Customer and, as applicable, its title company and lender and their employees, officers, and agents; and (d) as applicable, the surety or sureties of Customer. In addition, in each of its lien waivers, ESCO shall (i) certify that it has paid all subcontractors, suppliers, and employees for all Work related to the submitted schedule of values, and (ii) agree to indemnify and hold harmless Customer and, as applicable, its lender and title company for all costs and expenses, including attorneys fees, incurred as a result of claims that any of the subcontractors, suppliers, or employees have not been paid for such Work.

In the event that Customer disputes a Schedule of Values or a portion of the Schedule of Values, Customer shall indicate the reason for the dispute in writing to ESCO within fourteen (14) days of receiving the Schedule of Values and the parties will negotiate in good faith to resolve the dispute prior to the expiration of the thirty (30) day period. If the parties cannot resolve the dispute within such thirty (30) day period, Late Payment interest shall accrue pursuant to section 4.02 hereof but such Late Payment interest shall be released to ESCO only in the event that the dispute is eventually resolved in favor of ESCO in accordance with Section 9.01's Dispute Resolution procedure.

ESCO shall be responsible for paying all other taxes and tariffs of any sort related to the Work. ESCO shall be responsible to pay for all labor, materials, equipment, tools, construction, equipment and machinery, fuel, transportation and other facilities and services necessary for the proper execution and completion of the Work.

Retainage will be held at 10% until progress is 50% complete, then reduced to 5% at 50% completion and further reduced to 2% at substantial completion. The remaining contract value will be released as a final payment upon Certification of Project Completion, completion of all required training, completion of any outstanding punch-list, turnover of all final paperwork such as warranties, guarantees, as-builts, O & M manuals, attic stock and satisfaction of all document turnover requirements per the project specifications.

Following Final Acceptance, Customer may terminate this Contract without cause by giving ESCO at least thirty (30) day's written notice. The Customer shall pay ESCO for

management, monitoring and verification services as described in Attachment 3 - Project Cost. The continuing payment for monitoring and verification services and any operating services described in Attachment 2 - Maintenance and Service Agreement shall be a condition for the continuing effectiveness of the Performance Guarantee.

If requested by the customer the ESCO shall provide full disclosure of all costs relating to the Work, including costs to subcontractors and vendors. ESCO shall provide a list of direct costs including copies of purchase orders (PO's) for vendors and subcontractors and a breakdown of indirect costs associated with the project if requested by the customer.

4.2 Late Payment

Interest shall accrue on any past due balances owed to either party hereunder, including for the Work or pursuant to the Performance Guarantee, at the rate of zero percent (0%) per month (or the highest rate not prohibited by law), whichever is lower. This remedy shall be in addition to, and not exclusive of, any other remedy available under this Contract or applicable law.

4.3 Contract Termination

This Contract shall be effective and binding on the parties when the financing condition in the Preamble is met. Unless otherwise terminated, including pursuant to Section 7.0 of this Contract, or agreed to in writing pursuant to this Contract, this Contract shall terminate upon completion of the Measurement and verification during finance term.
Following Project Acceptance, Customer may terminate this contract without cause by giving ESCO at least 30 days' written notice. Termination of the Contract shall render the Performance Guarantee null and void, and ESCO shall have no further obligation with respect to the M&V Plan and Performance Guarantee.

5. The Work

5.1 Time for Performance and Project Acceptance

Customer shall send the Notice to Proceed to ESCO on closing financing. The Notice to Proceed shall clearly identify which measures, defined in the Final Investment Grade Audit, the ESCO should proceed with. ESCO shall begin Work within thirty (30) days of receiving the Notice to Proceed. ESCO shall substantially complete the Work consistent with the schedule set forth in Attachment 2 - Maintenance and Service Agreement. Extension of dates to commence or complete Work shall be granted at the sole discretion of the Customer except as otherwise provided herein. Customer shall not unreasonably withhold approval for an extension of dates to commence or complete Work if the cause for an extension is pursuant to Sections 5.03, 5.06, 5.08, 5.12, 5.13, or 9.02.

When all of the ECMs/OCMs are implemented, all items on the Checklist for Project Acceptance in the form provided in Attachment 11 – Final Acceptance are complete, and all items that Customer previously deemed not to be in compliance with the requirements set forth in this Contract have been corrected, ESCO shall submit and deliver to Customer a Delivery and Acceptance Certificate Upon Final Completion in the form provided in Attachment 10 – Substantial Completion evidencing in reasonable detail that all items on the Checklist for Project Acceptance located in Attachment 11 - Final Acceptance are complete and that all items that Customer deemed not to be in compliance with the requirements set forth in this Contract have been corrected and which shall also be accompanied by a Final Commissioning Report.

Upon receipt by Customer of Delivery and Acceptance Certificate Upon Final Completion, Customer shall have thirty (30) days to complete review of the ECMs/OCMs in accordance with the Guidelines for Project Acceptance in the form provided in Attachment 11 - Final Acceptance. The Customer shall notify the ESCO of each item that does not satisfy the Guidelines for Project Acceptance within thirty (30) days of receipt of the Delivery and Acceptance Certificate upon Final Completion Form or Final Completion will be deemed to have been achieved.

The Customer reserves the right to reject the work if installation fails to meet reasonable standards of workmanship, does not comply with applicable building codes or is otherwise not in compliance with the terms of this Contract. Upon correcting all items identified by Customer as not satisfying the Guidelines for Project Acceptance, ESCO shall submit and deliver to Customer a new Delivery and Acceptance Certificate upon Final Completion. Customer shall have an additional twenty-one (21) days to complete review of the ECMs/OCMs in accordance with the Guidelines for Project Acceptance upon receipt of a new Delivery and Acceptance Certificate upon Final Completion.

Project Acceptance shall be evidenced by the Customer submitting and delivering to the ESCO the Delivery and Acceptance Certificate Upon Project Acceptance in the form provided in Attachment 11 - Final Acceptance, the delivery of which will indicate that the Final Commissioning Report.

In the event that Attachment 2 - Maintenance and Service Agreement includes a provision for liquidated damages in the event that ESCO does not attain Final Completion by the date of Final Completion, then such liquidated damages shall be Customer's sole remedy for any such delay in the completion of the Work.

5.2 Specifications of Work

ESCO's obligations hereunder are specified in Attachment 2 - Maintenance and Service Agreement and related drawings and plans and any subsequent revisions thereto ("Scopeof Work"), as approved by the Customer. Any modifications or alterations to the properties not expressly included within the Scope of Work are excluded from the Work. The requirements of all applicable laws, regulations and codes of federal, state, and local town or city government shall be met at all times. Additional construction or operation requirements at the Premises, if any, are described in Attachment 7 - Additional Requirements. All Work shall be performed in a good and workmanlike manner. Time is of the essence with respect to the Work.

5.3 Construction Procedures, Changes to Work and Coordination

ESCO shall supervise, coordinate and direct the Work using ESCO's best ability, skill, attention, and oversight. ESCO, in consultation with Customer, shall be responsible for the construction means, methods, techniques, sequences, and procedures. Accordingly, no course of conduct or dealings between the parties, nor expressed or implied acceptance of alterations or additions to the Work, and no claim that the Customer has been unjustly enriched by the any alteration or addition to the Work, whether or not there is in fact, any unjust enrichment to the Work, shall be the basis of any claim to an increase in the amounts due under the contract documents or a change in any time period provided for in the contract documents.

Agreement to any change order shall constitute a final settlement of all claims of ESCO relating to the change in Work that is the subject of the change order, including, but not limited to, all indirect and direct costs associated with such change and any and all adjustments to the Contract sum and the construction schedule.

The Customer shall review all proposed modifications to the building and systems and must approve of same before commencement of any Work. Such approval will be made in a timely manner and will not be unreasonably withheld. No change to the scope or specifications of Work shall be made without the written consent of the Customer, in the form of a revision to the Scope of Work.

If ESCO fails to correct Work which is not in accordance with the specifications or persistently fails to meet specifications herein, Customer may order ESCO to stop the Work, or any portion thereof, until the cause for such order has been eliminated. ESCO shall perform the Work in such a manner as not to harm the structural integrity or operating systems of any building and shall repair and restore any damage caused by the Work at ESCO's expense. ESCO shall not create or allow to continue any condition deemed to endanger health or safety as defined in Section 6.01. If such a condition exists Customer shall have the right to exercise the remedies described therein.

ESCO shall supply to the Customer the telephone number of a responsible person who may be contacted during non-work hours for emergencies arising in connection with or affecting the Work. ESCO shall coordinate any utility hookups provided by others under a separate agreement at no additional cost or expense to the Customer. ESCO acknowledges that there is sufficient space within the Premises for the performance of the Work.

5.4 Relationship with Maintenance Staff

ESCO shall cooperate with Customer's operating and maintenance personnel, train said coordinate the Work on a planned and programmed basis including the specific actions described in Attachment 2 - Maintenance and Service Agreement. ESCO shall deliver a preventive maintenance schedule and procedures for any equipment installed as part of the Work.

5.5 Material and Equipment Installed

The Customer shall make the final determination whether any material or equipment installed is as specified in the Scope of Work or, if appropriate, ESCO's Response to the RFP, which is incorporated in this Contract by Section 9.14 below. No substitution of any material or equipment specified shall be made without the written consent of the Customer in the form of a revision to the Scope of Work, and any such substitution shall be at least equal in quality, finish, durability, serviceability and performance for the purpose intended.

If alternative material or equipment is proposed, ESCO must update any and all software associated with the ECMs/OCMs, the Work or the measurement of savings. Customer reserves the right to reject all non-conforming goods and services and to direct ESCO to replace or credit the Customer, at Customer's election. Failure by Customer to discover latent defects or concealed damage or non-conformance shall not foreclose Customer's right to subsequently reject the goods or services delivered pursuant to this Contract. Formal or informal acceptance by the Customer of non-conforming goods or services shall not constitute a precedent or waiver with respect to successive receipts of goods and services. If ESCO fails to promptly cure the defect or replace nonconforming goods or services, the Customer reserves the right to cancel the Contract, contract with a different entity for the goods and services to be provided herein and to invoice ESCO for any differential in price.

ESCO shall install and, when applicable, operate and maintain, or, if specified in the Scope of Work, train Customer personnel to operate and maintain equipment in a manner that will provide standards of service to meet requirements of Section 5.02 and equipment manufacturers' literature, specifications and instructions. ESCO will service and maintain the ECMs/OCMs described in Attachment 2 - Maintenance and Service Agreement and Customer shall pay ESCO for such services during the term of this Contract as provided in Attachment 3 - Project Cost. Except for ECMs/OCMs or other equipment that is to be serviced and maintained by ESCO as provided in Attachment 2 - Maintenance and Service Agreement, Customer shall be responsible for servicing and maintaining equipment at the Premises. ESCO shall prepare and furnish at least three (3) maintenance manuals that include product data and which are subject to acceptance by the Customer for all equipment installations at the Premises.

5.6 Asbestos and Hazardous Materials

ESCO will be responsible for proper disposal of construction demolition debris that does not contain Hazardous Materials, as defined herein. ESCO will be responsible for proper disposal of all ballasts containing or suspected of containing PCBs and fluorescent lamps containing mercury. ESCO must prepare and document disposal appropriate transportation

and disposal plans and document before disposal begins and document actual disposal to Customer immediately after disposal. ESCO will be responsible for disposal of asbestos containing building material in the boiler rooms related to the demolition of existing boilers and piping. ESCO will use licensed asbestos abatement contractors and 3rd party testing.

Excluded Materials and Activities

The Customer recognizes that in connection with the Work, installation and/or service or maintenance of equipment and/or systems at the Customer's facilities, ESCO may encounter, but is not responsible for, any Work outside of the boiler rooms relating to (i) asbestos, materials containing asbestos, or the existence, use, detection, removal, containment or treatment thereof, or (ii) mold, materials containing mold, or the existence, use, detection, removal, containment or treatment thereof, or (iii) pollutants, hazardous wastes, hazardous materials, contaminants (collectively "Hazardous Materials"), or the storage, handling, use, transportation, treatment, or the disposal, discharge, leakage, detection, removal, or containment thereof.

The materials and activities listed in the foregoing sentence are hereinafter referred to as "Excluded Materials and Activities". The Customer agrees that if ESCO's performance of any Work under this Contract involves Excluded Materials and Activities, upon receipt of any and all appropriate funding and approval, the Customer will perform or arrange for the performance of such Work and will bear the sole risk and responsibility therefore. In the event ESCO discovers Hazardous or Excluded Materials, ESCO will immediately cease Work, remove all ESCO personnel or subcontractors from the site, and notify the Customer. The Customer will be responsible to handle such Materials at the Customer's expense. ESCO will undertake no further Work at the facility except as authorized by the Customer in writing. Notwithstanding anything in this Contract to the contrary, any such event of discovery or remediation by the Customer will not constitute a default by the Customer.

ESCO will be solely responsible for any hazardous or other materials, including without limitation those listed in this paragraph, that it may bring to the site.

5.7 Subcontracting and Assignments

1) ESCO may elect to use subcontractors in meeting its obligations hereunder. Customer shall approve all subcontractors and outside professionals in advance which approval shall not be unreasonably withheld or delayed. ESCO shall be responsible for the conduct, acts and omissions, whether intentional or unintentional, of its subcontractors, employees, agents, invitees or suppliers. ESCO agrees to bind each of its subcontractors to the terms of ESCO's obligations under Sections 5.01 - 5.06, 5.08, 5.09, 5.14 - 5.16, 8.01 - 8.07, 9.03, 9.04, 9.06 and 9.10 of this Contract. Nothing in this Contract shall create any contractual relationship between any subcontractor, employee, agent, invitee or supplier and the Customer.

5.8 Delays

If ESCO is delayed in the commencement or completion of any part of the Work due to events beyond ESCO's control and without the fault or negligence of ESCO, including but not limited to fire, flood, extended labor disputes, unusual delays in deliveries, unavoidable casualties, abnormal adverse weather, war, and acts of God, or due to Customer's actions

or failure to perform its obligations under this Contract, then ESCO will notify Customer in writing of the existence, extent of, and reasons for such delay. ESCO shall have no claim for additional compensation on account of such delays but ESCO and Customer may extend the contract time by revision to the Scope of Work for such reasonable time as they shall agree. If Customer determines that a delay described in the first sentence of this section will result in ESCO not completing the Work for a period of ninety (90) days or more, then Customer or ESCO may terminate this Contract and the Customer shall pay ESCO for the portion of the Work completed up to the Contract termination date.

5.9 Equipment Location and Access

The parties understand and agree that the Premises will be occupied during construction. ESCO shall take all necessary precautions to ensure the public safety and convenience of the occupants during construction and Customer shall cooperate with ESCO's reasonable requirements and related requirements described in Attachments 2 and 4. ESCO shall complete the Work in accordance with the schedule in Attachment 2 - Maintenance and Service Agreement. ESCO shall use sufficient personnel and adequate equipment to complete the Work pursuant to Section 5.01.

The Work must be completed in a continuous uninterrupted operation on the days and between the hours specified in Attachment 7 - Additional Requirements, unless otherwise authorized in writing by the Customer. No Work is to be done on holidays, Saturdays, or Sundays except as contemplated in Attachment 7 - Additional Requirements, the Scope of Work in order to maintain the Standards of Comfort described in Attachment 8 - Standards of Comfort or in the event of emergencies unless otherwise approved by Customer. The Customer will provide access to the Premises at the times agreed upon and make all reasonable provisions for ESCO to enter the Premises where Work is to be performed so that Work may be performed in an efficient manner.

ESCO is responsible for the security of partially completed work and for uninstalled materials or equipment stored at Customer properties. Only materials and equipment intended and necessary for immediate use shall be brought into the buildings. Equipment and unused materials shall be removed from each building by the end of each workday unless overnight storage is provided for within the Scope of Work. The Customer shall provide if available, without charge, a mutually satisfactory location or locations for the storage and operation of materials and equipment and the performance of the Work, including a location for staging and mobilization.

Flammables and combustibles shall be stored only in accordance with the requirements of relevant statutes, regulations, NFPA standards and Customer procedures. In the event that the Customer is unable to provide a satisfactory location for the storage of flammables and combustibles, then ESCO shall provide and pay for suitable storage.

5.10 Permits and Fees

ESCO shall secure and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work that are required by federal, state, or town or city governments. In the event that fees for any permits are reduced or waived by request, standing or intervention of the Customer, then, at the Customer's option, the amount of the savings of the fee shall be deducted from the line item

in the Work budget and added to the contingency line item or the Contract Price reduced by that amount.

5.11 Utilities

The Customer shall provide and pay for water, heat, fuel and utilities consumed by ESCO or in any additional equipment that may be used by ESCO during performance of the Work, including, for example, generators. ESCO shall install and pay for any facilities or modifications not already in existence that are necessary to access such water, heat, and utilities during the Work.

5.12 Concealed or Unknown Conditions

If ESCO finds conditions during the Work that are subsurface or otherwise concealed physical conditions that differ materially from those indicated on the drawings or are unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in similar construction activities, ESCO shall notify Customer of such conditions promptly, prior to significantly disturbing the same, and in no event later than one (1) business day after first observing the conditions.

Such conditions may include, but are not limited to, water damage, termite damage, or structural building defects. If such conditions differ materially and cause an increase in ESCO's cost of, or time required for, performance of any part of the Work, ESCO shall submit a written estimate of the material and labor cost increase and time delay. If the Customer concurs with the need, cost estimate, and time delay, Customer and ESCO shall make an equitable adjustment in the Contract Price or Time for Performance and Final Completion, or both. Pursuant to Section 5.08 above, ESCO shall not be entitled to damages for delay beyond Customer's control.

5.13 Casualty, Condemnation, Damage

If any fire, flood, other casualty, or condemnation renders a portion of any property described in Attachment 1 - Final Investment Grade Audit unsuitable for habitation or destroys a substantial part of the area within which the Work is to be performed or which the Work affects, the Customer and ESCO may terminate or modify this Contract by mutual agreement. The Customer shall pay ESCO for all Work completed to the date of termination. If any materials or equipment are damaged by the negligence or willful misconduct of an employee, agent or invitee of Customer, Customer shall repair or replace said item within a reasonable period of time, or, adjust the Contract Price to pay for repair or replacement or adjust Time for Performance and Final Completion, or both.

5.14 Standards of Service and Comfort

The facility performance requirements of service and comfort applicable to the Premises for heating, cooling, hot water, ventilation and lighting are stated in Attachment 8 - Standards of Comfort ("Standards of Comfort") and shall apply throughout the Contract. If ESCO is unable to meet these Standards of Comfort for any reason, the Customer and ESCO shall mutually agree upon an appropriate adjustment to Energy Savings, the price paid for the Work or any corrective measures that shall be provided and paid for by ESCO.

5.15 Shutdown of Services

ESCO hereby acknowledges that continuous operation of services, including but not limited to heat, water, domestic hot water, electricity, gas, sanitary facilities, elevators, fire alarms or protections, and access to the property, or common areas is essential to the operation of the Customer's properties as reflected in the Standards of Comfort. If any such service, or access to the property, or any common area is to be discontinued for any period of time in order to perform the Work (including actions described within the Scope of Work), ESCO shall give the Customer as much notice in writing as is practicable, but in no event less than seven (7) days in which event the Customer shall, by written response, approve unconditionally or with conditions such shutdown of services and the timing thereof.

The use of any portion of the Premises by ESCO for parking or staging areas for the Work shall be expressly approved by Customer prior to the Commencement of the Work. Such conditional approval may include a requirement for ESCO to provide and pay for temporary services, may limit the time period for which services or access may be shut down, or may require other actions, accommodations or expenditures on the part of ESCO. With respect to fire alarm or other fire protections, ESCO shall also notify the local fire department of any shutdown of service and notify the fire department when such service is restored.

The Customer acknowledges that such shutdowns may be necessary to perform the Work from time to time and will not unreasonably withhold approval. The Customer agrees to communicate with occupants on plans to shut down services or access and temporary measures, if any, which will be made in such circumstances.

5.16 Indemnification and Limitation of Liability (Non-Patent or Copyright)

ESCO shall be responsible for the Work and take all precautions for preventing injuries to persons and property in or about the Work and shall bear the costs of all losses or damages resulting from or on account of the Work. ESCO shall pay or cause payment to be made for all labor performed or furnished and for all material used or employed in carrying out this Contract. ESCO shall assume the defense of, indemnify and hold harmless the Customer and its officers and agents from all claims relating to:

1) Labor performed or furnished and materials used or employed for the Work;

2) Injuries to any person received or sustained by or from ESCO and its employees, subcontractors and its employees, any agents, suppliers and invitees in doing the Work, or as a consequence of any improper materials, implements of labor used or employed therein; and

3) Any act, omission, or neglect of ESCO and any employees, subcontractors and employees, agents, suppliers and invitees.

5.17 Indemnification (Patent and Copyright)

(a) ESCO will, at its own expense, defend or at its option settle any suit or proceeding brought against Customer in so far as it is based on an allegation that any Work(including parts thereof), or use thereof for its intended purpose, constitutes an infringement of any

United States patent or copyright, if ESCO is promptly provided Notice and given authority, information, and assistance in a timely manner for the defense of said suit or proceeding. ESCO will pay the damages and costs awarded in any suit or proceeding so defended. ESCO will not be responsible for any settlement of such suit or proceeding made without its prior written consent. In case the Work, or any part thereof, as a result of any suit or proceeding so defended is held to constitute infringement or its use by Customer is enjoined, ESCO will, at its option and its own expense, either: (i) procure for Customer the right to continue using said Work; (ii) replace it with substantially equivalent non-infringing Work; or (iii) modify the Work so it becomes non-infringing.

(b) ESCO will have no duty or obligation to Customer under Section 5.17(a) to the extent that the Work is: (i) modified by Customer or its contractors after delivery; or, (ii) combined by Customer or its contractors with items not furnished hereunder and by reason of said design, instruction, modification, or combination a suit is brought against Customer. In addition, if by reason of such modification or combination, a suit or proceeding is brought against ESCO, unless expressly prohibited by law, Customer shall protect ESCO in the same manner and to the same extent that ESCO has agreed to protect Customer underthe provisions of Section 5.17(a) above.

(c) THIS SECTION 5.17 IS AN EXCLUSIVE STATEMENT OF ALL THE DUTIES OFTHE PARTIES RELATING TO PATENTS AND COPYRIGHTS, AND DIRECT OR CONTRIBUTORY PATENT OR COPYRIGHT AND OF ALL THE REMEDIES OF CUSTOMER RELATING TO ANY CLAIMS, SUITS, OR PROCEEDINGS INVOLVING PATENTS AND COPYRIGHTS. Compliance with Section 5.17 as provided herein shall constitute fulfillment of all liabilities of the parties under the Contract with respect to intellectual property indemnification.

6. Performance and Evaluation Subsequent to Work

6.1 Workmanship and Equipment Warranty

ESCO hereby assigns to the Customer all warranties of all equipment and materials used in the Work. Attachment 2 - Maintenance and Service Agreement lists equipment and material warranties, however, failure to include any equipment or materials having a warranty neither excludes said equipment or materials from the provisions of this section nor ESCO's responsibilities hereunder. ESCO shall provide Customer with a list of all serial numbered items of equipment installed as part of the Work at or before the Project Acceptance.

ESCO warrants that, for a period of one year from a date of a Certificate of Substantial Completion ("Warranty Period"), the relevant equipment, materials and Work shall be new and free from defects in material, manufacture, workmanship and performance as set forth by the catalogs, bulletins and specifications included within ESCO's Response to the RFP or the Scope of Work, whichever is appropriate. If such defect occurs within the Warranty Period, ESCO shall correct and pay for correction of all defects including replacement or repair and all parts and labor.

ESCO warrants that, for any equipment or materials used in the Work with a warranty period in excess of one year, ESCO shall correct all defects including replacement or repair provided that ESCO's obligation is limited to the terms of the warranty and provided further that the Customer, by mutual consent with ESCO, may correct said defect.

No warranty liability shall attach to ESCO until Work has been substantially completed. ESCO's warranties expressly exclude any remedy for damage or defect caused by the Owner's abuse, improper operation, unapproved modifications or improper repairs.

Customer may correct any defect and ESCO shall reimburse Customer for its reasonable expenses incurred in performing such correction subject to any limitations contained within this section if ESCO fails to correct defective equipment, materials or Work within a reasonable period of time, but no less than seventy-two (72) hours, upon written notice from the Customer unless such defect is a condition deemed to endanger health or safety, is a fire hazard or would otherwise render the Premises unfit for occupancy.

Conditions which are deemed to endanger health or safety are applicable provisions of the state or local sanitary code, fire hazards under applicable fire prevention regulations and codes and other emergency conditions that shall be addressed promptly and jointly, if necessary, by ESCO and Customer assuring that immediate precautions are taken to avoid risk to persons or property, immediate measures are taken to prevent deterioration of condition, occupants are alerted to any dangers or hazards, and steps for final correction taken within twenty-four (24) hours. Customer may take reasonable steps to protect the Premises or the Work on an emergency if it is not possible or reasonable to notify ESCO before taking such actions.

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, TO THE EXTENT PERMITTED BY LAW, ARE HEREBY EXPRESSLY DISCLAIMED. THE LIMITED EXPRESS WARRANTIES

AND REPRESENTATIONS SET FORTH IN THIS CONTRACT MAY ONLY BE MODIFIED OR SUPPLEMENTED IN A WRITING EXECUTED BY A DULY AUTHORIZED SIGNATORY OF EACH PARTY.

6.2 Evaluation of Savings Achieved

ESCO shall also prepare and deliver to Customer an annual report of the savings achieved at the Premises for each of the twelve-month periods specified in Attachment 4 - M & V Plan in a form suitable for review and subsequent forwarding to the Customer and any consultant or auditor designated by Customer. ESCO shall include in such report, to the extent practicable, emissions reduction quantities or similar data attributable to or resulting from the Work and shall advise Customer on opportunities to achieve monetary benefits from such credits or attributes which shall be the property of Customer.

The Customer shall notify ESCO of substantive changes in the properties or the operation or occupancy thereof which could affect energy or water use. Such substantive change shall be agreed upon by the parties and incorporated in the determination and evaluation of savings. The obligations under this Article are also described in Attachment 4 - M & V Plan. ESCO shall be compensated at the rate described in Attachment 3 - Project Cost for maintaining, monitoring and verification and reporting services.

6.3 Performance Guarantee

ESCO hereby guarantees the level of savings for the time periods and to the level described in Attachment 4 - M & V Plan ("Performance Guarantee"). The Performance Guarantee commencement date shall not occur and the Customer shall not be required to accept the Work unless and until all equipment installation at the Premises and training is completed in accordance with the terms and conditions of this Contract, including, without limitation, the satisfaction of all claims for labor and materials. In the event that Final Acceptance occurs after the commencement date of the Performance Guarantee (See Attachment 4 - M & V Plan), then the parties will mutually agree on a modified Attachment 4 - M & V Plan to accommodate the delay in beginning the Performance Guarantee.

The Performance Guarantee is to be achieved as a result of the Work and the ECMs/OCMs and the resulting savings, if any, shall be calculated in accordance with the procedures described in Attachment 4 - M & V Plan. The Performance Guarantee is subject to the satisfactory performance by Customer of all of its obligations under this Contract. In the event that this Contract is terminated by an uncured Event of Default by Customer, the Performance Guarantee shall be cancelled. The Performance Guarantee shall remain in effect for a term not less than the time required to finance the Work or otherwise specified in this document.

The Performance Guarantee shall thereafter terminate. In any event, ESCO and Customer have structured the Energy Savings and the Performance Guarantee to be sufficient so that the conversion to US Dollars results in amounts sufficient to exceed any and all payments (In whole or in part) required by Customer in connection with the acquisition of equipment to be installed by ESCO pursuant to this Contract, the Customer's lease or financing obligations and any related agreements associated with the execution of this Contract or the implementation of the Work.

ESCO shall have no liability to continue providing measurement and verification services or

to honor the Performance Guarantee with respect to any portion of the Work in the event the Customer: (i) fails to authorize a reacceptance test or recommissioning that ESCO reasonably deems necessary in order to prevent a savings shortfall with respect to such portion of the Work; (ii) fails to provide access to a site where such portion of the Work was performed as required herein; (iii) fails to service and maintain all equipment associated with such portion of the Work in accordance with the manufacturers' recommendations in order to prevent a savings shortfall; or (iv) cancels or terminates the Continuing Service Program/Contract (See Attachment 2 – Maintenance and Service Agreements).

6.4 Performance Remedies

Energy-related cost savings shall be measured and/or calculated as specified in the measurement and verification plan provided in Attachment 4 - M & V Plan or as may be mutually agreed upon in writing. In the event that the energy and cost savings achieved during such twelve-month period is less than the corresponding Guaranteed Savings for the same annual period as reflected in Attachment 4 - M & V Plan while the Performance Guarantee is in effect, ESCO shall pay to Customer within thirty (30) days of the delivery of such report an amount equal to the deficiency.

In the event of such deficiency, ESCO reserves the right, subject to Customer's approval, which shall not be unreasonably withheld, to implement additional operation improvements or conservation measures, at no cost to Customer, that will improve energy savings in future years of Performance Guarantee.

All costs associated with having the ECMs/OCMs repaired, replaced, adjusted or re-engineered and re-installed shall be paid by ESCO and presentation of evidence of such payment shall be a condition to any Customer approval of such work. If during any twelve-month period specified in Attachment 2 - Maintenance and Service Agreement and Attachment 4 - M & V Plan the savings achieved are greater than the Guaranteed Energy and Cost Savings, such excess shall be retained by the Customer and not applied to ESCO's requirement to deliver Energy Savings beyond the stated year.

6.5 Security for Performance Guarantee – Not Included

6.6 Independent Audit – Not Included

6.7 Other Performance Terms and Conditions

All actions taken under Section 6, including but not limited to correction of warranties, remedy of performance shortfalls and maintenance of equipment by ESCO, shall conform with sections 5.02 through 5.17 inclusive.

6.8 Contract Closeout Responsibility

At the termination of the Contract, ESCO shall perform a walk-through survey of the properties covered by this Contract and prepare an assessment of the condition of the equipment and materials installed as part of the Work and subsequent thereto under this Article. This closeout report shall include but not be limited to the following, as appropriate:

1) Operating and maintenance recommendations during the remaining life of

equipment installed if different from requirements furnished upon installation or if changes in technology or procedures affecting the equipment could extend the useful life of the equipment or increase the conservation efficiency,

2) An overview of new technology or additional conservation measures for the Customer to consider.

7. Obligations of the Parties

7.1 Obligations of ESCO

ESCO acknowledges and agrees that ESCO's obligations hereunder are in the capacity of providing professional services for the purposes described in the Preamble to this Contract and in said capacity ESCO is expected to provide energy, water and operational auditing, engineering, design and monitoring services, construction management including general contracting as necessary, and other related services as solicited in the RFP and as may normally be incidental to these types of professional services. ESCO acknowledges and agrees that any other functions, including, but not limited to, manufacturer's representative, dealer or distributor of equipment, materials or commodity specified herein or as subcontractor, or any ownership interest in whole or in part, or financial affiliation with a company that performs such other function shall constitute a conflict of interest which shall constitute a material breach of this Contract unless 1) fully disclosed in ESCO's Response to the RFP, and 2) accepted by the Customer under terms which are specified in the Scope of Work. ESCO acknowledges and agrees that this paragraph applies to all its officers and employees.

The following events or conditions shall, without limitation, constitute a breach by ESCO and shall give the Customer the right, without an election of remedies, to proceed pursuant to Section 9.01 and/or terminate this Contract by delivery of written notice declaring termination, upon which event ESCO shall be liable to the Customer for any and all damages sustained by the Customer:

1) Any attempt by ESCO to increase the Contract price for reasons other than those related to changes in the Work pursuant to Section 5.03;

2) Any failure by ESCO to provide annual monitoring reports pursuant to Section 6.02 provided that such failure continues for ten (10) days after notice from Customer;

3) Any failure by ESCO to make payments pursuant to the Performance Guarantee provided that such failure continues for three (3) business days after notice from Customer;

4) Any representation or warranty furnished by ESCO in ESCO's Response to the RFP, the Scope of Work or this Contract which is false or misleading in any material respect when made;

5) Any state, county or federal license, authorization, waiver, permit, qualification or certification by statute, ordinance, law or regulation to be held by ESCO to provide the goods or services required by this Contract is denied, revoked, debarred, excluded, terminated, suspended, lapsed or not renewed;

6) The filing of bankruptcy by ESCO or by ESCO's creditors, an involuntary assignment for the benefit of creditors, or the liquidation of ESCO;

7) Any failure by ESCO to perform or comply with any other material term or condition of this Contract, including breach of any covenant contained herein, provided that such failure continues for thirty (30) days after written notice to ESCO demanding that such failure be cured or, if cure cannot be effected in

thirty (30) days, ESCO fails to begin to cure and proceed to completion thereof as quickly as is reasonably possible;

8) Any failure to maintain the Standards of Comfort and service set forth in Attachment 8 - Standards of Comfort due to the failure of ESCO to properly design, install, maintain, repair or adjust the equipment installed and maintained as part of the Work except that such failure, if corrected or cured within seven (7) days after written notice by Customer to ESCO demanding that such failure be cured, shall be deemed cured for purposes of this Contract;

9) Any failure to furnish and install the equipment or ECMs/OCMs or perform the Work and make it ready for use within the time specified by this Contract as set forth in Attachment 2 - Maintenance and Service Agreement;

10) Any lien or encumbrance upon the equipment or the Premises by any subcontractor, laborer or material man of ESCO which is not released in thirty (30) days;

11) Any failure by ESCO to pay any amount due or perform any material obligation under the terms of this Contract; and

12) It is determined that ESCO has failed to disclose a material conflict of interest relative to the performance of this Contract or if it is found that any gift or gratuity were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Customer with a view toward securing a contract or favorable treatment with respect to performance of the Contract.

7.2 Obligations of the Customer

Customer shall respond to all audits, proposed revisions and related requests on a timely basis for the expeditious design, implementation and monitoring of conservation measures. Furthermore, Customer shall comply with the Customer Responsibilities as are detailed in Attachment 2 - Maintenance and Service Agreement.

Each of the following events or conditions shall constitute a breach by Customer and shall give ESCO the right, without an election of remedies to proceed pursuant to Section 9.01 and terminate this Contract by delivery of written notice declaring termination, upon which event the Customer shall be liable to ESCO for all Work furnished to date:

1) Any failure by the Customer, without cause, to authorize payment due more than thirty (30) days after receipt of notice that the Customer is delinquent in making payment;

2) Any representation by Customer in the RFP and this Contract is false or misleading in any material respect when made; and

3) Any failure by the Customer to perform or comply with any other material term or condition of this Contract, including breach of any covenant contained herein, provided that such failure continues for thirty (30) days after written notice to

the Customer demanding that such failure be cured or, if cure cannot be effected in thirty (30) days, the Customer fails to begin to cure and proceed to completion thereof as quickly as is reasonably possible.

8. Insurance and Bond Requirements

8.1 Worker's Compensation Insurance

ESCO shall provide during the life of this Contract Worker's Compensation Insurance as follows:

1) Workers Compensation Coverage A — Statutory Minimum
   Employer's Liability Coverage B — $500,000 each accident
2) $500,000 disease per employee
3) $500,000 disease policy

8.2 Comprehensive General Liability

ESCO shall provide Comprehensive General Liability with the following minimum coverage with respect to the Work and other operations performed by ESCO and its employees, subcontractors, supplier's agents and invitees:

1) Bodily Injury and Property Damage $1,000,000 each occurrence, $1,000,000 aggregate
2) Products and Completed Operations $1,000,000 each occurrence, $1,000,000 aggregate
3) Contractual Liability and Property Damage $1,000,000 each occurrence, $1,000,000 aggregate

8.3 Vehicle Liability

ESCO shall provide the following minimum coverage with respect to the operations of the any employee, including coverage for owned, non-owned, and hired vehicles:

Bodily Injury $1,000,000 each occurrence
Property Damage $1,000,000 each occurrence
Combined Single Limit $1,000,000

8.4 Property Coverage

ESCO shall provide the following coverage against loss or damage by fire and against loss or damage covered by the special perils insurance endorsement on all Work:

All Risk 80% of Contract Price minimum

Upon completion of Work at Customer buildings, ESCO shall provide an installation floater, in the full amount of the Contract Price, for the requirements set forth above. The policy or policies shall specifically state that they are for the benefit and payable to the Customer, ESCO, and all persons furnishing labor or labor and materials for the Work, shall be listed as loss payee as their interests may appear.

8.5 Professional Liability Insurance

ESCO shall maintain in full force and effect, at ESCO's expense, an Errors and Omissions or Professional Liability Insurance Policy in the amount of $1,000,000 minimum coverage. The policy shall remain in effect for the duration of the applicable statute of limitations for claims against construction professionals.

ESCO shall be responsible for all claims, damages, losses or expenses, including attorneys fees, arising out of or resulting from the performance of professional services contemplated by this Contract, provided that any such claim is attributable to bodily injury or death, or

injury to or destruction of tangible personal property, or to failures of the Work, including the loss of use resulting therefrom, and is caused, in whole or in part, by any negligent act, error or omission of ESCO, any consultant or associate thereof, anyone directly or indirectly employed by ESCO. ESCO shall submit a Certificate of Insurance and policy endorsement verifying said coverage upon execution of this Agreement and also any notices of renewals of such policy as they occur.

8.6 Environmental Impairment Liability Insurance

ESCO shall maintain in full force and effect, at ESCO's expense, a Sudden & Accidental Environmental Impairment Liability Insurance Policy in the amount of $1,000,000 minimum coverage unless comparable coverage is provided pursuant to the policy required in Section 8.05. The policy shall remain in effect for the duration of the applicable statute of limitations for claims against construction professionals.

ESCO shall be responsible for all claims, damages, losses or expenses, including attorneys fees, arising out of or resulting from the cleanup, removal, and handling of hazardous materials contemplated by this Contract and is caused, in whole or in part, by any negligent act, error or omission of ESCO, any consultant or associate thereof, anyone directly or indirectly employed by ESCO. ESCO shall submit a Certificate of Insurance and policy endorsement verifying said coverage upon execution of this Agreement and also any notices of renewals of such policy as they occur.

8.7 Customer as Additional Insured

The Customer shall be named as additional insured on ESCO's Liability Policies.

8.8 Certificates of Insurance, Policies

Certificates of insurance and policy endorsements, acceptable to the Customer, shall be submitted to the Customer upon the execution of this Contract and shall be renewed upon expiration of the policies. Certificates shall indicate that the coverage required bysection 8.01 through 8.06 is in effect. If the Customer is damaged by ESCO's failure to maintain such insurance, then ESCO shall be responsible for all reasonable costs or damages attributable thereto. Certificates shall note the thirty (30) day cancellation notice requirement of Section 8.09. All policies shall be issued by companies authorized to write that type of insurance under the laws of the State of New Hampshire. Any and all deductibles and self-insured retention contained in any insurance policy shall be assumed by and at the risk of ESCO.

8.9 Cancellation

Customer shall be provided notice of cancellation at least thirty (30) days prior to the effective date thereof for any insurance policy required of ESCO by this Contract.

8.10 Bonds

ESCO shall provide the Customer with payment and performance bonds and unless waived by Customer pursuant to Section 6.05, so called, to cover the full term and value of the Contract and issued by a regulated financial institution with a Best Rating of not less than A, or a comparable rating from a recognized financial rating firm, as follows:

1) Performance and payment bonds shall secure 100% of the Contract Price (these bonds apply only to the Work to be performed, and do not cover any guaranteed savings)

Any performance and payment bonds shall be maintained in full force and effect by ESCO until Project Acceptance. Customer agrees that upon Project Acceptance any performance and payment bonds shall be released and any obligations arising thereunder shall be terminated. AIA bond forms may be employed.

This Agreement shall be governed and construed in accordance with the law of the State of New Hampshire and any action in law or in equity concerning any dispute arising out of this Agreement, the obligations performed or to be performed thereunder, or in any way referable thereto shall be brought in the New Hampshire Superior Court for the Southern Judicial District of Hillsborough County or in the New Hampshire 9th Circuit Court situated in Nashua, New Hampshire and not elsewhere."

9. General Provisions

9.1 Dispute Resolution

Disputes regarding changes in and interpretations of the terms or scope of the Contract and denials of or failures to act upon claims for payment for extra work or materials shall be resolved according to the following procedures:

1) All claims by ESCO shall be made in writing and submitted to the Customer for a written decision.

2) ESCO shall not delay, suspend, or curtail performance under the Contract as a result of any dispute subject to this section.

3) Within sixty (60) days of submission of the dispute to the Customer, the Customer shall issue a written decision stating the reasons therefor, and shall notify the parties of their right of appeal under this section. If the official of the Customer is unable to issue a decision within sixty (60) days, he shall notify ESCO in writing of the reasons and of the date by which the decision shall issue.

4) Failure to issue a decision within one hundred and twenty (120) day period or within the additional period specified in such written notice shall give the petitioner the right to pursue any legal remedies available to him without further delay.

5) ESCO and Customer agree that all disputes relating to this Contract and performance thereunder shall be resolved through courts in the State of New Hampshire and any appellate court from which an appeal may be taken therefrom. To the fullest extent permitted by law, the parties irrevocably and unconditionally submit to the exclusive jurisdiction of said court.

9.2 Conditions Beyond Control of the Parties

Except as otherwise provided herein, if either party shall be unable to carry out any material obligation under this Contract due to events beyond its control, such as acts of God, governmental or judicial action, insurrections, riots, extended labor disputes, fires, explosions or floods, this Contract shall remain in effect but the affected party's obligations shall be suspended until the uncontrollable event terminates or is resolved, unless the Contract is terminated by either party following a ninety (90) day delay, in which event, Customer shall pay ESCO for all parts of the Work furnished to the date of termination or as otherwise agreed.

9.3 Labor Laws

ESCO shall obey and abide by all laws and regulations of the State of New Hampshire relating to the employment of labor and public work, including, without limitation, the State's drug-free workplace policy (ESCO shall deliver to Customer a certificate of compliance with such policy).

ESCO shall comply with all federal and state laws, rules and regulations promoting fair

employment practices or prohibiting employment discrimination and unfair labor practices. ESCO shall not discriminate in the delivery of services against any person who otherwise meets the eligibility criteria for services, or in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, status as a Vietnam Era Veteran, sexual orientation or for exercising any rights or benefits afforded by law including the requirements of Federal Executive Orders 11246, 11625, 11375 and 11830 and Title 28 Chapter 5.1.

9.4 Prevailing Wage Rate

N/A

9.5 Appropriations

The Customer reasonably believes that funds can be obtained sufficient to make all payments due to ESCO under this Contract. The Customer hereby covenants that it will make reasonable and diligent efforts to obtain and maintain funds from which such payments may be made, including making provisions for such payments to the extent necessary in each annual or supplementary budget submitted for the purpose of obtaining funds, and using reasonable efforts to have such portion of the budget approved. Nothing herein shall obligate the Customer to institute legal action before any court, to commence proceedings before any forum, or to institute proceedings in the nature of mandamus against any public official in attempting to obtain said funds.

9.6 Laws, Regulations, Ordinances and Standard Practices

ESCO shall perform its obligations hereunder in compliance with any and all applicable federal, state, and local laws, regulations, ordinances and by-laws, including applicable licensing and permitting requirements, in accordance with sound engineering and safety practices, and in compliance with any and all reasonable rules or policies of the Customer relative to the properties. ESCO shall be responsible for obtaining all governmental permits, licenses, consents, and authorizations as may be required to perform its obligations hereunder (see also Section 5.10 regarding permits and fees pertaining to the Work).

9.7 Access and Inspection

Customer shall have access to inspect, upon reasonable notice, the Work and the books, records, and other compilations of data which pertain to this Contract. Records shall be kept on a generally recognized accounting basis and calculations kept on file in legible form. Records shall be saved or archived by ESCO for a period of three (3) years after the termination of this Contract and shall be kept or made available within New Hampshire.

ESCO shall have access, upon reasonable notice to the Customer, to inspect the property to assess the condition and operation of material and equipment installed.

9.8 Ownership Rights

All drawings, reports and other materials prepared by ESCO specifically in performance of

this Contract shall become the property of the Customer as needed or upon the termination of the Contract. Customer shall be entitled to any currently or future available credits other than those agreed to by the Parties to be assigned to the ESCO, i.e. utility rebates, or rights of use associated with the reduction of energy use, particular technologies employed in or any attributes associated with the Work.

9.9 Certificates

ESCO certifies as follows:

1) Certificate of Authorization: If ESCO is a corporation, each person executing this Contract on behalf of ESCO hereby covenants, represents and warrants that ESCO is a duly incorporated or duly qualified (if foreign) corporation and is authorized to do business in the State of New Hampshire (a copy of evidence thereof to be supplied to the Customer upon request); and that each person executing this Contract on behalf of ESCO is an officer of ESCO and that he or she is duly authorized to execute, acknowledge and deliver this Contract to the Customer, a copy of a corporate resolution to this effect is attached hereto as Attachment 9 - Corporate Resolution.

2) Tax Compliance Certification: Each person signing this Contract on behalf of ESCO hereby certifies, under the penalties of perjury, that to the best of his/her knowledge and belief, ESCO has complied with any and all applicable state tax laws.

3) Certificate of Non-collusion: The undersigned certifies under penalties of perjury that this Contract has been made in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity of group of individuals.

4) Foreign Corporation: ESCO, if a foreign corporation, hereby certifies that it is in compliance with Title 7 Chapter 1.1 of the General Laws of New Hampshire and that the name and address of the resident agent is included with Attachment 9 - Corporate Resolution.

9.10 Assignment

ESCO shall not assign, transfer, convey, or otherwise dispose of this Contract, or any part hereof, or its right, title or interest in the same or any part thereof, without the prior written consent of the Customer provided, however, that Customer may not unreasonably withhold or delay its consent to an assignment of its interest in this Contract to a corporate affiliate and provided further that ESCO may without the consent of Customer assign its rights for payments under this Contract to any financial institution, lender or investor in connection with a leasing or financing arrangement for the ECMs/OCMs. ESCO shall not otherwise assign by power-of-attorney, or otherwise, any of the moneys due or to become due and payable under this Contract, without the prior written consent of the Customer.

9.11 Applicable Law and Severability

This Contract is made and shall be interpreted and enforced in accordance with the laws of the State of New Hampshire without regard to its conflict of laws provision. If any provision of this Contract shall be determined to be invalid or unenforceable under applicable law, such provision shall, insofar as possible, be construed or applied in such manner as will permit enforcement; otherwise this Contract shall be construed as ifs such provision had never been made part thereof.

9.12 Independent Contractor

The Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither the Contractor nor any agent or employee of the Contractor shall be deemed to be an agent or employee of the State of New Hampshire or any agency of subdivision thereof. Contractor shall be responsible for all payroll taxes and benefits for its employees and the acts and omissions of its employees, agents, contractors, and subcontractors.

9.13 Complete Contract

This Contract, together with any documents incorporated herein by attachment as an exhibit or by reference, shall constitute the entire and exclusive Contract between both parties, except as may be provided by relevant law or regulation, and supersedes and terminates all prior or contemporaneous arrangements, understandings and agreements, whether oral or written, and this Contract may not be amended or modified except in writing and executed by the Customer and ESCO. The RFP and ESCO's response thereto are incorporated by reference to the extent not superseded by the Scope of Work or this Contract.

The failure of either ESCO or the Customer to insist upon the strict performance of any term or condition hereof shall not constitute or be construed as a waiver or relinquishment of either party's right to thereafter enforce the same in accordance with this Contract.

9.14 Further Documents

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

9.15 Counterparts

This Contract may be executed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument, and in making proof of this Contract it shall not be necessary to produce or account for more than one such counterpart.

9.16 Enforceability

ESCO acknowledges that Customer is a government entity that enjoys limited immunity and other protections under state law from tort claims. As a result, any language in the Contract that provides for indemnification by Customer, including but not limited to Section 5.17, shall be enforceable only to the extent permitted by law and shall be limited to the extent of available proceeds under the insurance policies actually maintained by Customer. Further, no indemnification by Customer under the Contract shall be deemed or construed to operate

in practical effect to waive any statutory immunity or statutory limitation of liability of Customer from claims of any third party, or to impose any further or additional liability to ESCO, that Customer is or would be subject to in a direct claim by such third party.

This Agreement shall be governed and construed in accordance with the law of the State of New Hampshire and any action in law or in equity concerning any dispute arising out of this Agreement, the obligations performed or to be performed thereunder, or in any way referable thereto shall be brought in the New Hampshire Superior Court for the Southern Judicial District of Hillsborough County or in the New Hampshire 9th Circuit Court situated in Nashua, New Hampshire and not elsewhere."

10. Contract Signatures

IN WITNESS THEREOF, the parties have each caused this Contract to be executed in counterparts on the dates set forth below (the last of which shall be considered the date of execution hereof) by their duly authorized representatives.

Company:	**Nashua School District**	**Company:**	**Energy Efficient Investments inc.**
Name:	_____	**Name:**	**Paul Murphy**
By:	_____	**By:**	_____
Title:	_____	**Title:**	**Director**
Date:	_____	**Date:**	_____

Attachment 1 - Final Investment Grade Audit

ENE/EEI

ENE Systems, Inc./Energy Efficient Investments, Inc. Investment Grade Audit

FOR:

Nashua School District

Prepared by:

Michael Davey, CEM

Date: December 05, 2019

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Executive Summary

EEI is located in Merrimack, NH, and has a proven track record of designing and implementing energy improvements to mechanical systems, building controls systems, insulation, and renewable systems. EEI is also an approved energy management contractor with, Eversource, Liberty Utilities, and Unitil in New Hampshire.

EEI has developed a plan which could reduce annual energy expenditures in the district by more than $466,719.70

EEI in its role as Energy Service Company (ESCO) has agreed to develop an energy project targeting energy savings at the locations identified below:

Building	Location
Nashua North High School	8 Titan Way, Nashua, NH 03063
Nashua South High School	36 Riverside St. Nashua, NH 03062

The development of every energy project starts with the initial energy assessment which includes a site visit and the collection of utility and operational costs for each location. The Preliminary IGA entailed defining measures, budgetary costs, and estimated savings values by measure for each building. This Investment Grade Audit document finalizes these findings and the costs associated with them.

EEI has prepared bid packages for each measure through the solicitation of competitive bids from respected local contractors. These bids were tallied, and the contractor cost has replaced the budgetary cost established in the Preliminary Investment Grade Audit. The Final Investment Grade Audit will be presented to the Nashua School District for acceptance as part of the Energy Performance Contract.

ECM Matrix

ECM #	ECM Matrix		Cost for Installed Measure $	Energy Savings $	Potential Rebates	Annual Electric Savings (kWh)	Annual Natural Gas Savings (Therm)	CO2 Emmisions Reduction (Tons)	Simple Payback
	Nashua North High School								
NNHS1	LED Lighting		$1,294,417.00	$126,906.00	$292,500.00	819,236	0	579	7.97
NNHS2	Controls Upgrade		$1,077,300.00	$13,500.00	$27,000.00	54,634	2,373	51	99.38
NNHS3	Weatherization		$50,000.00	$3,000.00	$20,000.00	338	5,112	27	5.81
NNHS4	Transformers		$577,371.00	$67,243.00	$22,000.00	445,317	0	315	8.26
NNHS5	Retro Commissioning		$262,080.00	$10,000.00	$35,000.00	39,487	4,254	50	22.31
NNHS6	Mini Splits		$119,700.00	$2,500.00	$ -	14,639	0	10	54.51
NNHS7	Condensing Hot Water		$165,000.00	$2,500.00	$4,000.00	1,405	4,802	26	33.53
NNHS8	Targeted Balancing		$75,000.00	$ -	$ -	0	0	0	N/A
NNHS9	Kitchen Hood		$35,000.00	$3,500.00	$5,000.00	18,077	4,763	38	4.01
NNHS10	Walk In Coolers		$35,000.00	$3,500.00	$5,000.00	16,777	0	12	11.92
	Total NNHS		**$3,690,868.00**	**$232,649.00**	**$410,500.00**	**1,409,911**	**21,304**	**1,110**	**14.10**
	Nashua South High School								
NSHS1	LED Lighting		$1,438,242.00	$139,011.23	$325,000.00	958,698	0	678	8.01
NSHS2	Controls Upgrade		$1,197,000.00	$10,568.33	$30,000.00	54,634	2,373	51	110.42
NSHS3	Weatherization		$50,000.00	$5,162.28	$20,000.00	338	5,112	27	5.81
NSHS4	Transformers		$430,920.00	$55,027.20	$20,000.00	477,275	0	337	8.86
NSHS5	Retro Commissioning		$262,080.00	$10,000.00	$35,000.00	37,251	4,248	49	23.09
NSHS6	Mini Splits		$119,700.00	$2,500.00	$0.00	10,401	0	7	76.72
NSHS7	Condensing Hot Water		$165,000.00	$4,801.67	$4,000.00	1,405	4,802	26	33.53
NSHS8	Targeted Balancing		$75,000.00	$ -	$0.00	0	0	0	N/A
NSHS9	Kitchen Hood		$35,000.00	$3,500.00	$5,000.00	6,168	2,126	16	9.83
NSHS10	Walk In Coolers		$35,000.00	$3,500.00	$5,000.00	24,700	0	17	8.10
	Total NSHS		**$3,807,942.00**	**$234,070.70**	**$444,000.00**	**1,570,870**	**18,660**	**1,210**	**14.37**
	Total		**$7,498,810.00**	**$466,719.70**	**$854,500.00**	**2,980,781**	**39,964**	**2,319**	**14.24**

ENE Systems, Inc. / Energy Efficient Investments, Inc.
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Utility Analysis

The utility bills were analyzed to better understand the energy use of each building. Each building utilizes natural gas provided by Liberty Utilities for HVAC heating, domestic hot water heating, and cooking. The electricity is provided by Eversource. The utility data was analyzed over a three year period, 2016-2018, and shows an average Energy Use Index (EUI) of 65 at the Nashua North High school, and 62 at the Nashua South High School. The EUI is used to compare energy consumption per square foot of building space. According to the U.S. Department of Energy, the average EUI for a K-12 Facility is 48.5. This means that both schools use approximately 35% more energy than the average K-12 facility. Given this information, we believe there are energy saving opportunities at each school. See the table below summarizing the annual energy consumption data.

Building Summary Information		
Project Name:	Nashua North & Nashua South High Schools	
Annual Utility Data		
Average Use 2016-2018		
Nashua North H.S.	Nat Gas (therms)	141,816
	Elec (kWh)	3,948,662
Nashua South H.S.	Nat Gas (therms)	141,589
	Elec (kWh)	3,725,082
Contract Utility Rates		
Natural Gas	Therm Rate	$1.00
Electricity	Electric Rate	$0.15
Nashua, NH	Balance Point (65°)	
	HDD	6071
	CDD	1050

ENE Systems, Inc. / Energy Efficient Investments, Inc.
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Economic Analysis

Making good economic decisions requires analysis of available information and understanding the monetary value of time. A Discounted Life Cycle Cost Analysis (DLCCA) is very useful for this type of analysis when multiple alternatives exist. This is the Federal Energy Management Program (FEMP) approved method of analysis and is used to aid in decisions that are based on the most favorable economic outcome. The Nashua School District can see the estimated time it will take for this energy project to payback shown on the ECM Matrix on page 3.

The key assumptions EEI used in our Economic Analysis include the baseline gas and kWh use which are the average fiscal year totals from 2016 - 2018. Building interior lighting fixtures were assumed to run 2,000 hours per year, this is based on observation and interviews with staff. Exterior fixtures were assumed to run 4,380 hours per year. Additionally, the estimated energy savings calculations are dependent upon the building HVAC controls being controlled to a defined set of temperatures. These standards of comfort can be seen below.

EEI, Inc.

Nashua School District

Building	Occupied Setpoint °F Heating	Unoccupied Setpoint °F Heating	Occupied Setpoint °F Cooling	Unoccupied Setpoint °F Cooling
Nashua High School North				
Classrooms	68	60	72	80
Media Center	68	60	72	80
Cafeteria/Kitchen	68	60	72	80
Auditorium	68	60	72	80
Offices	68	60	72	80
Gym	68	60	72	80
Library	68	60	72	80
Hallways	68	60	72	80
Nashua High School South				
Classrooms	68	60	72	80
Media Center	68	60	72	80
Cafeteria/Kitchen	68	60	72	80
Auditorium	68	60	72	80
Offices	68	60	72	80
Gym	68	60	72	80
Library	68	60	72	80
Hallways	68	60	72	80

Notes:

1. All setpoints and times are suggested. Actual values to be determined after discussions with Nashua School District.

2. EEI will program a General Building Override button. This will allow the building operator to override the building schedule for non-scheduled events (such as snow days)

Energy Conservation Measures

In this section of the document we will define the Energy Conservation Measures we have evaluated for this project. Then we will define the measures on a building by building basis. Careful consideration was given to each measure and its interaction with the overall building performance.

General ECM Descriptions

Nashua North High School

ECM 1 – LED Lighting

The schools currently utilize a combination of T8 and T5 fluorescent lighting. EEI proposes replacing the existing fixtures with new LED lighting. EEI performed a detailed survey of the interior and exterior spaces in order to identify opportunities in which we can improve lighting quality, reduce maintenance costs, and save energy.

The existing lighting demand (kW) per fixture, hours of operation, fixture quantities, and recommended retrofits are based on the physical inspection and site visits conducted by EEI in 2019. As a result of the survey and analysis, EEI has developed a high efficiency lighting upgrade project that will provide the schools listed with new LED fixtures with controls, resulting in guaranteed annual energy savings and a reduction in electrical demand.

LED type lighting provides significant illumination, has longer life expectancy, increased savings in electric consumption, and provides dimming capabilities. Also, standardizing all fixtures will reduce future maintenance requirements.

LED fixtures in a school environment have an estimated life of more than 20 years. There is significant maintenance savings when LED fixtures are used due to their longer lifespan.

All light energy eventually converts to heat. The conversion to higher efficiency LED fixtures will reduce the building's lighting energy intensity (kW/sq.ft), therefore impacting the HVAC heating and cooling loads. Converting to LED lighting will eliminate 2,799 mmBTU waste heat annually. The reduction in lighting waste heat will increase the HVAC load during heating season, approximately 11,983 therms annually. Conversely, the HVAC load will decrease in the cooling season, approximately 55,925 kWh annually. The net HVAC utility impact is an increase in cost of approximately $3,594. This increase in cost has been subtracted from the energy savings for the ECM. Please see below for the formulas used to calculate the net savings affect.

HVAC Heating Load Increase = (Net Annual Interior LED Lighting kWh Savings * Btu Conversion Factor * Therm Conversion Factor* % of Time HVAC System is Heating * Utility Rate per Therm) / (Heating System Efficiency)

HVAC Cooling Load Decrease = Net Annual Interior LED Lighting kWh Savings * Btu Conversion Factor * Cooling Tons Conversion Factor * % of Time HVAC System is Cooling * Cooling System Efficiency * Utility Rate per kWh

Assumptions:

- Net Annual Interior LED Lighting kWh Savings = 820,956 kWh
- % of time HVAC System is Heating = 3000 hours / 8760 hours = 35%
- % of time HVAC System is Cooling = 3000 hours / 8760 hours = 35%
- Heating System Efficiency = 80%
- Cooling System Efficiency = .7 kW/ton
- Utility Rate per Therm = $1.00/therm
- Utility Rate per kWh = $.15/kWh

Scope of Work:
Install (2,953) LED 2x4 and 2x4 retrofit fixtures with Spacewise control and wireless dimming capability
Install (271) LED high bay fixtures with Spacewise control and wireless dimming capability
Install (461) LED recessed can fixtures
Install (2,310) LED tubes and (1,350) LED drivers
Install (139) LED lamps
Install (180) LED round decorative fixtures

ECM 2 – Controls Upgrade

EEI proposes installing a complete DDC system as an extension of the existing N4 Enterprise Supervisor.

Scope of work:

- Demo the existing VAV controllers, keeping the existing communication wiring operational for the existing controllers.
- New BACnet IP DDC controllers, new space sensors with CO2, and new discharge air sensors. Reuse existing control valves. Provide programming to reduce minimum airflow when space temperature and CO2 levels are satisfied.
- Assistance in displaying building analytics software. Review analytics reports with the team and retro-commission systems to remedy problem zones. Repeat this monthly to fine tune the building HVAC systems.
- Assistance to the balancing contractor to calibrate VAVs, airflow stations, and AHUs.
- Network controller hardware and software updates as needed.

ECM 3 – Weatherization

EEI completed a detailed building audit. Suspected air leakage locations were verified and opportunities to improve building performance and save energy were found. Air leakage is caused by pressure differences subject to variations in wind velocity and HVAC systems. In order to control heating and cooling loads, and allow the mechanical systems to operate effectively, pressure differences from the outdoor environment to the indoor building spaces must be controlled. The best way to do this is by tightening the building envelope through insulating and air sealing. This will extend the life cycle of the building by protecting it from the elements and minimizing moisture carried by air which penetrates the building. Also, insulation and air sealing increases thermal performance of the building and the comfort, health and safety of the building occupants.

Scope of work:

Inspect exterior doors for deficiencies to the weather stripping and door sweeps. Install new weather stripping and door sweeps as needed.

ECM 4 – Transformers

EEI evaluated the electrical systems of the s chool buildings and determined that the existing transformers at Nashua North High School are standard efficiency models that are not designed to handle the loads of modern facilities. The most common efficiency for commercial and industrial transformers supplying linear loads in the 30-150 kVA range is 95%, as compared to 98% for a high efficiency model. Further, conventional transformer losses, which are non-linear, increase by 2.7 times when feeding computer loads.

EEI recommends the replacement of existing inefficient transformers in order to improve the energy efficiency of the electrical distribution systems through the replacement of the transformers with new high efficiency units. The scope of work for this measure would include upgrading:

32 Transformers

(5) 15 kVA
(4) 30 kVA
(2) 45 kVA
(1) 75 kVA
(6) 112.5 kVA
(1) 145 kVA
(1) 150 kVA
(1) 175 kVA
(3) 220 kVA
(4) 225 kVA
(2) 300 kVA
(2) 500 kVA

ECM 5 – Retro Commissioning

This is an allowance for an engineering and maintenance team to install, repair, and replace any damaged existing to remain equipment. Existing AHUs will include software revisions to reduce energy consumption. Includes 5 years of analytics reports.

ECM 6 – Mini Splits

EEI proposes removing the (19) existing Mitsubishi ductless splits.

Furnish and install (19) new Mitsubishi condensing units of the same capacity of the existing system. Counts are as follows: (7) 1-ton ceiling cassette systems, (3) 1.5-ton ceiling cassette systems, (1) 2-ton ceiling cassette system. (1) 1-ton wall mounted system, (6) 1.5-ton wall systems, (1) 2-ton wall mounted system. New units will be furnished with wind baffles for low ambient cooling and new wall mounted thermostats.

ECM 7 – Condensing Hot Water

The current water heating units are standard efficiency. This measure would be to replace the current system with high efficiency condensing Lochinvar units Armor Floor Mounted units with 98% efficiency. The units have a 5:1 turndown with stainless steel heat exchanger. Scope to include new ASME storage tanks, expansion tanks, and circulation pumps.

ECM 8 – Targeted Balancing

EEI proposes targeted balancing of the existing ventilation systems. When ventilation units are over-ventilating it causes unnecessary conditioning of outside air. This measure would include checking the air flow at the diffusers to ensure that it meets current code required flow.

ECM 9 – Kitchen Hood

The existing kitchen exhaust system has a basic on/off operation. This results in the system operating during times when it doesn't need to be operating and conditioned air is exhausted. This measure is for installing a Captive Aire unit with VFD drives on make-up air and exhaust fans. A temperature sensor will be installed in the duct work and control operation based on the temperature inside the duct.

ECM 10 – Walk In Coolers

EEI recommends refrigeration controllers on walk-in coolers and freezers as well as installing electronically commutated (EC) motors on evaporator fans. A controller can start/stop the evaporator fans when operation is unnecessary. The EC motors are 30% more efficient than the standard two-pole motors. Energy savings will be realized by reducing the runtime of the compressors and evaporator fans in addition to the reduction in power load of the new fans. Each walk-in cooler or freezer will have a new EC fan motor and blade installed as well as a dedicated controller. In addition, controllers will be installed on the freezer to optimize the operation of the electric defroster and door heater. The controller unit senses when refrigerant has ceased flowing through the evaporator coil and controls the fan motors. Door and frame heaters are controlled based on dew point, reducing their run time by 95% in coolers and 60% in freezers. The controllers will reduce compressor and evaporator runtime by up to 10%.

Calculations
Energy savings will result from both reducing the fan power and the efficient control of the evaporator fans and door heaters. In general, EEI uses the following approach to determine savings for this specific measure:

Cost of Existing Equipment = Existing kW x Cost per kWh x Existing Effective Full Load Hours

Cost of Proposed Equipment Energy Savings = Existing kW x Cost per kWh x Full Load Hours Using Control

Savings = Existing Equipment Costs- Proposed Equipment Costs

Nashua South High School

ECM 1 – LED Lighting

The schools currently utilize a combination of T8 and T5 fluorescent lighting. EEI proposes replacing the existing fixtures with new LED lighting. EEI performed a detailed survey of the interior and exterior spaces in order to identify opportunities in which we can improve lighting quality, reduce maintenance costs, and save energy.

The existing lighting demand (kW) per fixture, hours of operation, fixture quantities, and recommended retrofits are based on the physical inspection and site visits conducted by EEI in 2019. As a result of the survey and analysis, EEI has developed a high efficiency lighting upgrade project that will provide the schools listed with new LED fixtures with controls, resulting in guaranteed annual energy savings and a reduction in electrical demand.

LED type lighting provides significant illumination, has longer life expectancy, increased savings in electric consumption, and provides dimming capabilities. Also, standardizing all fixtures will reduce future maintenance requirements.

LED fixtures in a school environment have an estimated life of more than 20 years. There is significant maintenance savings when LED fixtures are used due to their longer lifespan.

All light energy eventually converts to heat. The conversion to LED fixtures will reduce the building's lighting energy intensity (kW/sq.ft), therefore impacting the HVAC heating and cooling loads. Converting to LED lighting will eliminate 2,795 mmBTU waste heat annually. The reduction in lighting waste heat will increase the HVAC load during heating season, approximately 11,967 therms annually. Conversely, the HVAC load will decrease in the cooling season, approximately 55,849 kWh annually. The net HVAC utility impact is an increase in cost of approximately $3,589. This increase in cost has been subtracted from the energy savings for the ECM. Please see below for the formulas used to calculate the net savings affect.

HVAC Heating Load Increase = (Net Annual Interior LED Lighting kWh Savings * Btu Conversion Factor * Therm Conversion Factor* % of Time HVAC System is Heating * Utility Rate per Therm) / (Heating System Efficiency)

HVAC Cooling Load Decrease = Net Annual Interior LED Lighting kWh Savings * Btu Conversion Factor * Cooling Tons Conversion Factor * % of Time HVAC System is Cooling * Cooling System Efficiency * Utility Rate per kWh

Assumptions:

- Net Annual Interior LED Lighting kWh Savings = 819,850 kWh
- % of time HVAC System is Heating = 3000 hours / 8760 hours = 35%
- % of time HVAC System is Cooling = 3000 hours / 8760 hours = 35%
- Heating System Efficiency = 80%
- Cooling System Efficiency = .7 kW/ton
- Utility Rate per Therm = $1.00/therm
- Utility Rate per kWh = $.15/kWh

Scope of Work:
Install (3,860) LED 2x4 and 2x4 retrofit fixtures with Spacewise control and wireless dimming capability
Install (260) LED high bay fixtures with Spacewise control and wireless dimming capability
Install (642) LED recessed can fixtures
Install (2,947) LED tubes and (1,644) LED drivers
Install (193) LED lamps
Install (47) LED round decorative fixtures

ECM 2 – Controls Upgrade

EEI proposes installing a complete DDC system as an extension of the existing N4 Enterprise Supervisor.

Scope of work:

- Demo the existing VAV controllers, keeping the existing communication wiring operational for the existing controllers.
- New BACnet IP DDC controllers, new space sensors with CO2, and new discharge air sensors. Reuse existing control valves. Provide programming to reduce minimum airflow when space temperature and CO2 levels are satisfied.
- Assistance in displaying building analytics software. Review analytics reports with the team and retro-commission systems to remedy problem zones. Repeat this monthly to fine tune the building HVAC systems.
- Assistance to the balancing contractor to calibrate VAVs, airflow stations, and AHUs.
- Network controller hardware and software updates as needed.

ECM 3 – Weatherization

EEI completed a detailed building audit. Suspected air leakage locations were verified and opportunities to improve building performance and save energy were found. Air leakage is caused by pressure differences subject to variations in wind velocity and HVAC systems. In order to control heating and cooling loads, and allow the mechanical systems to operate effectively, pressure differences from the outdoor environment to the indoor building spaces must be controlled. The best way to do this is by tightening the building envelope through insulating and air sealing. This will extend the life cycle of the building by protecting it from the elements and minimizing moisture carried by air which penetrates the building. Also, insulation and air sealing increases thermal performance of the building and the comfort, health and safety of the building occupants.

Scope of work:

Inspect exterior doors for deficiencies to the weather stripping and door sweeps. Install new weather stripping and door sweeps as needed.

ECM 4 – Transformers

EEI evaluated the electrical systems of the s chool buildings and determined that the existing transformers at Nashua South High School are standard efficiency models that are not designed to handle the loads of modern facilities. The most common efficiency

for commercial and industrial transformers supplying linear loads in the 30-150 kVA range is 95%, as compared to 98% for a high efficiency model. Further, conventional transformer losses, which are non-linear, increase by 2.7 times when feeding computer loads.

EEI recommends the replacement of existing inefficient transformers in order to improve the energy efficiency of the electrical distribution systems through the replacement of the transformers with new high efficiency units. The scope of work for this measure would include:

30 Transformers

(6) 15 kVA
(2) 45 kVA
(2) 75 kVA
(8) 112.5 kVA
(3) 150 kVA
(5) 220 kVA
(1) 225 kVA
(2) 300 kVA
(1) 400 kVA

ECM 5 – Retro Commissioning

This is an allowance for an engineering and maintenance team to install, repair, and replace any damaged existing to remain equipment. Existing AHUs will include software revisions to reduce energy consumption. Includes 5 years of analytics reports.

ECM 6 – Mini Splits

EEI proposes removing the (16) existing Mitsubishi ductless splits.

Furnish and install (16) new Mitsubishi condensing units of the same capacity of the existing system. Counts are as follows: (4) 1-ton ceiling cassette systems, (7) 1.5-ton ceiling cassette systems, (1) 2-ton ceiling Cassette system, (1) 1 ton wall mounted system, (2) 1.5 ton wall systems, (1) 3.5 ton under ceiling system. New units will be furnished with wind baffles for low ambient cooling and new wall mounted thermostats

Furnish and install (1) York cooling only system, 3.5-ton cooling

ECM 7 – Condensing Hot Water

The current water heating units are standard efficiency. This measure would be to replace the current system with high efficiency condensing Lochinvar units Armor Floor Mounted units with 98% efficiency. The units have a 5:1 turndown with stainless steel heat exchanger. Scope to include new ASME storage tanks, expansion tanks, and circulation pumps.

ECM 8 – Targeted Balancing

EEI proposes targeted balancing of the existing ventilation systems. When ventilation units are over-ventilating it causes unnecessary conditioning of outside air. This

measure would include checking the air flow at the diffusers to ensure that it meets current code required flow.

ECM 9- Kitchen Hood

The existing kitchen exhaust system has a basic on/off operation. This results in the system operating during times when it doesn't need to be operating and conditioned air is exhausted. This measure is for installing a Captive Aire unit with VFD drives on make-up air and exhaust fans. A temperature sensor will be installed in the duct work and control operation based on the temperature inside the duct.

ECM 10- Walk In Coolers

EEI recommends refrigeration controllers on walk-in coolers and freezers as well as installing electronically commutated (EC) motors on evaporator fans. A controller can start/stop the evaporator fans when operation is unnecessary. The EC motors are 30% more efficient than the standard two-pole motors. Energy savings will be realized by reducing the runtime of the compressors and evaporator fans in addition to the reduction in power load of the new fans. Each walk-in cooler or freezer will have a new EC fan motor and blade installed as well as a dedicated controller. In addition, controllers will be installed on the freezer to optimize the operation of the electric defroster and door heater. The controller unit senses when refrigerant has ceased flowing through the evaporator coil and controls the fan motors. Door and frame heaters are controlled based on dew point, reducing their run time by 95% in coolers and 60% in freezers. The controllers will reduce compressor and evaporator runtime by up to 10%.

Calculations
Energy savings will result from both reducing the fan power and the efficient control of the evaporator fans and door heaters. In general, EEI uses the following approach to determine savings for this specific measure:

Cost of Existing Equipment = Existing kW x Cost per kWh x Existing Effective Full Load Hours

Cost of Proposed Equipment Energy Savings = Existing kW x Cost per kWh x Full Load Hours Using Control

Savings = Existing Equipment Costs- Proposed Equipment Costs

Attachment 2 - Maintenance and Service Agreements

To ensure the guarantee School District must maintain equipment as required by Operational and Maintenance Manuals / Manufacturer Recommendations of all equipment provided under this contract.

For the measures that are guaranteed under IMPVP Option C, we have a reporting and continuous monitoring process that involves the District's current EMS System. EEI has integrated our Analytics Software with the current EMS from which we extract monthly data from the system for analysis. This information is used to monitor system use and for the M&V of the Option C Measures. It is vitally important to this process that the EMS be maintained and kept in proper working order at all times. Changes to the EMS software may require updates and modifications to our M&V Process. Changes to the EMS may adversely impact energy and operational savings.

The form below is EEI's M&V Continuing Services Agreement that starts at the conclusion of the Warranty Period. First year M&V Service is covered under the contract concurrent with the 1 year warranty.

Also included in this contract are years 2 through 5 M&V Continuing Services as identified in the Contract Schedule of Values defined below. This M&V Continuing Services agreement is a separate and distinct contract from any service contract the District may have with the EMS Vendor or other service providers. During the course of monitoring the systems if repairs and or replacement of system components are identified the cost for those repairs will be extra to this agreement.

To extend the M&V Continuing Service Contract beyond that established in this agreement (past 5 years) the District must sign the attached M&V Continuing Service Contract and return to EEI prior to the expiration of the limit the cost included in the construction project.

Form Contract – M&V Continuing Services Agreement

Attachment 3 - Project Cost

ECM #	ECM Matrix		Cost for Installed Measure $	Energy Savings $	Potential Rebates	Annual Electric Savings (kWh)	Annual Natural Gas Savings (Therm)	CO2 Emmisions Reduction (Tons)	Simple Payback
	Nashua North High School								
NNHS1	LED Lighting		$1,294,417.00	$126,906.00	$292,500.00	819,236	0	579	7.97
NNHS2	Controls Upgrade		$1,077,300.00	$13,500.00	$27,000.00	54,634	2,373	51	99.38
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NNHS4	Transformers		$577,371.00	$67,243.00	$22,000.00	445,317	0	315	8.26
NNHS5	Retro Commissioning		$262,080.00	$10,000.00	$35,000.00	39,487	4,254	50	22.31
NNHS6	Mini Splits		$119,700.00	$2,500.00	$ -	14,639	0	10	54.51
NNHS7	Condensing Hot Water		$165,000.00	$2,500.00	$4,000.00	1,405	4,802	26	33.53
NNHS8	Targeted Balancing		$75,000.00	$ -	$ -	0	0	0	N/A
NNHS9	Kitchen Hood		$35,000.00	$3,500.00	$5,000.00	18,077	4,763	38	4.01
NNHS10	Walk In Coolers		$35,000.00	$3,500.00	$5,000.00	16,777	0	12	11.92
	Total NNHS		**$3,690,868.00**	**$232,649.00**	**$410,500.00**	**1,409,911**	**21,304**	**1,110**	**14.10**
	Nashua South High School								
NSHS1	LED Lighting		$1,438,242.00	$139,011.23	$325,000.00	958,698	0	678	8.01
NSHS2	Controls Upgrade		$1,197,000.00	$10,568.33	$30,000.00	54,634	2,373	51	110.42
NSHS3	Weatherization		$50,000.00	$5,162.28	$20,000.00	338	5,112	27	5.81
NSHS4	Transformers		$430,920.00	$55,027.20	$20,000.00	477,275	0	337	8.86
NSHS5	Retro Commissioning		$262,080.00	$10,000.00	$35,000.00	37,251	4,248	49	23.09
NSHS6	Mini Splits		$119,700.00	$2,500.00	$0.00	10,401	0	7	76.72
NSHS7	Condensing Hot Water		$165,000.00	$4,801.67	$4,000.00	1,405	4,802	26	33.53
NSHS8	Targeted Balancing		$75,000.00	$ -	$0.00	0	0	0	N/A
NSHS9	Kitchen Hood		$35,000.00	$3,500.00	$5,000.00	6,168	2,126	16	9.83
NSHS10	Walk In Coolers		$35,000.00	$3,500.00	$5,000.00	24,700	0	17	8.10
	Total NSHS		**$3,807,942.00**	**$234,070.70**	**$444,000.00**	**1,570,870**	**18,660**	**1,210**	**14.37**
	Total		**$7,498,810.00**	**$466,719.70**	**$854,500.00**	**2,980,781**	**39,964**	**2,319**	**14.24**

Page 1

Attachment 4 - Measurement and Verification Plan

Energy Efficient Investments, Inc.

Measurement and Verification
Annual Report
Period: 2016-2018 Baseline

For:

Nashua, NH School District

Prepared by:
EEI, Inc.
Energy Advisors Group
Steve Tarantino, LEED AP O+M, EIT

Prepared on:
01/27/20

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Introduction

This Measurement and Verification Plan has been prepared as a guide in determining the energy savings as a result of the installed Energy Conservation Measures. In this document, EEI will show the baseline calculations used to determine cost savings and how we can evaluate the installed measures to ensure the Savings Guarantee is being satisfied.

EEI utilized the International Performance Measurement & Verification Protocol, 2002 Revision as a technical reference for this document. In the Savings Measurement & Calculation section of this document, EEI has prepared a spreadsheet that will be used to calculate and document savings throughout the guarantee period. The M&V Options to be used are outlined in the Project Overview section of this document.

EEI will submit a Measurement & Verification Report to the customer twice annually throughout the guarantee period.

IPMVP Approved M&V Options

M&V Option	Performance[1] and Usage[2] Factors	Savings Calculation
Option A— Retrofit Isolation with Key Parameter Measurement	This option is based on a combination of measured and estimated factors when variations in factors are not expected. Measurements are spot or short-term and are taken at the component or system level, both in the baseline and post-installation cases. Measurements should include the key performance parameter(s) which define the energy use of the ECM. Estimated factors are supported by historical or manufacturer's data. Savings are determined by means of engineering calculations of baseline and post-installation energy use based on measured and estimated values.	Direct measurements and estimated values, engineering calculations and/or component or system models often developed through regression analysis Adjustments to models are not typically required.
Option B— Retrofit Isolation with All Parameter Measurement	This option is based on periodic or continuous measurements of energy use taken at the component or system level when variations in factors are expected. Energy or proxies of energy use are measured continuously. Periodic spot or short-term measurements may suffice when variations in factors are not expected. Savings are determined from analysis of baseline and reporting period energy use or proxies of energy use.	Direct measurements, engineering calculations, and/or component or system models often developed through regression analysis Adjustments to models may be required.
Option C – Utility Data Analysis of Whole Building	This option is based on long-term, continuous, whole-building utility meter, facility level, or sub-meter energy (or water) data. Savings are determined from analysis of baseline and reporting period energy data. Typically, regression analysis is conducted to correlate with and adjust energy use to independent variables such as weather, but simple comparisons may also be used.	Based on regression analysis of utility meter data to account for factors that drive energy use Adjustments to models are typically required.
Option D— Calibrated Computer Simulation	Computer simulation software is used to model energy performance of a whole-facility (or sub-facility). Implementation of simulation modeling requires engineering expertise. Inputs to the model include facility characteristics; performance specifications of new and existing equipment or systems; engineering estimates, spot-, short-term, or long-term measurements of system components; and long-term whole-building utility meter data. After the model has been calibrated, savings are determined by comparing a simulation of the baseline with either a simulation of the performance period or actual utility data.	Based on computer simulation model (such as eQUEST or HAP) calibrated with whole-building or end-use metered data or both. Adjustments to models are required.

[1] Performance factors indicate equipment or system performance characteristics, such as kW/ton for a chiller or watts/fixture for lighting.
[2] Operating factors indicate equipment or system operating characteristics such as annual cooling ton-hours for chillers or operating hours for lighting.

Project Overview

1. PROJECT SUMMARY

The goal of this project is to achieve energy savings through upgrades to the buildings' electrical, plumbing, mechanical, and building envelope. This project will result in improved building performance, thereby reducing energy and maintenance costs.

School	Address	SF
Nashua North High School	8 Titan Way	420,000
Nashua South High School	36 Riverside St.	430,000

2. M&V OPTION SUMMARY

ECM: Nashua North High School	M&V Option Used
1. LED Lighting	Option A
2. Controls Upgrade	Option C
3. Weatherization	Option C
4. Transformers	Option B
5. Retro-Commissioning	Option C
6. Mini Splits	Option B
7. Condensing Hot Water	Option A
8. Targeted Balancing	Option A
9. Kitchen Hood	Option B
10. Walk In Coolers	Option B

ECM: Nashua South High School	M&V Option Used
1. LED Lighting	Option A
2. Controls Upgrade	Option C
3. Weatherization	Option C
4. Transformers	Option B
5. Retro-Commissioning	Option C
6. Mini Splits	Option B
7. Condensing Hot Water	Option A
8. Targeted Balancing	Option A
9. Kitchen Hood	Option B
10. Walk In Coolers	Option B

In this section of the document we will define the Energy Conservation Measures we have evaluated for this project and how each M&V option will be implemented. Careful consideration was given to each measure and its interaction with the overall building performance.

We have standard categories that we use for defining measures, from the standard categories we then apply specifics to each building and measure. General ECMs typically do not help Customers and Consultants determine which measures should be implemented. This is why we attempt to be as specific as possible. With the specificity, we are better able to estimate the implementation cost of the measure.

Nashua North High School

ECM 1 – LED Lighting

The schools currently utilize a combination of T8 and T5 fluorescent lighting. EEI proposes replacing the existing fixtures with new LED lighting. EEI performed a detailed survey of the interior and exterior spaces in order to identify opportunities in which we can improve lighting quality, reduce maintenance costs, and save energy.

The existing lighting demand (kW) per fixture, hours of operation, fixture quantities, and recommended retrofits are based on the physical inspection and site visits conducted by EEI in 2018. As a result of the survey and analysis, EEI has developed a high efficiency lighting upgrade project that will provide the schools listed with new LED fixtures with controls, resulting in guaranteed annual energy savings and a reduction in electrical demand.

LED type lighting provides significant illumination, has longer life expectancy, increased savings in electric consumption, and provides dimming capabilities. Also, by standardizing all fixtures will reduce future maintenance requirements.

LED fixtures in a school environment have an estimated life of more than 20 years. There is significant maintenance savings when LED fixtures are used due to their longer lifespan.

All light energy eventually converts to heat. The conversion to higher efficiency LED fixtures will reduce the building's lighting energy intensity (kW/sq.ft), therefore impacting the HVAC heating and cooling loads. Converting to LED lighting will eliminate 2,963 mmBTU waste heat annually. The reduction in lighting waste heat will increase the HVAC load during heating season, approximately 12,685 therms annually. Conversely, the HVAC load will decrease in the cooling system, approximately 59,198 kWh annually. The net HVAC utility impact is an increase in cost of approximately $3,805. This increase in cost has been subtracted from the energy savings for the ECM.

The following fixture types are to be installed:

Install (2,953) LED 2x4 and 2x4 retrofit fixtures with Spacewise control and wireless dimming capability

Install (271) LED high bay fixtures with Spacewise control and wireless dimming capability

Install (461) LED recessed can fixtures

Install (2,310) LED tubes and (1,350) LED drivers

Install (139) LED lamps

Install (180) LED round decorative fixtures

IPMVP Option A, Retrofit Isolation with Key Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the fixture input wattage. EEI will use current transducers to measure a 20% sample of the fixture input wattage before and after ECM implementation.

ECM 2 – Controls Upgrade

EEI proposes installing a complete DDC system as an extension of the existing N4 Enterprise Supervisor.

Scope of work:

Demo the existing VAV controllers, keeping the existing communication wiring operational for the existing controllers. Install new BACnet IP DDC controllers, new space sensors, and new discharge air sensors. Install network controller hardware and software updates as needed.

IPMVP Option C, Utility Data Analysis of Whole Building, has been chosen for this ECM. This option has been chosen because the wide ranging effects of a controls system on building energy performance does not lend itself to isolation measurement. EEI has established the building baseline energy usage using utility data, see "Baseline Development and Performance Period" section. The building energy usage will continue to be recorded after the ECM implementation and compared to the baseline to determine savings. The savings guarantee is contingent on several building operations factors described in the Conditional Savings Guarantee section later in this report.

ECM 3 – Weatherization

EEI completed a detailed building audit and verified suspected air leakage locations and found opportunity to improve building performance and save energy. Air leakage is caused by pressure differences subject to variations in wind velocity and HVAC systems. In order to control heating and cooling loads, and allow the mechanical systems to operate effectively, pressure differences from the outdoor environment to the indoor building spaces must be controlled. The best way to do this is by tightening the building envelope through insulating and air sealing. This will extend the life cycle of the building by protecting it from the elements and minimizing moisture carried by air which penetrates the building. Also, insulation and air sealing increases thermal performance of the building and the comfort, health and safety of the building occupants.

Scope of work:

Inspect exterior doors for deficiencies to the weather stripping and door sweeps. Install new weather stripping and door sweeps as needed.

IPMVP Option C, Utility Data Analysis of Whole Building, has been chosen for this ECM. This option has been chosen because the wide ranging effects of weatherization on building energy performance does not lend itself to isolation measurement. EEI has established the building baseline energy usage using utility data, see "Baseline Development and Performance Period" section. The building energy usage will continue to be recorded after the ECM implementation and compared to the baseline to determine savings. The savings guarantee is contingent on several building operations factors described in the Conditional Savings Guarantee section later in this report.

ECM 4 – Transformers

EEI evaluated the electrical systems of the s chool buildings and determined that the existing transformers at Nashua North High School are standard efficiency models and are not designed to handle the loads of modern facilities. The most common efficiency for commercial and industrial transformers supplying linear loads in the 30-150 kVA range is 95%, as compared to 98% for a high efficiency model. Further, conventional transformer losses, which are non-linear, increase by 2.7 times when feeding computer loads. Also, if transformers are not properly vented to the exterior, their heat output adds to the building cooling load.

EEI recommends the replacement of existing inefficient transformers in order to improve the energy efficiency of the electrical distribution systems through the replacement of the transformers with new high efficiency units. The scope of work for this measure would include upgrading:

32 Transformers

(5) 15 kVA

(4) 30 kVA

(2) 45 kVA

(1) 75 kVA

(6) 112.5 kVA

(1) 145 kVA

(1) 150 kVA

(1) 175 kVA

(3) 220 kVA

(4) 225 kVA

(2) 300 kVA

(2) 500 kVA

IPMVP Option B, Retrofit Isolation with All Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameters changing in the implementation of this ECM are the transformer losses. EEI will use current transducers to measure the losses for each transformer over a one month period to obtain a representative transformer loading profile.

ECM 5 – Retro Commissioning

This is an allowance for an engineering and maintenance team to install, repair, and replace any damaged existing to remain equipment. Existing AHUs will include software revisions to reduce energy consumption. Includes 5 years of analytics reports.

IPMVP Option C, Utility Data Analysis of Whole Building, has been chosen for this ECM. This option has been chosen because the wide ranging effects of Retro Commissioning on building energy performance does not lend itself to isolation measurement. EEI has established the building baseline energy usage using utility data, see “Baseline Development and Performance Period” section. The building energy usage will continue to be recorded after the ECM implementation and compared to the baseline to determine savings. The savings guarantee is contingent on several building operations factors described in the Conditional Savings Guarantee section later in this report.

ECM 6 – Mini Splits

EEI proposes removing the (19) existing Mitsubishi ductless splits.

Furnish and install (19) new Mitsubishi condensing units of the same capacity of the existing system. Counts are as follows: (7) 1-ton ceiling cassette systems, (3) 1.5-ton ceiling cassette systems, (1) 2-ton ceiling cassette system. (1) 1-ton wall mounted system, (6) 1.5-ton wall systems, (1) 2-ton wall mounted system. New units will be furnished with wind baffles for low ambient cooling and new wall mounted thermostats.

IPMVP Option B, Retrofit Isolation with All Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the mini split Energy Efficiency Ratio (EER). EEI will use current transducers to measure the EER for a 20% sample of the mini splits over a one month period to obtain a representative loading profile.

ECM 7 – Condensing Hot Water

The current water heating units are standard efficiency. This measure would be to replace the current system with high efficiency condensing Lochinvar units.

IPMVP Option A, Retrofit Isolation with Key Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the combustion efficiency. EEI will use a flue gas analyzer to measure each water heater efficiency before and after ECM implementation.

ECM 8 – Targeted Balancing

EEI proposes targeted balancing of the existing ventilation systems. When ventilation units are over - ventilating it causes unnecessary conditioning of outside air. This measure would include checking the air flow at the diffusers to ensure that it meets current code required flow.

IPMVP Option A, Retrofit Isolation with Key Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the airflow amount. EEI will use airflow hoods to measure a 20% sample of diffuser airflow cfm before and after ECM implementation.

ECM 9 – Kitchen Hood

The existing kitchen exhaust system has a basic on/off operation. This results in the system operating during times when it doesn't need to be operating and heated or cooled air is exhausted. This measure is for installing a Captive Aire unit with VFD drives on the kitchen hood exhaust fans. A temperature sensor will be installed in the duct work and control operation based on the temperature inside the duct.

IPMVP Option B, Retrofit Isolation with All Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the kitchen hood exhaust fan speeds. EEI will use Energy Management System (EMS) trending data over a one month period to obtain a representative loading profile.

ECM 10 – Walk In Coolers

EEI recommends refrigeration controllers on walk-in coolers and freezers and installing electronically commutated (EC) motors on evaporator fans. A controller can start/stop the evaporator fans when operation is unnecessary. The EC motors are 30% more efficient than the standard two-pole motors. Energy savings will be realized by reducing the runtime of the compressors and evaporator fans as well as the reduction in power load of the new fans. Each walk-in cooler or freezer will have a new EC fan motor and blade installed as well as a dedicated controller. In addition, controllers will be installed on the freezer to optimize the operation of the electric defroster and door heater. The controller unit senses when refrigerant has ceased flowing through the evaporator coil and controls the fan motors. Door and frame heaters are controlled based on dew point, reducing their run time by 95% in coolers and 60% in freezers. The controllers will reduce compressor and evaporator runtime by up to 10%.

Calculations

Energy savings will result from both reducing the fan power and the efficient control of the evaporator fans and door heaters. In general, EEI uses the following approach to determine savings for this specific measure:

Existing kW Cost per kWh

Cost of Existing Equipment

Cost of Proposed Equipment Energy Savings

Listed Equipment Amperage x Voltage of Equipment Average Site Data Package $/kWh

= Existing kW x Cost per kWh x Effective Full Load Hours

= Existing kW x Cost per kWh x Full Load Hours Using Control

= Existing Equipment Costs- Proposed Equipment Costs

IPMVP Option B, Retrofit Isolation with All Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameters changing in the implementation of this ECM are the evaporator fan power and run time hours, the condensing unit run time hours, and the door heater run time hours. EEI will use current transducers to measure each parameter over a one month period to obtain a representative loading profile.

Nashua South High School

ECM 1 – LED Lighting

The schools currently utilize a combination of T8 and T5 fluorescent lighting. EEI proposes replacing the existing fixtures with new LED lighting. EEI performed a detailed survey of the interior and exterior spaces in order to identify opportunities in which we can improve lighting quality, reduce maintenance costs, and save energy.

The existing lighting demand (kW) per fixture, hours of operation, fixture quantities, and recommended retrofits are based on the physical inspection and site visits conducted by EEI in 2018. As a result of the survey and analysis, EEI has developed a high efficiency lighting upgrade project that will provide the schools listed with new LED fixtures with controls, resulting in guaranteed annual energy savings and a reduction in electrical demand.

LED type lighting provides significant illumination, has longer life expectancy, increased savings in electric consumption, and provides dimming capabilities. Also, by standardizing all fixtures will reduce future maintenance requirements.

LED fixtures in a school environment have an estimated life of more than 20 years. There is significant maintenance savings when LED fixtures are used due to their longer lifespan.

All light energy eventually converts to heat. The conversion to LED fixtures will reduce the building's lighting energy intensity (kW/sq.ft), therefore impacting the HVAC heating and cooling loads. Converting to LED lighting will eliminate 3,270 mmBTU waste heat annually. The reduction in lighting waste heat will increase the HVAC load during heating season, approximately 13,998 therms annually. Conversely, the HVAC load will decrease in the cooling system, approximately 65,325 kWh annually. The net HVAC utility impact is an increase in cost of approximately $4,199. This increase in cost has been subtracted from the energy savings for the ECM.

Install (3,860) LED 2x4 and 2x4 retrofit fixtures with Spacewise control and wireless dimming capability

Install (260) LED high bay fixtures with Spacewise control and wireless dimming capability

Install (642) LED recessed can fixtures

Install (2,947) LED tubes and (1,644) LED drivers

Install (193) LED lamps

Install (47) LED round decorative fixtures

IPMVP Option A, Retrofit Isolation with Key Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the fixture input wattage. EEI will use current transducers to measure a 20% sample of the fixture input wattage before and after ECM implementation.

ECM 2 – Controls Upgrade

EEI proposes installing a complete DDC system as an extension of the existing N4 Enterprise Supervisor.

Scope of work:

Demo the existing VAV controllers, keeping the existing communication wiring operational for the existing controllers. Install new BACnet IP DDC controllers, new space sensors, and new discharge air sensors. Install network controller hardware and software updates as needed.

IPMVP Option C, Utility Data Analysis of Whole Building, has been chosen for this ECM. This option has been chosen because the wide ranging effects of a controls system on building energy performance does not lend itself to isolation measurement. EEI has established the building baseline energy usage using utility data, see "Baseline Development and Performance Period" section. The building energy usage will continue to be recorded after the ECM implementation and compared to the baseline to determine savings. The savings guarantee is contingent on several building operations factors described in the Conditional Savings Guarantee section later in this report.

ECM 3 – Weatherization

EEI completed a detailed building audit and verified suspected air leakage locations and found opportunity to improve building performance and save energy. Air leakage is caused by pressure differences subject to variations in wind velocity and HVAC systems. In order to control heating and cooling loads, and allow the mechanical systems to operate effectively, pressure differences from the outdoor environment to the indoor building spaces must be controlled. The best way to do this is by tightening the building envelope by insulating and air sealing. This will extend the life cycle of the building by protecting it from the elements and minimizing moisture carried by air which penetrates th e building. Also, insulation and air sealing increases thermal performance of the building and the comfort, health and safety of the building occupants.

Scope of work:

Inspect exterior doors for deficiencies to the weather stripping and door sweeps. Install new weather stripping and door sweeps as needed.

IPMVP Option C, Utility Data Analysis of Whole Building, has been chosen for this ECM. This option has been chosen because the wide ranging effects of weatherization on building energy performance does not lend itself to isolation measurement. EEI has established the building baseline energy usage using utility data, see "Baseline Development and Performance Period" section. The building energy usage will continue to be recorded after the ECM implementation and compared to the baseline to determine savings. The savings guarantee is contingent on several building operations factors described in the Conditional Savings Guarantee section later in this report.

ECM 4 – Transformers

EEI evaluated the electrical systems of the s chool buildings and determined that the existing transformers at Nashua South High School are standard efficiency models and are not designed to handle the loads of modern facilities. The most common efficiency for commercial and industrial transformers supplying linear loads in the 30-150 kVA range is 95%, as compared to 98% for a high efficiency model. Further, conventional transformer losses, which are non-linear, increase by 2.7 times when feeding computer loads. Also, if transformers are not properly vented to the exterior, their

heat output adds to the building cooling load.

EEI recommends the replacement of existing inefficient transformers in order to improve the energy efficiency of the electrical distribution systems through the replacement of the transformers with new high efficiency units. The scope of work for this measure would include:

30 Transformers

(6) 15 kVA

(2) 45 kVA

(2) 75 kVA

(8) 112.5 kVA

(3) 150 kVA

(5) 220 kVA

(1) 225 kVA

(2) 300 kVA

(1) 400 kVA

IPMVP Option B, Retrofit Isolation with All Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameters changing in the implementation of this ECM are the transformer losses. EEI will use current transducers to measure the losses for each transformer over a one month period to obtain a representative transformer loading profile.

ECM 5 – Retro Commissioning

This is an allowance for an engineering and maintenance team to install, repair, and replace any damaged existing to remain equipment. Existing AHUs will include software revisions to reduce energy consumption. Includes 5 years of analytics reports.

IPMVP Option C, Utility Data Analysis of Whole Building, has been chosen for this ECM. This option has been chosen because the wide ranging effects of Retro Commissioning on building energy performance does not lend itself to isolation measurement. EEI has established the building baseline energy usage using utility data, see "Baseline Development and Performance Period" section. The building energy usage will continue to be recorded after the ECM implementation and compared to the baseline to determine savings. The savings guarantee is contingent on several building operations factors described in the Conditional Savings Guarantee section later in this report.

ECM 6 – Mini Splits

EEI proposes removing the (16) existing Mitsubishi ductless splits.

Furnish and install (16) new Mitsubishi condensing units of the same capacity of the existing system. Counts are as follows: (4) 1-ton ceiling cassette systems, (7) 1.5-ton ceiling cassette systems, (1) 2-ton ceiling Cassette system, (1) 1 ton wall mounted system, (2) 1.5 ton wall systems, (1) 3.5 ton under

ceiling system. New units will be furnished with wind baffles for low ambient cooling and new wall mounted thermostats

Furnish and install (1) York cooling only system, 3.5-ton cooling

IPMVP Option B, Retrofit Isolation with All Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the mini split Energy Efficiency Ratio (EER). EEI will use current transducers to measure the EER for a 20% sample of the mini splits over a one month period to obtain a representative loading profile.

ECM 7 – Condensing Hot Water

The current water heating units are standard efficiency. This measure would be to replace the current system with high efficiency condensing Lochinvar units.

IPMVP Option A, Retrofit Isolation with Key Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the combustion efficiency. EEI will use a flue gas analyzer to measure each water heater efficiency before and after ECM implementation.

ECM 8 – Targeted Balancing

EEI proposes targeted balancing of the existing ventilation systems. When ventilation units are over-ventilating it causes unnecessary conditioning of outside air. This measure would include checking the air flow at the diffusers to ensure that it meets current code required flow.

IPMVP Option A, Retrofit Isolation with Key Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the airflow amount. EEI will use airflow hoods to measure a 20% sample of diffuser airflow cfm before and after ECM implementation.

ECM 9- Kitchen Hood

The existing kitchen exhaust system has a basic on/off operation. This results in the system operating during times when it doesn't need to be operating and heated or cooled air is exhausted. This measure is for installing a Captive Aire unit with VFD drives on make-up air and exhaust fans. A temperature sensor will be located in the duct work and control operation based on the temperature inside the duct.

IPMVP Option B, Retrofit Isolation with All Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameter changing in the implementation of this ECM is the kitchen hood exhaust fan speeds. EEI will use Energy Management System (EMS) trending data over a one month period to obtain a representative loading profile.

ECM 10- Walk In Coolers

EEI recommends refrigeration controllers on walk-in coolers and freezers and installing electronically commutated (EC) motors on evaporator fans. A controller can start/stop the evaporator fans when operation is unnecessary. The EC motors are 30% more efficient than the standard two-pole motors. Energy savings

will be realized by reducing the runtime of the compressors and evaporator fans as well as the reduction in power load of the new fans. Each walk-in cooler or freezer will have a new EC fan motor and blade installed as well as a dedicated controller. In addition, controllers will be installed on the freezer to optimize the operation of the electric defroster and door heater. The controller unit senses when refrigerant has ceased flowing through the evaporator coil and controls the fan motors. Door and frame heaters are controlled based on dew point, reducing their run time by 95% in coolers and 60% in freezers. The controllers will reduce compressor and evaporator runtime by up to 10%.

Calculations

Energy savings will result from both reducing the fan power and the efficient control of the evaporator fans and door heaters. In general, EEI uses the following approach to determine savings for this specific measure:

Existing kW Cost per kWh

Cost of Existing Equipment

Cost of Proposed Equipment Energy Savings

Listed Equipment Amperage x Voltage of Equipment Average Site Data Package $/kWh

= Existing kW x Cost per kWh x Effective Full Load Hours

= Existing kW x Cost per kWh x Full Load Hours Using Control

= Existing Equipment Costs- Proposed Equipment Costs

IPMVP Option B, Retrofit Isolation with All Parameter Measurement, has been chosen for this ECM. This option has been chosen because the only parameters changing in the implementation of this ECM are the evaporator fan power and run time hours, the condensing unit run time hours, and the door heater run time hours. EEI will use current transducers to measure each parameter over a one month period to obtain a representative loading profile.

3. RISK & RESPONSIBILITY SUMMARY

Responsibility Description	Proposed Approach
Energy Prices	Contract energy prices have been set in the M&V plan. These rates are based on the current electric and natural gas costs and are escalated based on the US Department of Energy.
M&V Costs	The M&V costs are fixed for the duration of the contract. EEI accepts all risks associated with performing the M&V activities as stated herein.
User Participation	Lighting and ECMs: The savings for the lighting and ECMs are based on the continuation of the current operating strategies. This responsibility is accepted by the customer after project completion. The savings from the operation of the EMCs are based on the control sequences outlined herein. Since these control sequences could be overridden by the facility operating staff, the customer accepts responsibility that the ECMs will continue to operate as specified.
Equipment Performance	Lighting: EEI is responsible for ensuring the new lamps and ballasts are as specified and meet the guaranteed energy savings. ECMs: EEI is responsible for maintaining fan, pump motors, etc. so that the power draws remain at the baseline level. HVAC equipment: EEI will ensure the performance of equipment outlined in project scope and verify performance during commissioning. The customer is responsible for maintaining all equipment and providing annual maintenance records to EEI upon request.

4. EXISTING CONDITIONS DESCRIPTION

Refer to Final IGA report for existing building descriptions and Energy Conservation Measures chosen to be implemented by the School District. Careful consideration was given to each measure and its interaction with the overall building performance.

5. OPERATING HOURS

Lighting operating hours are based on 180 school calendar days, from 6am-4pm, with some allowance for evening programs or sporting events, as well as operating hours during the summer, in portions of the building, from 7am-3pm. The post-retrofit period operating hours is assumed to be the same as the baseline period. Should the customer change the operating hours, the estimated savings will not change, and baseline updates will need to be made.

Operating hours for other equipment such as boiler, fans, pumps, etc. are based on the baseline calculations and in the case of a substantial change in schedule, EEI should be notified by the customer so that baseline adjustments can be made.

Heating set-point will be no higher than 68°F and cooling set-point no lower than 72°F. EEI has estimated the load on the facility based on historical data. The customer is responsible for maintaining similar operating hours and load conditions in the post-installation period. If operating hours or load increases, the estimated savings will not change, and baseline updates will need to be made.

6. RATE DATA INFORMATION

The fuel rate values are based on Contract Rates listed as such; $0.15/kWh, $1.00/therm. In using these contract rates, variation and volatility within the energy markets is eliminated.

7. OPERATIONS, PREVENTATIVE MAINTENANCE, REPAIR AND REPLACEMENT REQUIREMENTS

Customer will report on all maintenance work completed annually and will continue to maintain records and make these records available to EEI upon request.

Baseline Development and Performance Period

EEI has developed a baseline energy consumption model using 2016 historical energy use data as well Heating Degree Day (HDD) and Cooling Degree Day (CDD) weather data for the same time period. This model will be used to compare future actual energy consumption to the baseline weather normalized value.

In the following tables, we have used the 2016 HDD and CDD Data as well as the utility usage for that period, to create a Year 0 – Baseline the Nashua North and South High Schools. The Dr. Norman Crip Elementary School was not included in this analysis because M&V option A will be used for the Solar P.V. ECM.

Upon project completion, the Year 1 - Performance Period will begin and subsequent M&V reports will show the actual reported utility use as well as the weather normalized baseline use. This will yield a useful comparison of the building's post construction energy consumption and cost as opposed to a baseline model in which no upgrades occurred.

Measurement And Verification Document

Prepared by: Energy Efficient Investments, Inc.
19D Star Drive
Merrimack, NH 03054

Prepared for: Nashua School District
Nashua High School North
Nashua High School South

Contract Number:
Report Date
Starting Period
Ending Period:

Contract Rates:

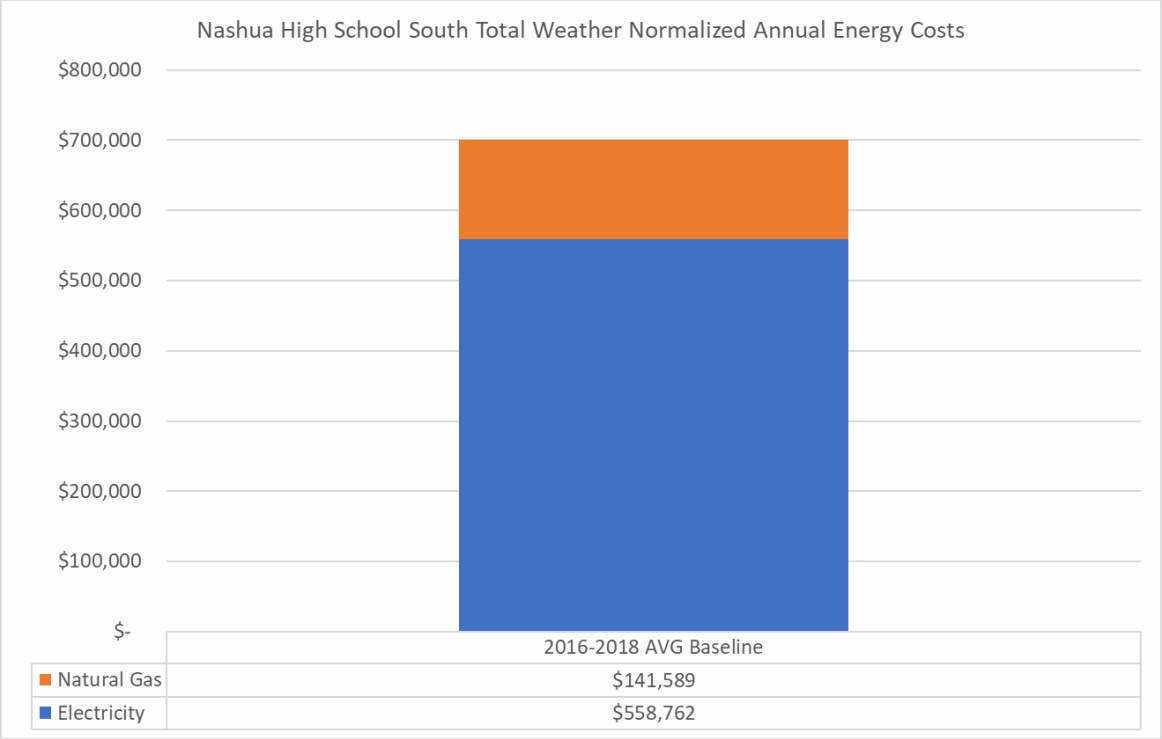
Electricity	$ 0.15	/kWh	**Natural Gas**	$ 1.00	/therm

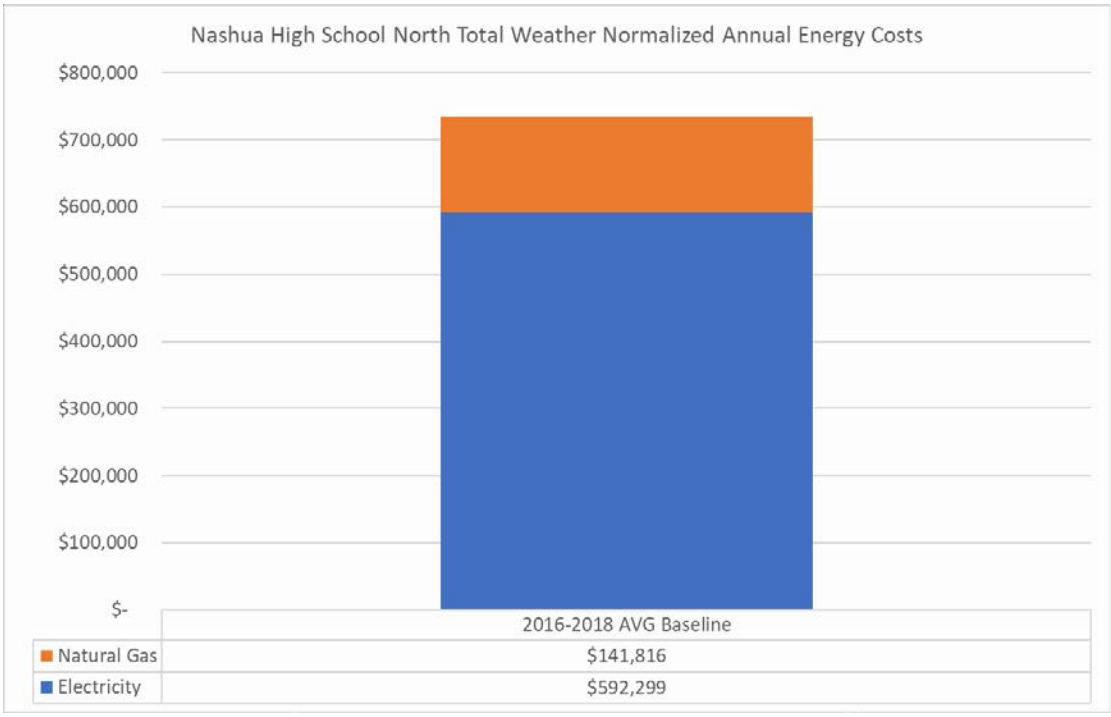
Nashua High School North

Year	HDD @ 65F Monthly	CDD @ 65F Monthly	Baseline Electrical Use (kWh)	Baseline Natural Gas Use (therm)	Baseline Total Energy Use (kBTU)	Actual Electrical Use (kWh)	Actual Natural Gas Use (therm)	Actual Total Energy Use (kBTU)	Baseline Elec Cost ($)	Baseline Natural Gas Cost ($)	Baseline Total Cost ($)	Actual Elec Cost ($)	Actual Gas Cost ($)	Actual Total Cost ($)	Savings	Baseline EUI	Actual EUI
2016-2018 AVG Baseline	6071	1050	3,948,662	141,816	27,654,435	3,948,662	141,816	27,654,435	$ 592,299	$ 141,816	$ 734,115	$ 592,299	$ 141,816	$ 734,115	$ -	66	66

Nashua High School South

Year	HDD @ 65F Monthly	CDD @ 65F Monthly	Baseline Electrical Use (kWh)	Baseline Natural Gas Use (therm)	Baseline Total Energy Use (kBTU)	Actual Electrical Use (kWh)	Actual Natural Gas Use (therm)	Actual Total Energy Use (kBTU)	Baseline Elec Cost ($)	Baseline Natural Gas Cost ($)	Baseline Total Cost ($)	Actual Elec Cost ($)	Actual Gas Cost ($)	Actual Total Cost ($)	Savings	Baseline EUI	Actual EUI
2016-2018 AVG Baseline	6071	1050	3,725,082	141,589	26,868,880	3,725,082	141,589	26,868,880	$ 558,762	$ 141,589	$ 700,351	$ 558,762	$ 141,589	$ 700,351	$ -	64	64


Nashua High School South Total Weather Normalized Annual Energy Costs
$800,000
$700,000
$600,000
$500,000
$400,000
$300,000
$200,000
$100,000
$-
2016-2018 AVG Baseline
Natural Gas $141,589
Electricity $558,762


Nashua High School North Total Weather Normalized Annual Energy Costs
$800,000
$700,000
$600,000
$500,000
$400,000
$300,000
$200,000
$100,000
$-
2016-2018 AVG Baseline
Natural Gas $141,816
Electricity $592,299

Conditional Savings Guarantee

1. Windows and doors must remain closed all the time during the heating season and all window a/c units must be removed prior to the beginning of the heating season as described below.
2. The new control system will use an "optimum start" sequence to determine the start-up time, which will likely be 6AM. This sequence will evaluate indoor/outdoor conditions by taking temperature and humidity measurements and start the equipment accordingly so that proper set-points are reached prior to occupancy. Shut off time will likely be 9PM, in order to give cleaning crew time to work.
3. The new heating set-point (Oct 1st – April 30th) will be 68°F and the cooling set-point (May 1st – Sept 30th) will be 72°F, as agreed to between EEI and the customer. Please see Appendix B for the standards of comfort.
4. EEI may conduct an annual site visit during which the lighting system and other ECMs will be inspected to verify proper operation, ensure that it has been maintained, and ensure that it continues to have the potential to generate the expected savings. Lights may be opened to verify lamp counts and ballast types, replacement stock may be inspected during the site visit to ensure that the proper replacement equipment is available.
5. The annual M&V report will detail the results of annual inspection, noting significant problems such as burned out lamps, change in operating hours, building size, addition of new equipment following project completion, etc.

Appendix A - Utility Bills provided by School District

Utility Bills may be provided upon request.

Appendix B – Standards of Comfort

EEI, Inc.

Nashua School District

Building	Occupied Setpoint °F Heating	Unoccupied Setpoint °F Heating	Occupied Setpoint °F Cooling	Unoccupied Setpoint °F Cooling
Nashua High School North				
Classrooms	68	60	72	80
Media Center	68	60	72	80
Cafeteria/Kitchen	68	60	72	80
Auditorium	68	60	72	80
Offices	68	60	72	80
Gym	68	60	72	80
Library	68	60	72	80
Hallways	68	60	72	80
Nashua High School South				
Classrooms	68	60	72	80
Media Center	68	60	72	80
Cafeteria/Kitchen	68	60	72	80
Auditorium	68	60	72	80
Offices	68	60	72	80
Gym	68	60	72	80
Library	68	60	72	80
Hallways	68	60	72	80

Notes:

1. All setpoints and times are suggested. Actual values to be determined after discussions with Nashua School District.

2. EEI will program a General Building Override button. This will allow the building operator to override the building schedule for non-scheduled events (such as snow days)

Attachment 5 - Major Equipment List (Bill of Materials)

(6) Condensing Lochinvar Domestic Hot Water Heaters
(6) Circulating Pumps
(3) Lochinvar Domestic Water Storage Tanks
(3) B&G Expansion Tanks
(6,813) LED 2x4 and 2x4 retrofit fixtures with Spacewise control and wireless dimming capability
(531) LED high bay fixtures with Spacewise control and wireless dimming capability
(1103) LED recessed can fixtures
(5,257) LED tubes and (2,994) LED drivers
(332) LED lamps
(227) LED round decorative fixtures
(62) High Efficiency Transformers

Attachment 6 – Scope of Work and Project Schedule

For scope of work refer to IGA

Note all work is anticipated to by completed in November 2021. EEI and Nashua School District will coordinate access to building spaces for work completion.

Attachment 7 - Additional Construction or Operational Requirements

The customer will be required to provide the ESCO access to the work site during normal business hours. Some of the work activities may require the Customer to work around the contractors performing the work. Scheduling and coordination of construction activities will take place on a weekly basis to avoid unnecessary delay or disruptions to the contractors work and that of the Customer. Owner must maintain equipment per manufacturer's requirements.

Attachment 8 – Standards of Comfort

EEI, Inc.

Nashua School District

Building	Occupied Setpoint °F Heating	Unoccupied Setpoint °F Heating	Occupied Setpoint °F Cooling	Unoccupied Setpoint °F Cooling	Occupie /On Ti	Unoccupie /Off Time
Nashua High School Nort						
Classrooms	68	60	72	80	7:00 AM	3:30 PM
Media Center	68	60	72	80	7:00 AM	3:30 PM
Cafeteria/Kitchen	68	60	72	80	7:00 AM	3:30 PM
Auditorium	68	60	72	80	7:00 AM	3:30 PM
Offices	68	60	72	80	7:00 AM	3:30 PM
Gym	68	60	72	80	7:00 AM	3:30 PM
Library	68	60	72	80	7:00 AM	3:30 PM
Hallways	68	60	72	80	7:00 AM	3:30 PM
Nashua High School South						
Classrooms	68	60	72	80	7:00 AM	3:30 PM
Media Center	68	60	72	80	7:00 AM	3:30 PM
Cafeteria/Kitchen	68	60	72	80	7:00 AM	3:30 PM
Auditorium	68	60	72	80	7:00 AM	3:30 PM
Offices	68	60	72	80	7:00 AM	3:30 PM
Gym	68	60	72	80	7:00 AM	3:30 PM
Library	68	60	72	80	7:00 AM	3:30 PM
Hallways	68	60	72	80	7:00 AM	3:30 PM

Notes:

1. All setpoints and times are suggested. Actual values to be determined after discussions with Nashua School District.

2. EEI will program a General Building Override button. This will allow the building operator to override the building schedule for non-scheduled events (such as snow days) manually.

Attachment 9 – Not used

Attachment 10 - Substantial Completion

Attachment 10 – Substantial Completion

Date: xx/xx/xx

To: Nashua School District
141 Ledge Street
Nashua, NH

Subject: Substantial Completion of Work ECM: XXX

Contract Reference/Project Number: Contract Date xx/xx/xx EEI Project ID: 200XXX

To Whom it May Concern,

This letter is to inform you that work has been substantially complete for ECM XXXXX as of xx/xx/xx. A walk through was done on xx/xx/xx confirming all outstanding items needed for beneficial use were complete. This letter formally starts the warranty period for this measure.

The remaining items on the Project Punch-List will be completed for Final Acceptance on or before xx/xx/xx.

Please let us know if you have any further concerns.

Sincerely,

Supervisors Name
Project Supervisor
Energy Efficient Investments, Inc.

Letter of Substantial Completion ECM: XXX
Received and Acknowledged by

_____
Signed

_____
Print name Date

Energy Efficient Investments, Inc.
19 D Star Drive, Merrimack NH 03054
(603) 423-6000

Attachment 11 - Final Acceptance

Attachment 11 – Final Acceptance

Date: xx/xx/xx

To: Nashua School District
141 Ledge Street
Nashua, NH

Subject: Final Acceptance of Work ECM: XXX

Contract Reference/Project Number: Contract Date xx/xx/xx EEI Project ID: 200XXX

To Whom it May Concern,

This Letter of Final Acceptance signifies that all work has been complete and all Project Punch-List items associated with this measure, ECM:XXX, have been addressed to the customers' satisfaction. Please sign and return to our office as an acknowledgement that you accept completion of our work.

We have enjoyed working with you.

Please let us know if you have any further concerns.

Sincerely,

Supervisors Name
Project Supervisor
Energy Efficient Investments, Inc.

Letter of Final Acceptance ECM: XXX
Received and Acknowledged by

_____
Signed

_____
Print name Date

Energy Efficient Investments, Inc.
19 D Star Drive, Merrimack NH 03054
(603) 423-6000

Attachment 12 – Customer Change Order Authorizations Form

Attachment 12

CUSTOMER CHANGE ORDER AUTHORIZATION FORM

Project Information	
Customer Name	
Project Name	
Project Location	
Project Number	200xxxxx
Change Order Number / Name	

DESCRIPTION OF CHANGE:

Sample Language - EEI was given Notice to Proceed (NTP) on xx/xx/xx and proceeded with the final design and procurement of …... This Change Order reflects the …..

See Attachment A – Additional Supporting Documents: _____

Reference Documents – Email from / to Subject, Date

CONTRACT VALUE:

Original Contract Amount	$
Amount of Previous Change Orders	$
Amount of This Change Order	$
Revised Contract Amount	$

This Change Order becomes part of and is in conformance with the existing Agreement. All terms and conditions of the agreement apply.

Customer Authorized	EEI Authorized Signature
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Attachment 13 – M&V Continuing Service Contract (after yr 5)

SYSTEMS SUPPORT AGREEMENT

CUSTOMER: Nashua School District	**Building or System or Node:**
ADDRESS:	Nashua North High School
City, State, ZIP	Nashua South High School
Contact Name: EPC M&V Continuing Service	
Email: **Phone:**	

Systems Support will be provided at the following location(s):

	Building Name	Node	EMS System Manufacturer	Age/Version
1.	Nashua North HS	1	Control Technologies - Distech	5
2.	Nashua South HS	1	Control Technologies – Distech	5
3.				
4.				
5.				

Energy Efficient Investments, Inc. agrees to provide the following Systems Support Services:

☒ ESA Guaranteed Savings M&V
- ☒ Standard – Annual Report
- ☒ Quarterly Reports
- ☐ Monthly Reports
- ☐ Weekly Reports

☐ EMS Analytic Systems Support Services
- ☐ Standard – Monthly Reports via Email
- ☐ Quarterly Reports
- ☐ Monthly Reports
- ☐ Weekly Reports

Additional Options Offered:
- ☐ Monthly Report Review with Consultant
- ☒ Preparation of M&V Reports
- ☐

- ☐ Monthly Report Review with Consultant
- ☐ Energy Savings Analysis
- ☐ Custom Rules (Defined in Attachment C)

Reference ESA with Guarantee:_____

Systems Integration to Other Third Party Data Sources (Define in Appendix C)
- ☐ Work Order System:_____
- ☐ Space Management System:_____
- ☐ Other:_____

TERM OF THE AGREEMENT

M&V Agreement Year 2 through year 5, this agreement is renewable annually thereafter until the end of the Finance Term

Term of this Agreement Start Date:__TBD_____through End Date:___TBD_____

EMS Analytics Agreement Start Date:_____through End Date: _____

(See Appendix "A" Level of Coverage, Appendix "B" List of Covered Equipment and Appendix "C" Additional Services and Provisions as applicable)

Terms and Payment:

This Agreement shall begin on xx/xx/xx and shall continue until xx/xx/xx and will be renewable for up to 3 year term thereafter until terminated in accordance with the general conditions as stated on reverse side.

See Attachment B for breakout pricing. Payment will be made quarterly and due within thirty (30) days of invoice date.

This Agreement along with all attachments and general conditions constitutes the entire Agreement between the parties and shall become a valid contract after written signature of acceptance by both parties and credit approval by Energy Efficient Investments, Inc. This Agreement supersedes all prior presentations and Agreements not incorporated herein.

Contract Extension Provision.

Contract can be extended with the same provisions with a 3% annual escalation of cost.

Customer Authorized Representative:

_____

Contract Reference:_____

Signature: _____

Title: _____

Date: _____

Energy Efficient Investments, Inc.

Proposed by: _____

Date:_____

GENERAL CONDITIONS

1. This agreement applies only to equipment installed prior to effective date of this agreement and as described in this agreement. Normal working hours (7 a.m. to 3:30 p.m.; Monday through Friday, excluding holidays) will apply to all services, unless otherwise agreed to herein.

2. This agreement assumes the systems covered to be in maintainable condition. If repairs are found necessary upon initial inspection or initial seasonal start-up, repair charges will be submitted for approval. Should these restoration charges be declined, those non maintainable items will be eliminated from the program and the agreement price adjusted accordingly.

3. It is agreed that the customer shall provide reasonable means of access to all devices which are to be maintained. Normal operation such as starting, stopping and resetting of the listed equipment is not included in this program. However, Energy Efficient Investments, Inc. shall be permitted to start and stop all equipment incidental to the operation of the mechanical system.

4. If the system is modified, changed or altered, or if any equipment is added, or if the system is removed within the premises or to other premises, Energy Efficient Investments, Inc., at its sole option, reserves the right to terminate or re-negotiate this agreement based on the condition of the system after the changes have been made.

5. It is agreed that the contract price shall be adjusted yearly after the initial term; such adjustments shall be consistent with Energy Efficient Investments, Inc. increases in subject contract labor and material costs. This agreement may be terminated after its initial term or any subsequent anniversary by either party by giving written notice to the other party a minimum of 30 days prior to the anniversary date.

6. Energy Efficient Investments, Inc. shall not, under any circumstances, be liable for injury to persons or damage to property unless such injury or damage is caused directly by a negligent act of omission or commission by Energy Efficient Investments, Inc.' agents, employees or subcontractors.

7. Energy Efficient Investments, Inc. and Customer assume the non-occurrence of the following contingencies which, without limitation, might render performance by Energy Efficient Investments, Inc. impractical: strikes, fires, war, acts of God, late or non-delivery by suppliers of Energy Efficient Investments, Inc., and all other contingencies beyond the reasonable control of Energy Efficient Investments, Inc. Under no circumstances shall Energy Efficient Investments, Inc. be liable for any special or consequential damages whether based upon lost goodwill, lost profits, work stoppage, impairment of other goods or otherwise; and whether arising out of breach of warranty, breach of contract, negligence or otherwise, except only in the case of personal injury where applicable law requires such liability. But in no event shall Energy Efficient Investments, Inc.'s liability exceed the purchase price paid under this contract.

8. The Customer shall pay Energy Efficient Investments, Inc., in addition to the contract price, the amount of all present and future taxes or any other government charge now or hereafter imposed by existent or future laws with respect to the transfer, use, ownership or possession of equipment to which this agreement relates, exclusive of ordinary personal property taxes assessed against Energy Efficient Investments, Inc.

9. Energy Efficient Investments, Inc. shall not be held responsible or liable whatsoever for the indoor air quality of the Customer's Facility.

10. In the event Energy Efficient Investments, Inc. is required to make any repairs and/or replacement and/or emergency calls occasioned by improper operation or misuse of equipment covered by this agreement or any cause beyond the control of Energy Efficient Investments, Inc., the customer shall reimburse Energy Efficient Investments, Inc. for expenses incurred in making repairs and/or replacements and/or emergency calls in accordance with the contracted rates for performing such service.

11. If equipment becomes non-repairable due to unavailability of replacement parts, Energy Efficient Investments, Inc., at its option, may remove the equipment from the contract and will not be required to maintain or service such equipment as a part of this agreement. However, Energy Efficient Investments, Inc. will assist the owner in replacing the equipment at an additional cost.

12. **If Customer chooses not to continue with this agreement before the term of any Energy Savings Guarantee Energy Efficient Investments, Inc. will no longer be responsible for the Measurement and Verification required under the associated Energy Services Agreement, and will no longer be responsible for any shortfalls that may occur.**

13. The price quoted is valid for thirty (30) days from the proposal date. Energy Efficient Investments, Inc., at its option, reserves the right to not accept this Agreement if it is signed by the Customer after this thirty (30) day period.

14. Energy Efficient Investments, Inc. reserves the right to discontinue this Systems Support Agreement at any time, without notice, if payments as agreed to have not been received by Energy Efficient Investments, Inc.

ATTACHMENT "A" – Definition of Coverage

☒ **ESA Guaranteed Savings M&V**

This item is selected when there is an associated Guaranteed Energy Savings Project and is covered under a signed ESA between Energy Efficient Investments, Inc. and the Customer. This is an Agreement that follows the M&V during construction through the Warrantee period of 1 year. The M&V can also have the added component of EMS Analytics which would be highlighted below in that selection box with appropriate options selected. This Agreement is renewable after the first 3 year term. Escalation of cost will be limited to 3% annually thereafter. *If this Agreement is not renewed it could result in the cancelation of the Energy Savings Guarantee.*

☐ **Review with a Consultant**

Preparing M&V Reports involve compiling energy bills, changes in building usage, weather data and other factors. The M&V Agreement in the ESA requires an annual report to the Customer. If the Customer would like to be more proactive and gain a better understanding of interpreting the results we can as an added service increase the frequency of the Report Review with a Consultant.

☐ **EMS Analytics System Support**

This is an added service that can help EEI and the Customer better understand and track how a building is performing. This service can be a standalone service or selected in conjunction with an Energy Savings Guarantee M&V Agreement. The EMS Analytics reviews every point of contact in your EMS System against an established set of rules on. This is done on a Customer selected periodic basis. EEI prepares a report of the findings that includes an Executive Summary, Top Ten Current Issues, and tracks the resolved issues on an annual basis. The full data files can be made available for service and technical support as needed.

☐ **Review with an Analytics Consultant**

To gain maximum value of the investment in EMS Analytics it is recommended that at least for a period of time you engage an EEI Consultant to help interpret and review the reports when produced. This service can be phased out of the Agreement without affecting the other items selected. Energy Efficient Investments, Inc. will arrange a conference call, there can be an unlimited number of participants. Participants can include EMS Contractors, Executive Management, Facilities Management or other. The Conference call should last about 1 half hour. This is an opportunity for understanding the results and assigning action items for corrective action. This is an effort to maximize the value of a Customers EMS investment.

☐ **Energy Savings Calculations**

Much like the Review with the Analytic Consultant, we can add Utility Approved Energy Savings Calculation to each proposed improvement, or provide a value for not addressing the problem based on energy waste. These calculations will be added to the periodic EMS Analytic Report.

☐ **Custom Rules**

Energy Efficient Investments, Inc. has developed a "Standard Set of Rules" by building type, should a Customer or their EMS Vendor need special "Rules" EEI will provide that as a one-time fee and include these added rules in the periodic EMS Analytic Report going forward.

☐ **Systems Integration to Other Third Part Data Sources**

Energy Efficient Investments, Inc. has the capability to integrate to other third party software. The information taken from that software can be used to add information to the EMS Analytics. This service will be provided on a quoted basis and added to the EMS Service

Define Integration:

ATTACHMENT "B" – Extended Price Detail

	LIST BUILDING NAME/NODE AND SERVICE	FREQUENCY/TERM (START & COMPLETION)	COST OF ANNUAL ANALYTICS SYSTEM SUPPORT AGREEMENT	
	Nashua North High School			
	Setup – Data Acquisition cost	Covered in Base EPC		
	Reporting	Prepared Monthly Reviewed Quarterly with Final Annual Report Per Contract		
	Consulting	$145/hr	Not Included	
	Energy Calculations		Not Included	
	Custom Rules		Not Included	
	Integration to Other 3rd Party Software		Not Included	
	Other		N/A	
	Sub-Total:			
	Nashua South High School			
	Setup – Data Acquisition cost	Covered in Base EPC	Covered in Base EPC $0	
	Reporting	Prepared Monthly Reviewed Quarterly with Final Annual Report		
	Consulting		N/A	
	Energy Calculations		Included in M&V	
	Custom Rules		None	
	Integration to Other 3rd Party Software		N/A	
	Other			
	Sub-Total:			
	List Exclusions:			
	Contract Total:			

ATTACHMENT "C" – ADDITIONAL SERVICES & PROVISIONS

DESCRIPTION OF ADDITIONAL SERVICES & COVERED EQUIPMENT
No additional services proposed at this time.

Gilmore & Bell, P.C.
September 16, 2020

$6,671,814
EQUIPMENT LEASE PURCHASE AGREEMENT
DATED AS OF OCTOBER 20, 2020, BETWEEN
MUNICIPAL LEASING CONSULTANTS, LLC, AS LESSOR, AND THE
CITY OF NASHUA, NEW HAMPSHIRE,
ON BEHALF OF NASHUA SCHOOL DISTRICT, AS LESSEE

CLOSING DATE: OCTOBER 20, 2020

LIST OF CLOSING DOCUMENTS

Document Number

1. Equipment Lease Purchase Agreement, with the following exhibits attached:

   Exhibit A: Equipment Schedule.
   Exhibit B: Payment Schedule.

2. Escrow Agreement, with the following exhibits attached:

   Exhibit A: Certificate of Acceptance and Payment Request.
   Exhibit B-1: Incumbency Certificate regarding Lessee Representatives.
   Exhibit B-2: Authorized Lessor Representatives.

3. Federal Tax Agreement, with the following exhibits attached:

   Exhibit A: Amortization Schedule and Calculation of Weighted Average Maturity and Yield on the Agreement.
   Exhibit B: IRS Form 8038-G.
   Exhibit C: Description of Equipment Comprising the Financed Assets and Benefitted Facilities.
   Exhibit D: Sample Annual Compliance Checklist.
   Exhibit E: Certificate of Lender.

4. Lessee's Closing Certificate, with the following exhibits attached:

   Exhibit A-1: Evidence of authorization from the City of Nashua.
   Exhibit A-2: Evidence of authorization from Nashua School District.
   Exhibit B: List of Outstanding Obligations (since June 30, 2019).

5. Essential Use Certificate.

6. Opinion of Lessee's Counsel.

7. Opinion of Special Tax Counsel.

8. Evidence of Insurance.

9. Energy Performance Contract.

10. Payment and Performance Bonds, together with Dual Obligee Rider naming Lessor as additional obligee.

11. Notice of Assignment; Assignment.

Document Number

12. UCC-1 Financing Statements:

    A. Respecting the Equipment.
    B. Respecting the Assignment.

13. Lender Certificate from Capital One Public Funding, LLC, together with related correspondence to Lessee.

14. Form W-9 from the City of Nashua, New Hampshire.

# # #

EQUIPMENT LEASE PURCHASE AGREEMENT

THIS EQUIPMENT LEASE PURCHASE AGREEMENT (the "Agreement"), is dated as of October 20, 2020, between **MUNICIPAL LEASING CONSULTANTS, LLC**, a limited liability company organized and existing under the laws of the State of Vermont, as Lessor ("Lessor"), and the **CITY OF NASHUA, NEW HAMPSHIRE, ON BEHALF OF NASHUA SCHOOL DISTRICT**, a political subdivision existing under the laws of the State of New Hampshire, as Lessee ("Lessee"), wherein the parties hereby agree as follows:

Section 1. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Agreement" means this Equipment Lease Purchase Agreement and any other schedule, exhibit or escrow agreement made a part hereof by the parties hereto, together with any amendments to this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commencement Date" is the date when the term of this Agreement and Lessee's obligation to pay rent commences, which date will be the earlier of (i) the date on which the Equipment is accepted by Lessee in the manner described in **Section 13**, or (ii) the date on which sufficient moneys to purchase the Equipment are deposited for that purpose with an escrow agent.

"Equipment" means the property described on the Equipment Schedule attached hereto as **Exhibit A**, and all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto and all insurance and/or proceeds therefrom.

"Event of Default" means an Event of Default described in **Section 35**.

"Issuance Year" is the calendar year in which the Commencement Date occurs.

"Lease Term" means the Original Term and all Renewal Terms, but ending on the occurrence of the earliest event specified in **Section 6**.

"Lessee" means the entity described as such in the first paragraph of this Agreement, its successors and its assigns.

"Lessor" means the entity described as such in the first paragraph of this Agreement, its successors and its assigns.

"Maximum Lease Term" means the Original Term and all Renewal Terms through the Renewal Term including the last Rental Payment Date set forth on the Payment Schedule.

"Net Proceeds" means the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorneys' fees) incurred in the collection of such claim or award.

"Original Term" means the period from the Commencement Date until the end of the fiscal year of Lessee in effect at the Commencement Date.

"Payment Schedule" means the schedule of Rental Payments and Purchase Price set forth on **Exhibit B**.

"Purchase Price" means the amount set forth on the Payment Schedule that Lessee may, at its option, pay to Lessor to purchase the Equipment.

"Renewal Terms" means the optional renewal terms of this Agreement, each having a duration of one year and a term co-extensive with Lessee's fiscal year.

"Rental Payment Dates" means the dates set forth on the Payment Schedule on which Rental Payments are due.

"Rental Payments" means the basic rental payments payable by Lessee pursuant to **Section 9**.

"State" means the State of New Hampshire.

"Vendor" means the manufacturer of the Equipment as well as the agents or dealers of the manufacturer from whom the Equipment is or has been purchased, as listed on **Exhibit A**.

Section 2. Representations and Covenants of Lessee. Lessee represents, warrants and covenants for the benefit of Lessor as follows:

(a) Lessee is a political subdivision duly organized and existing under the constitution and laws of the State. Lessee will do or cause to be done all things to preserve and keep in full force and effect its existence as a political subdivision. Lessee has a substantial amount of one or more of the following sovereign powers: (i) the power to tax, (ii) the power of eminent domain, and (iii) police power.

(b) Lessee is authorized under the constitution and laws of the State to enter into this Agreement and the transaction contemplated hereby and to perform all of its obligations hereunder.

(c) Lessee has been duly authorized to execute and deliver this Agreement by proper action and approval of its governing body at a meeting duly called, regularly convened and attended throughout by a requisite majority of the members thereof or by other appropriate official approval.

(d) This Agreement constitutes the legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.

(e) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the Commencement Date.

(f) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the Original Term and to meet its other obligations for the Original Term, and such funds have not been expended for other purposes.

(g) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment hereunder.

(h) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Agreement or any other document, agreement or certificate which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement or materially adversely affect the financial condition or properties of Lessee.

(i) All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Agreement or in connection with the carrying out by Lessee of its obligations hereunder have been obtained.

(j) The entering into and performance of this Agreement or any other document or agreement contemplated hereby to which Lessee is or is to be a party will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance on any assets of Lessee or the Equipment pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided.

(k) The Equipment described in this Agreement is essential to the function of Lessee or to the service Lessee provides to its citizens. Lessee has an immediate need for, and expects to make immediate use of,

substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future. The Equipment will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of Lessee's authority.

(l) Neither the payment of the Rental Payments hereunder nor any portion thereof is (i) secured by any interest in property used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code) or in payments in respect of such property or (ii) derived from payments in respect of property, or borrowed money, used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code). No portion of the Equipment will be used directly or indirectly in any trade or business carried on by any non-exempt person (within the meaning of Section 103 of the Code).

(m)Lessee will comply with all applicable provisions of the Code, including without limitation Sections 103 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

(n) Lessee will use the proceeds of this Agreement as soon as practicable and with all reasonable dispatch for the purpose for which this Agreement has been entered into. No part of the proceeds of this Agreement will be invested in any securities, obligations or other investments or used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of execution and delivery of this Agreement, would have caused any portion of this Agreement to be or become an "arbitrage bond" within the meaning of Section 103(b)(2) or Section 148 of the Code and the applicable regulations of the Treasury Department.

(o) Lessee has never failed to pay payments coming due under any bond issue, lease purchase agreement or other indebtedness obligation of Lessee.

(p) The useful life of the Equipment will not be less than the Maximum Lease Term.

(q) The application, statements and credit or financial information submitted by Lessee to Lessor are true and correct and made to induce Lessor to enter into this Agreement and the escrow agreement, if any, and Lessee has experienced no material change in its financial condition since the date(s) of such information.

(r) Lessee has provided Lessor with audited financial statements through June 30, 2019. Lessee has experienced no material change in its financial condition or in the revenues expected to be utilized to meet Rental Payments due under this Agreement since June 30, 2019.

(s) Lessee shall pay the excess (if any) of the actual costs of acquiring the Equipment under this Agreement over the amount deposited by Lessor in the escrow fund, if any, established under any related escrow agreement and interest earnings thereon.

(s) Lessee is the fee owner of the real estate where the Equipment is and will be located and has good and marketable title thereto, and there exists no mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to such real estate. The Equipment is not a replacement, repair, substitution or proceeds of any equipment or personal property subject to a prior lien or security interest of a third party.

Section 3. Certification as to Arbitrage. Lessee hereby represents as follows:

(a) The estimated total costs of the Equipment, together with any costs of entering into this Agreement that are expected to be financed under this Agreement, will not be less than the total principal portion of the Rental Payments.

(b) The Equipment has been ordered or is expected to be ordered within six months of the Commencement Date, and the Equipment is expected to be delivered and installed, and the Vendor fully paid, within eighteen months of the Commencement Date.

(c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments, or (ii) that may be used solely to prevent a default in the payment of the Rental Payments.

(d) The Equipment has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments.

(e) To the best of our knowledge, information and belief, the above expectations are reasonable.

Section 4. Lease of Equipment. Lessor hereby demises, leases and lets the Equipment to Lessee, and Lessee rents, leases and hires the Equipment from Lessor, in accordance with the provisions of this Agreement, for the Lease Term.

Section 5. Lease Term. The Original Term of this Agreement will commence on the Commencement Date and will terminate on the last day of Lessee's current fiscal year. The Lease Term may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for an additional Renewal Term up to the Maximum Lease Term. At the end of the Original Term and at the end of each Renewal Term until the Maximum Lease Term has been completed, Lessee will be deemed to have exercised its option to continue this Agreement for the next Renewal Term unless Lessee has terminated this Agreement pursuant to **Section 6** or **Section 31**. The terms and conditions during any Renewal Term will be the same as the terms and conditions during the Original Term, except that the Rental Payments will be as provided in the Payment Schedule.

Section 6. Termination of Lease Term. The Lease Term will terminate upon the earliest of any of the following events:

(a) the expiration of the Original Term or any Renewal Term of this Agreement and the nonrenewal of this Agreement in the event of nonappropriation of funds pursuant to **Section 8**;

(b) the exercise by Lessee of the option to purchase the Equipment under the provisions of **Section 31** and payment of the Purchase Price and all amounts payable in connection therewith;

(c) a default by Lessee and Lessor's election to terminate this Agreement under **Section 36**; or

(d) the payment by Lessee of all Rental Payments authorized or required to be paid by Lessee hereunder during the Maximum Lease Term.

Section 7. Continuation of Lease Term. Lessee currently intends, subject to the provisions of **Section 8** and **Section 12**, to continue the Lease Term through the Original Term and all of the Renewal Terms and to pay the Rental Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the Original Term and each of the Renewal Terms can be obtained. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain and maintain funds from which the Rental Payments may be made, including making provision for such Rental Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Agreement for any Renewal Term is solely within the discretion of the then current governing body of Lessee.

Section 8. Nonappropriation. Lessee is obligated only to pay such Rental Payments under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. In the event sufficient funds will not be appropriated or are not otherwise legally available to pay the Rental Payments required to be paid in the next occurring Renewal Term, as set forth in the Payment Schedule, this Agreement will be deemed to be terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least 90 days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice will not extend the Lease Term beyond such Original Term or Renewal Term. If this Agreement is terminated in accordance with this Section, Lessee agrees, at Lessee's cost and expense, to peaceably deliver the Equipment to Lessor at the location or locations specified by Lessor.

Section 9. Rental Payments. Lessee will pay Rental Payments from all legally available funds, in lawful money of the United States of America to Lessor in the amounts and on the dates set forth on the Payment Schedule, such payment to be made by wire or other form of electronic payment in accordance with written instructions provided by Lessor or, with Lessor's consent, by such other commercially reasonable method of payment. Rental Payments will be in consideration for Lessee's use of the Equipment during the fiscal year in which such payments are due. Any Rental Payment not received on or before its due date will bear interest at the rate of 10% per annum or the maximum amount permitted by law, whichever is less, from its due date.

In the event that it is determined that any of the interest components of Rental Payments may not be excluded from gross income for purposes of federal income taxation, Lessee agrees to pay to Lessor promptly after any such determination and on each Rental Payment Date thereafter an additional amount determined by Lessor to compensate Lessor for the loss of such excludability (including without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive absent manifest error.

Section 10. Interest Component. As set forth on the Payment Schedule, a portion of each Rental Payment is paid as, and represents payment of, interest.

Section 11. Rental Payments To Be Unconditional. Except as provided in Section 8, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained herein shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure by any Vendor to deliver or install the Equipment or otherwise perform any of its obligations for whatever reason, including bankruptcy, insolvency, reorganization or similar event with respect to any Vendor or under any Vendor Agreement, disputes with Lessor or the Vendor of any of the Equipment, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances.

Section 12. Rental Payments to Constitute a Current Expense of Lessee. The obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee, are from year to year and do not constitute a mandatory payment obligation of Lessee in any fiscal year beyond the then current fiscal year of Lessee. Lessee's obligation hereunder will not in any way be construed to be an indebtedness of Lessee in contravention of any applicable constitutional, charter or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor will anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of Lessee.

Section 13. Delivery, Installation and Acceptance of the Equipment. Lessee will order the Equipment, cause the Equipment to be delivered and installed at the locations specified on **Exhibit A** and pay any and all delivery and installation costs in connection therewith. When the Equipment has been delivered and installed, Lessee will immediately accept the Equipment and evidence said acceptance by executing and delivering to Lessor an acceptance certificate in form and substance acceptable to Lessor. After it has been delivered and installed, the Equipment will not be moved from the location(s) specified on **Exhibit A** without Lessor's consent, which consent will not be unreasonably withheld.

Section 14. Enjoyment of Equipment. Lessor hereby covenants to provide Lessee with quiet use and enjoyment of the Equipment during the Lease Term, and Lessee will peaceably and quietly have and hold and enjoy the Equipment during the Lease Term, without suit, trouble or hindrance from Lessor, except as otherwise expressly set forth in this Agreement.

Section 15. Right of Inspection. Lessor will have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

Section 16. Use of the Equipment. Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee will obtain all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of the Equipment) with all

applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body; provided, however, that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Equipment or its interest or rights under this Agreement.

Section 17. Maintenance of Equipment. Lessee agrees that it will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition. Lessor will have no responsibility to maintain, or repair or to make improvements or additions to the Equipment. If requested to do so by Lessor, Lessee will enter into a maintenance contract for the Equipment with Vendor.

Section 18. Title to the Equipment. During the Lease Term, title to the Equipment and any and all additions, repairs, replacements or modifications will vest in Lessee, subject to the rights of Lessor under this Agreement; provided that title will thereafter immediately and without any action by Lessee vest in Lessor, and Lessee will immediately surrender possession of the Equipment to Lessor upon (a) any termination of this Agreement other than termination pursuant to **Section 31** or (b) the occurrence of an Event of Default. It is the intent of the parties hereto that any transfer of title to Lessor pursuant to this Section will occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee will, nevertheless, execute and deliver any such instruments as Lessor may request to evidence such transfer. Lessee irrevocably designates, makes, constitutes and appoints Lessor and its assignee as Lessee's true and lawful attorney (and agent in-fact) with power, at such time of termination or times thereafter as Lessor in its sole and absolute discretion may determine, in Lessee's or Lessor's or such assignee's name, to endorse the name of Lessee upon any bill of sale, document, instrument, invoice, freight bill, bill of lading or similar document relating to the Equipment in order to vest title in Lessor and transfer possession to Lessor.

Section 19. Security Interest. To secure the payment of all of Lessee's obligations under this Agreement and to the extent permitted by law, Lessor retains a security interest constituting a first lien on the Equipment. Lessee agrees to execute such additional documents in form satisfactory to Lessor, that Lessor deems necessary or appropriate to establish and maintain its security interest. Lessee agrees that financing statements may be filed with respect to the security interest in the Equipment.

As further security therefor, Lessee grants to Lessor a first priority security interest in the cash and negotiable instruments from time to time comprising the escrow fund, if any, established under any related escrow agreement and all proceeds (cash and non-cash) thereof, and agrees with respect thereto that Lessor shall have all the rights and remedies of a secured party.

Section 20. Personal Property; No Encumbrances. Lessor and Lessee agree that the Equipment is and will remain personal property. The Equipment will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to such real estate or any building thereon. Upon the request of Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building. Lessee shall not create, incur, assume or permit to exist any mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on any of the real estate where the Equipment is or will be located or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate without the prior written consent of Lessor; provided, that if Lessor or its assigns is furnished with a waiver of interest in the Equipment acceptable to Lessor or its assigns in its discretion from any party taking an interest in any such real estate prior to such interest taking effect, such consent shall not unreasonably withheld.

Section 21. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee will keep the Equipment free and clear of all liens, charges and encumbrances, except those created under this Agreement. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Equipment will be exempt from all property taxes and other similar charges. If the use, possession or acquisition of the Equipment is found to be subject to taxation in any form, Lessee will pay all taxes and governmental charges lawfully assessed or levied against or with respect to the Equipment. Lessee will pay all utility and other charges incurred in the use and maintenance of the Equipment. Lessee will pay such taxes and charges as the same

become due; provided that, with respect to any such taxes and charges that may lawfully be paid in installments over a period of years, Lessee will be obligated to pay only such installments that accrue during the Lease Term.

Section 22. Insurance. At its own expense, Lessee will maintain (a) casualty insurance insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Lessor in an amount at least equal to the then applicable Purchase Price of the Equipment, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by the laws of the State; provided that, with Lessor's prior written consent, Lessee may self-insure against the risks described in clauses (a) and (b). Lessee shall also provide or cause to be provided to Lessor payment and performance bonds from the Vendor, each naming Lessor as a dual obligee and issued by a surety company rated "A" or better by AM Best in an amount equal to the Equipment. All insurance proceeds from casualty losses will be payable as hereinafter provided. Lessee will furnish to Lessor certificates evidencing such coverage throughout the Lease Term.

All such casualty and liability insurance will be with insurers that are acceptable to Lessor and will contain a provision to the effect that such insurance will not be cancelled or modified materially without first giving written notice thereof to Lessor at least ten days in advance of such cancellation or modification. All such casualty insurance will name Lessor as a loss payee and an additional insured. All such liability insurance will name Lessor as an additional insured.

Section 23. Advances. In the event Lessee fails to maintain the insurance required by this Agreement, pay taxes or charges required to be paid by it under this Agreement or fails to keep the Equipment in good repair and operating condition, Lessor may (but will be under no obligation to) purchase the required policies of insurance and pay the cost of the premiums on the thereof, pay such taxes and charges and make such Equipment repairs or replacements as are necessary and pay the cost thereof. All amounts so advanced by Lessor will become additional rent for the then current Original Term or Renewal Term. Lessee agrees to pay such amounts with interest thereon from the date paid at the rate of 10% per annum or the maximum permitted by law, whichever is less.

Section 24. Financial Information. Upon request, Lessee shall furnish or cause to be furnished to Lessor, at Lessee's expense, as soon as available after the close of each fiscal year, the audited financial statement of Lessee at the close of and for such fiscal year, all in reasonable detail, with supporting schedules, audited by and with the report of Lessee's auditor (the "Audit"), which may be in electronic .pdf format. In the event the Audit is filed on the MSRB's "EMMA" website, to satisfy this requirement Lessee may email a link to the posted Audit to Lessor. The electronic Audit or EMMA link may be sent to the following email address (or such other address as Lessor supplies to Lessee in writing): Yvonne2.foley@capitalone.com (Yvonne Foley). In the event that the Audit is not available, Lessee will furnish unaudited financial statements to Lessor in the manner described in this Section, and will then supply the Audit immediately upon the availability thereof.

Section 25. Release and Indemnification. To the extent permitted by law, Lessee will indemnify, protect and hold harmless Lessor from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith (including, without limitation, counsel fees and expenses and any federal income tax and interest and penalties connected therewith imposed on interest received) arising out of or as the result of (a) the entering into this Agreement, (b) the ownership of any item of the Equipment, (c) the manufacturing, ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment, (d) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury or death to any person or (e) the breach of any covenant herein or any material misrepresentation contained herein. The indemnification arising under this paragraph will continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

Section 26. Risk of Loss. Lessee assumes, from and including the Commencement Date, all risk of loss of or damage to the Equipment from any cause whatsoever. No such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof will relieve Lessee of the obligation to make Rental Payments or to perform any other obligation under this Agreement.

Section 27. Damage, Destruction, Condemnation; Use of Proceeds. If (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or (b) title to, or the temporary use of, the Equipment or any part thereof or the interest of Lessee or Lessor in the Equipment or any part thereof will be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment, unless Lessee has exercised its option to purchase the Equipment pursuant to **Section 31**. Any balance of the Net Proceeds remaining after such work has been completed will be paid to Lessee.

Section 28. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in **Section 27**, Lessee will either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) purchase Lessor's interest in the Equipment pursuant to **Section 31**. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing the Equipment will be retained by Lessee. If Lessee will make any payments pursuant to this Section, Lessee will not be entitled to any reimbursement therefor from Lessor nor will Lessee be entitled to any diminution of the amounts payable under **Section 9**.

Section 29. Disclaimer of Warranties. ***LESSOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR USE OR PURPOSE OF THE EQUIPMENT OR AGAINST INFRINGEMENT, OR ANY OTHER WARRANTY OR REPRESENTATION WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEE'S USE OR MAINTENANCE OF ANY EQUIPMENT OR SERVICES PROVIDED FOR IN THIS AGREEMENT.***

Section 30. Vendor's Warranties. Lessee may have rights under the contract evidencing the purchase of the Equipment; Lessee is advised to contact the Vendor for a description of any such rights. Lessee hereby assigns to Lessor during the Lease Term all warranties running from Vendor to Lessee. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee will not be in default hereunder, to assert from time to time whatever claims and rights (including without limitation warranties) related to the Equipment that Lessor may have against the Vendor. Lessee's sole remedy for the breach of any such warranty, indemnification or representation will be against the Vendor, and not against Lessor. Any such matter will not have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or availability of such warranties by the Vendor.

Section 31. Purchase Option; Prepayment.

(a) Lessee will have the option to purchase the Equipment, upon giving written notice to Lessor at least 30 days before the date of purchase, at the following times and upon the following terms:

(i) On any Rental Payment Date, upon payment in full of the Rental Payment then due hereunder plus all other amounts due hereunder plus the then-applicable Purchase Price to Lessor; or

(ii) In the event of substantial damage to or destruction or condemnation (other than by Lessee or any entity controlled by or otherwise affiliated with Lessee) of substantially all of the Equipment, on the day Lessee specifies as the purchase date in Lessee's notice to Lessor of its exercise of the purchase option, upon payment in full of the Rental Payment and all other amounts then due hereunder plus (A) the Purchase Price designated on the Payment Schedule for such purchase date if such purchase date is a Rental Payment Date or the Purchase Price for the immediately preceding Rental Payment Date if such purchase date is not a Rental Payment Date, and (B) if such day is not a Rental Payment Date, an amount equal to the portion of the interest component of the Rental Payment scheduled to come due on the following Rental Payment Date accrued from the immediately preceding

Rental Payment Date to such purchase date, computed on the basis of a 360-day year of twelve 30-day months.

Upon the exercise of the option to purchase set forth above, title to the Equipment will be vested in Lessee, free and clear of any claim by or through Lessor.

(b) In the event monies remain in any escrow fund established under an escrow agreement, upon receipt by the escrow agent under such escrow agreement of a duly executed certificate of acceptance and payment request identified as the final such request, the remaining monies in such escrow fund shall, first be applied to all reasonable fees and expenses incurred by such escrow agent, if applicable, in connection with such escrow fund as evidenced by its statement forwarded to Lessor and Lessee; and, second be paid to Lessor, for application against the outstanding principal components of Rental Payments, including prepayment of Rental Payments hereunder, unless Lessor directs that payment of such amount be made in such other manner that, in the opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes. If any such amount is applied against the outstanding principal components of Rental Payments, the Payment Schedule attached hereto will be revised accordingly.

Section 32. Determination of Fair Purchase Price. Lessee and Lessor hereby agree and determine that the Rental Payments hereunder during the Original Term and each Renewal Term represent the fair value of the use of the Equipment and that the amount required to exercise Lessee's option to purchase the Equipment pursuant to **Section 31** represents, as of the end of the Original Term or any Renewal Term, the fair purchase price of the Equipment. Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place Lessee under a practical economic compulsion to renew this Agreement or to exercise its option to purchase the Equipment hereunder. In making such determinations, Lessee and Lessor have given consideration to (a) the costs of the Equipment, (b) the uses and purposes for which the Equipment will be employed by Lessee, (c) the benefit to Lessee by reason of the acquisition and installation of the Equipment and the use of the Equipment pursuant to the terms and provisions of this Agreement, and (d) Lessee's option to purchase the Equipment. Lessee hereby determines and declares that the acquisition and installation of the Equipment and the leasing of the Equipment pursuant to this Agreement will result in equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Equipment were performed by Lessee other than pursuant to this Agreement. Lessee hereby determines and declares that the Maximum Lease Term does not exceed the useful life of the Equipment.

Section 33. Assignment by Lessor. Lessor's interest in, to and under this Agreement and the Equipment may be assigned and reassigned in whole or in part to one or more assignees by Lessor without the necessity of obtaining the consent of Lessee; and such assignment, transfer or conveyance shall be made only to (i) an affiliate of Lessor or (ii) banks, insurance companies or other financial institutions or their affiliates, but no such assignment, transfer or conveyance shall be effective as against Lessee unless and until Lessor has delivered to Lessee written notice thereof that discloses the name(s) and address(es) of the assignee(s) or the Lease Servicer (as hereafter provided). Nothing herein shall limit the right of Lessor or its assignees to sell, assign or grant participation interests in this Agreement to one or more entities listed in (i) or (ii); provided that if such assignment is made pursuant to a participation, custodial or similar agreement under which multiple ownership interests in this Agreement are created, it shall establish a single entity, owner, servicer or other fiduciary or agent to act on behalf of all of the holders of such participation interests (herein referred to as the "Lease Servicer") with respect to the rights and interests of such holders hereunder, including the exercise of rights and remedies thereunder upon the occurrence of an event of default or an event of non-appropriation, and further including the maintenance of a register by which a record of the names and addresses of such holders as of any particular time is kept and agrees, upon request of Lessee, to furnish such information to Lessee. Lessee will retain all notices of assignment as a register of all assignees and will make all payments to the assignee, assignees or Lease Servicer designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interest in the Equipment and in this Agreement and agrees to the filing of financing statements with respect to the Equipment and this Agreement. Lessee will not have the right to and will not assert against any assignee any claim, counterclaim, defense, set-off or other right Lessee may have against Lessor.

Section 34. Assignment and Subleasing by Lessee. None of Lessee's right, title and interest in, to and under this Agreement and the Equipment may be assigned or encumbered by Lessee for any reason, except that Lessee may sublease all or part of the Equipment if Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor that such subleasing will not adversely affect the exclusion of the interest components of the Rental Payments from gross income for federal income tax purposes. Any such sublease of all or part of the Equipment will be subject to this Agreement and the rights of Lessor in, to and under this Agreement and the Equipment.

Section 35. Events of Default Defined. Subject to the provisions of **Section 8**, any of the following will be "Events of Default" under this Agreement:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder at the time specified herein;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in **Section 35(a)**, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to Lessee by Lessor, unless Lessor will agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance will prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(d) Any provision of this Agreement will at any time for any reason cease to be valid and binding on Lessee, or will be declared to be null and void, or the validity or enforceability thereof will be contested by Lessee or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of Lessor, or Lessee will deny that it has any further liability or obligation under this Agreement;

(e) Lessee will (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(f) An order, judgment or decree will be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree will continue unstayed and in effect for any period of 30 consecutive days.

Section 36. Remedies on Default. Whenever any Event of Default exists, Lessor will have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may declare all Rental Payments and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term to be due;

(b) With or without terminating this Agreement, Lessor may enter the premises where the Equipment is located and retake possession of the Equipment or require Lessee at Lessee's expense to promptly return any or all of the Equipment to the possession of Lessor at a place specified by Lessor, and sell or lease the Equipment or, for the account of Lessee, sublease the Equipment, holding Lessee liable for the difference between (i) the Rental Payments and other amounts payable by Lessee hereunder plus the applicable

Purchase Price, and (ii) the net proceeds of any such sale, lease or sublease (after deducting all expenses of Lessor in exercising its remedies under this Agreement, including without limitation, all expenses of taking possession, storing, reconditioning and selling or leasing the Equipment and all brokerage, auctioneers' and attorneys' fees) provided that the amount of Lessee's liability under this subparagraph (b) shall not exceed the Rental Payments and other amounts otherwise due hereunder plus the remaining Rental Payments and other amounts payable by Lessee to the end of the then current Original Term or Renewal Term;

(c) Lessor may provide written notice of the occurrence of an Event of Default to the escrow agent under any related escrow agreement, and the escrow agent shall thereupon promptly remit to Lessor the entire balance of the escrow fund established thereunder; and

(d) Lessor may take whatever other action at law or in equity may appear necessary or desirable to enforce its rights as the owner of the Equipment.

In addition, Lessee will remain liable for all covenants and indemnities under this Agreement and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

Section 37. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy will be cumulative and will be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Agreement it will not be necessary to give any notice, other than such notice as may be required in this Agreement.

Section 38. Notices. All notices, certificates or other communications hereunder will be sufficiently given and will be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto will designate in writing to the other for notices to such party), to any assignee at its address as it appears on the register maintained by Lessee.

Section 39. Binding Effect. This Agreement will inure to the benefit of and will be binding upon Lessor and Lessee and their respective successors and assigns.

Section 40. Severability. In the event any provision of this Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

Section 41. Entire Agreement. This Agreement constitutes the entire agreement between Lessor and Lessee.

Section 42. Amendments. This Agreement may be amended, changed or modified in any manner by written agreement of Lessor and Lessee. Any waiver of any provision of this Agreement or any right or remedy hereunder must be affirmatively and expressly made in writing and will not be implied from inaction, course of dealing or otherwise.

Section 43. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

Section 44. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 45. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of New Hampshire, and any claim or action based upon this Agreement, any duty to be performed hereunder, or which is in any way referable hereto shall be brought in the New Hampshire

Superior Court for the Southern Judicial District of Hillsborough County or the New Hampshire 9th Circuit Court situated in Nashua and not elsewhere.

Section 46. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 47. Lessee's Notice Filings Related to this Agreement for SEC Rule 15c2-12. In connection with Lessee's compliance with any continuing disclosure undertakings (each, a "Continuing Disclosure Agreement") entered into by Lessee on and after February 27, 2019, pursuant to SEC Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule"), Lessor acknowledges that Lessee may be required to file with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system, or its successor ("EMMA"), notice that Lessee has incurred obligations under this Agreement and notice of certain subsequent events reflecting financial difficulties in connection with this Agreement. Lessee agrees that it shall not file or submit, or permit to be filed or submitted, with EMMA any documentation that includes the following unredacted sensitive or confidential information about Lessor or its affiliates: address and account information of Lessor or its affiliate, e-mail addresses, telephone numbers, fax numbers, names and signatures of officers, employees and signatories of Lessor or its affiliates, or any account information for any related escrow agreement, unless otherwise required for compliance with the Rule or otherwise required by law. Lessee acknowledges that Lessor is not responsible for Lessee's compliance or noncompliance with the Rule or any Continuing Disclosure Agreement.

[Signature page follows.]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their corporate names by their duly authorized officers as of the date first above written.

MUNICIPAL LEASING CONSULTANTS, LLC

By: _____
Name: _____
Title: _____
Address: 7 Old Town Lane, Grand Isle, VT 05458

CITY OF NASHUA, NEW HAMPSHIRE, ON BEHALF OF NASHUA SCHOOL DISTRICT

By: _____
Name: _____
Title: Mayor
Address: 229 Main Street, Nashua, NH 03060

ACCEPTED:
NASHUA SCHOOL DISTRICT

By: _____
Name: Daniel Donovan
Title: Chief Operating Officer
Address: 141 Ledge Street, Nashua, NH 03060

CERTIFICATION

I, the undersigned, do hereby certify (i) that the officer of Lessee who executed the foregoing Agreement on behalf of Lessee and whose genuine signature appears thereon, is the duly qualified and acting officer of Lessee as stated beneath his or her signature and has been authorized to execute the foregoing Agreement on behalf of Lessee, and (ii) that the fiscal year of Lessee is from July 1 to June 30.

DATED: October 20, 2020.

By: _____
Name: _____
Title: City Clerk

EXHIBIT A TO EQUIPMENT LEASE PURCHASE AGREEMENT

EQUIPMENT SCHEDULE

Equipment Description:
The Equipment consists of all equipment acquired and installed in connection with the energy savings improvements described in the Energy Performance Contract dated _____, 2020, between Nashua School District and Energy Efficient Investments, Inc., as described in and at the locations listed therein, together with all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto and all insurance and/or proceeds therefrom. See also **"Schedule 1 – Scope of Work"** attached hereto for a further description of the Equipment. *[Scope of Work from Energy Performance Contract to be attached.]*

Equipment Location:
The Equipment will be located at the following facilities:

Nashua High School
8 Titan Way
Nashua, NH 03063

Nashua South High School
36 Riverside Street
Nashua, NH 03062

Vendor:
Energy Efficient Investments, Inc., 19 D Star Drive, Merrimack, NH 03054

This Equipment Schedule shall be deemed to be supplemented by the descriptions of the Equipment included in the Certificate of Acceptance and Payment Requests submitted to Lessor for approval pursuant to the Escrow Agreement dated as of October 20, 2020, among Lessor, Lessee and TMI Trust Company, as escrow agent, which descriptions shall be deemed to be incorporated herein.

EXHIBIT B TO EQUIPMENT LEASE PURCHASE AGREEMENT

PAYMENT SCHEDULE

Principal Amount: $6,671,814
Interest Rate: 3.15%
Rental Payments will be made in accordance with **Section 9** and this Payment Schedule.

Rental Payment Date	Total Rental Payment	Interest Portion	Principal Portion	Purchase Price *
10/20/2021	$454,692.94	$210,162.14	$244,530.80	$6,684,374.53
10/20/2022	454,692.94	202,459.42	252,233.52	6,422,051.67
10/20/2023	454,692.94	194,514.06	260,178.88	6,151,465.63
10/20/2024	454,692.94	186,318.43	268,374.51	5,872,356.14
10/20/2025	454,692.94	177,864.63	276,828.31	5,584,454.70
10/20/2026	454,692.94	169,144.54	285,548.40	5,236,643.17
10/20/2027	454,692.94	160,149.77	294,543.17	4,933,263.70
10/20/2028	454,692.94	150,871.66	303,821.28	4,620,327.78
10/20/2029	454,692.94	141,301.29	313,391.65	4,297,534.38
10/20/2030	454,692.94	131,429.45	323,263.49	3,964,572.99
10/20/2031	454,692.94	121,246.65	333,446.29	3,585,966.77
10/20/2032	454,692.94	110,743.09	343,949.85	3,235,137.93
10/20/2033	454,692.94	99,908.67	354,784.27	2,873,257.97
10/20/2034	454,692.94	88,732.97	365,959.97	2,499,978.80
10/20/2035	454,692.94	77,205.23	377,487.71	2,114,941.34
10/20/2036	454,692.94	65,314.36	389,378.58	1,684,093.32
10/20/2037	454,692.94	53,048.94	401,644.00	1,282,449.32
10/20/2038	454,692.94	40,397.15	414,295.79	868,153.53
10/20/2039	454,692.94	27,346.84	427,346.10	440,807.43
10/20/2040	454,692.94	13,885.51	440,807.43	0.00
Totals	$9,093,858.80	$2,422,044.80	$6,671,814.00	

CITY OF NASHUA, NEW HAMPSHIRE, ON BEHALF OF NASHUA SCHOOL DISTRICT

By: _____
Name: _____
Title: Mayor

ACCEPTED:
NASHUA SCHOOL DISTRICT

By: _____
Name: Daniel Donovan
Title: Chief Operating Officer

* Lessee's option to purchase is subject to provisions of Section 31 of the Agreement.

ESCROW AGREEMENT

LESSOR:
Municipal Leasing Consultants, LLC
7 Old Town Lane
Grand Isle, VT 05458

ESCROW AGENT:
TMI Trust Company
901 Summit Avenue
Fort Worth, TX 76102
Attention: Barbara James, Vice President

LESSEE:
City of Nashua, New Hampshire, on behalf of
Nashua School District
229 Main Street
Nashua, NH 03060

THIS ESCROW AGREEMENT (this "Escrow Agreement") dated October 20, 2020 is entered into by and among Municipal Leasing Consultants, LLC ("Lessor"), the City of Nashua, New Hampshire, on behalf of Nashua School District ("Lessee"), and TMI Trust Company (the "Escrow Agent").

Lessor and Lessee have heretofore entered into that certain Equipment Lease Purchase Agreement dated October 20, 2020 (the "Agreement"). The Agreement contemplates that certain Equipment described therein (the "Equipment") is to be acquired from the vendor(s) or manufacturer(s) thereof.

After acceptance of the Equipment by Lessee, the Equipment is to be leased by Lessor to Lessee pursuant to the terms of the Agreement.

The Agreement contemplates that Lessor will deliver to the Escrow Agent cash in the amount of $6,671,814, to be held in escrow by the Escrow Agent and applied on the express terms and conditions set forth herein. Such cash, together with all interest and additions received with respect thereto (hereinafter, the "Escrow Fund"), is to be applied from time to time to pay certain costs of acquiring the Equipment (a portion of which may, if required, be paid prior to final acceptance of the Equipment by Lessee and, if requested by Lessee, to pay certain costs of entering into the Agreement).

The parties desire to set forth the terms on which the escrow is to be created and to establish the rights and responsibilities of the parties hereto.

NOW, THEREFORE, the parties agree as follows:

1. The Escrow Agent hereby agrees to serve as escrow agent upon the terms and conditions set forth herein. The Escrow Agent agrees that the Escrow Fund shall be held irrevocably in trust for the account and benefit of Lessee and Lessor and all interest earned with respect to the Escrow Fund shall accrue to the benefit of Lessee and shall be applied as expressly set forth herein.

To the limited extent required to perfect the security interest granted by Lessee to Lessor in the cash and negotiable instruments from time to time comprising the Escrow Fund, Lessor hereby appoints the Escrow Agent as its security agent, and the Escrow Agent hereby accepts the appointment as security agent, and agrees to hold physical possession of such cash and negotiable instruments on behalf of Lessor.

2. On such day as determined to the mutual satisfaction of the parties (the "Commencement Date"), Lessor shall deliver to the Escrow Agent cash in the amount of $6,671,814 to be held by the Escrow Agent on the express terms and conditions set forth herein. The Escrow Agent agrees to accept the funds delivered to the Escrow Fund by Lessor, and further agrees to hold the amount so delivered together with all interest and other additions received with respect thereto in escrow on the express terms and conditions set forth herein.

3. The Escrow Agent shall at all times segregate the Escrow Fund into a fund maintained for that express purpose, which shall be clearly identified on the books and records of the Escrow Agent as

being held in its capacity as Escrow Agent. Securities and other negotiable instruments comprising the Escrow Fund from time to time shall be held or registered in the name of the Escrow Agent (or its nominee). The Escrow Fund shall not, to the extent permitted by applicable law, be subject to levy or attachment or lien by or for the benefit of any creditor of any of the parties hereto (except with respect to the security interest therein held by Lessor).

4. Lessee hereby directs the Escrow Agent to invest the cash comprising the Escrow Fund from time to time in Qualified Investments (as hereinafter defined). Interest or other amounts earned and received by the Escrow Agent with respect to the Escrow Fund shall be held in and comprise a part of the Escrow Fund. No investment shall be made that would cause the Agreement to be deemed to be an arbitrage bond within the meaning of Section 148(a) of the Internal Revenue Code of 1986, as amended. For the purpose of this paragraph 4, the term "Qualified Investments" means deposits that comply with the requirements of New Hampshire RSA 197:23-a, to the extent the same are at the time legal for investment of the funds being invested.

5. Lessor and Lessee hereby authorize the Escrow Agent to take the following actions with respect to the Escrow Fund:

a. From time to time, the Escrow Agent shall pay the vendor or manufacturer of the Equipment or Lessee or other payee upon receipt of the following: (a) a Certificate of Acceptance and Payment Request in the form attached as **Exhibit A** to this Escrow Agreement (a "Payment Request") duly executed by a Lessee Representative and approved for payment by a Lessor Representative (or its assignee, if any), (b) (b) the vendor(s) or manufacturer(s) invoice(s) specifying the acquisition price of the Equipment described in the Payment Request, (c) in the event that certain costs of entering into this Agreement are described in the Payment Request, invoice(s) or other evidence specifying the amount(s) of such costs, and (d) any additional documentation required by Lessor. Without limiting the foregoing, Lessor shall not approve any such payment unless and until Lessee shall have provided to Lessor (i) certificates of insurance evidencing coverage in accordance with Section 22 of the Agreement and satisfactory to Lessor, and (ii) payment and performance bonds, each naming Lessor and its successors and assigns as an additional obligee and issued by a surety company rated "A" or better by AM Best in form and substance satisfactory to Lessor. A "Lessee Representative" shall be a person designated in the Incumbency Certificate attached hereto as **Exhibit B-1**, or on a subsequent Incumbency Certificate of Lessee actually received and acknowledged by Lessor and the Escrow Agent. A "Lessor Representative" shall be a person designated in the Certificate of Lessor Representatives attached hereto as **Exhibit B-2**.

b. Upon receipt of a Payment Request for payment of funds from the Escrow Fund, Lessor and the Escrow Agent are authorized to seek confirmation of such instructions by telephone call-back to any Lessee Representative designated on **Exhibit B-1** hereto, and Lessor and the Escrow Agent may rely upon the confirmations of anyone purporting to be such Lessee Representative. The Escrow Agent shall confirm any Payment Request by telephone call-back to the person or persons designated for verifying such draw requests on **Exhibit B-2** (such person verifying the request shall be different than the person initiating the request). Lessor and Lessee hereby confirm that any call-back performed by the Escrow Agent to verify a disbursement instruction pursuant to a Payment Request submitted pursuant to this Section before release shall be made to Lessor only and the Escrow Agent shall have no obligation to call-back Lessee.

c. The persons and telephone numbers for call-backs may be changed only in writing actually received and acknowledged by Lessor and the Escrow Agent. The parties to this Escrow Agreement acknowledge that such security procedure is commercially reasonable.

d. It is understood that Lessor, the Escrow Agent and the beneficiary's bank in any funds transfer may rely solely upon any account numbers or similar identifying number provided by any party hereto to identify (i) the beneficiary, (ii) the beneficiary's bank, or (iii) an intermediary bank.

e. In the event that Lessor provides to the Escrow Agent written notice of the occurrence of an Event of Default or a nonappropriation by Lessee under the Agreement, the Escrow Agent shall thereupon promptly remit to Lessor the entire balance of the Escrow Fund.

f. Upon receipt by the Escrow Agent of a duly executed Certificate of Acceptance and Payment Request identified as the final such request, the remaining monies in the Escrow Fund shall, *first* be applied to all reasonable fees and expenses incurred by the Escrow Agent, if applicable, in connection herewith as evidenced by its statement forwarded to Lessor and Lessee; and, *second* be paid to Lessor, for application against the outstanding principal components of Rental Payments (as defined in the Agreement), including prepayment of Rental Payments under the Agreement, as provided therein, unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes. If any such amount is used to prepay principal, the Payment Schedule attached to the Agreement will be revised accordingly as specified by Lessor.

6. The reasonable fees and expenses of the Escrow Agent incurred in connection herewith shall be the responsibility of Lessor and are herein defined as the sum of $1,500, for escrow services as described herein; plus any extraordinary expenses incurred by the Escrow Agent at the request of Lessor or Lessee.

7. The Escrow Agent shall have no liability for acting upon any written instruction presented by Lessee and Lessor in connection with this Escrow Agreement which the Escrow Agent in good faith believes to be genuine. Furthermore, the Escrow Agent shall not be liable for any act or omission in connection with this Escrow Agreement except for its own gross negligence, willful misconduct or bad faith. The Escrow Agent shall not be liable for any loss or diminution in value of the Escrow Fund as a result of the investment decisions made pursuant to Section 4 in Qualified Investments at the direction of Lessee.

8. To the extent authorized by law, Lessee hereby agrees to indemnify and save the Escrow Agent harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder and which are not due to the Escrow Agent's gross negligence or willful misconduct. No indemnification will be made under this Section or elsewhere in this Escrow Agreement for damages arising solely out of gross negligence, willful misconduct or bad faith by the Escrow Agent, its officers, agents, employees, successors or assigns.

9. The Escrow Agent may at any time resign by giving at least 30 days' prior written notice to Lessee and Lessor, but such resignation shall not take effect until the appointment of the successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, the Escrow Agent may be removed at any time, with or without cause, by instrument in writing executed by Lessor and Lessee. Such notice shall set forth the effective date of the removal. In the event of any resignation or removal of the Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent.

Upon the effective date of resignation or removal, the Escrow Agent will transfer the Escrow Fund then held by it to the successor Escrow Agent selected by Lessor and Lessee.

10. This Escrow Agreement and the Escrow Fund established hereunder shall terminate upon receipt by the Escrow Agent of the written notice from Lessor specified in Section 5(b) or Section 5(c) hereof.

11. All notices hereunder shall be in writing, sent by certified mail, return receipt requested, or by mutually recognized overnight carrier addressed to the other party at its respective address shown on page 1 of this Escrow Agreement or to such other address as such party shall from time to time designate in writing to the other parties hereto; and shall be effective on the date or receipt.

12. This Escrow Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. No rights or obligations of the Escrow Agent under this Escrow Agreement may be assigned without the prior written consent of Lessor and Lessee.

13. This Escrow Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no waiver, consent, modification or change of terms hereof shall bind any party unless in writing signed by all parties.

14. The Escrow Agent may employ agents, attorneys and accountants in connection with its duties hereunder and shall not be liable for any action taken or omitted in good faith in accordance with the advice of counsel, accountants or other skilled persons.

15. This Escrow Agreement shall be governed by and be construed and interpreted in accordance with the internal laws of the State of New Hampshire.

16. This Escrow Agreement may be executed in several counterparts, and each counterpart so executed will be an original. In addition, the parties agree that the transaction described herein may be conducted and related documents may be received, sent or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

17. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Escrow Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed as of the day and year first above set forth.

LESSOR: MUNICIPAL LEASING CONSULTANTS, LLC

By: _____
Name: _____
Title: _____

LESSEE: CITY OF NASHUA, NEW HAMPSHIRE, ON BEHALF OF NASHUA SCHOOL DISTRICT

By: _____
Name: _____
Title: Mayor

ACCEPTED:
NASHUA SCHOOL DISTRICT

By: _____
Name: Daniel Donovan
Title: Chief Operating Officer

ESCROW AGENT: TMI TRUST COMPANY

By: _____
Name: Barbara James
Title: Vice President

EXHIBIT A TO ESCROW AGREEMENT

CERTIFICATE OF ACCEPTANCE AND PAYMENT REQUEST

TMI Trust Company (the "Escrow Agent"), as escrow agent under that certain Escrow Agreement dated October 20, 2020 (the "Escrow Agreement"), by and among the City of Nashua, New Hampshire, on behalf of Nashua School District ("Lessee"), Municipal Leasing Consultants, LLC ("Lessor") and the Escrow Agent, is hereby requested to pay from the Escrow Fund established and maintained thereunder, the amount set forth below to the named payee(s). The amount shown is due and payable under a purchase order or contract (or has been paid by and not previously reimbursed to Lessee). The equipment and costs described below are (i) part or all of the Equipment listed in the Equipment Schedule to that certain Equipment Lease Purchase Agreement dated October 20, 2020 (the "Agreement"), between Lessor and Lessee, or (ii) costs incurred in entering into the Agreement:

DESCRIPTION OF COST PAID OR FINANCING COST	AMOUNT	PAYEE

Lessee hereby certifies and represents to and agrees with Lessor as follows with respect to the Equipment described above: (i) the amount to be disbursed is not being paid in advance of the time, if any, fixed for any payment, and does not include any retained percentage entitled to be retained by Lessee at this time; (ii) no amount requested to be disbursed was included in any payment request previously filed with the Escrow Agent for which payment was actually made by the Escrow Agent; (iii) Lessee has made such investigation of such sources of information as are deemed necessary and is of the opinion that the applicable portion of the Equipment and related work has been fully paid for, and no claim or claims exist against the Lessee or any Vendor out of which a lien based on furnishing labor or material exists or might arise; (iv) acquisition and installation of the applicable portion of the Equipment for which payment is being requested has been completed in accordance with plans and specifications approved by the Lessee and in accordance with the terms and conditions of the Energy Performance Contract dated _____, 2020, between Lessee and Energy Efficient Investments, Inc. (the "Contract"), and said applicable portion of the Equipment is suitable and sufficient for the expected uses thereof, however, this statement is made without prejudice to any rights against third parties which exist at the date hereof or which may subsequently come into being; (v) the amount remaining in the Escrow Fund will, after payment of the amount requested, be sufficient to pay the remaining costs of the Equipment; (vi) a present need exists for such Equipment which need is not temporary or expected to diminish in the near future; (vii) such Equipment is essential to and will be used by Lessee only for the purpose of performing one or more governmental functions of Lessee consistent with the permissible scope of Lessee's authority; (viii) the estimated useful life of such Equipment based upon the manufacturer's representations and Lessee's projected needs is not less than the term of lease with respect to such Equipment; (ix) Lessee has conducted such inspection and/or testing of such Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts such Equipment for all purposes as of the date of this Certificate; (x) such Equipment is covered by insurance in the types and amounts required by the Agreement; (xi) no Event of Default or nonappropriation, as such terms are defined in the Agreement, and no event which with the giving of notice or lapse of time or both, would become an Event of Default or nonappropriation, has occurred and is continuing on the date hereof; and (xii) sufficient funds have been appropriated by Lessee for the payment of all rental payments due under the Agreement during Lessee's current fiscal year.

Based on the foregoing, Lessor is hereby authorized and directed to fund the acquisition of the Equipment set forth in the Agreement by paying, or causing to be paid, the manufacturer(s)/vendor(s), Lessee or other payee(s) the amounts set forth on the attached invoices from the Escrow Fund held under the Escrow Agreement in accordance with its terms.

The following documents are attached hereto and made a part hereof: (a) invoice(s) for costs being paid; (b) current IRS Form W-9 for the payee (unless such IRS Form W-9 has been previously submitted to the Escrow Agent); and (c) lien waivers, if applicable.

IF REQUEST IS FOR REIMBURSEMENT, CHECK HERE ☐. Lessee paid an invoice prior to the commencement date identified in the Equipment Schedule and is requesting reimbursement for such payment. A copy of evidence of such payment together with a copy of Lessee's Declaration of Official Intent and other evidence required by Lessor prior to Lessor's approval hereof that Lessee has satisfied the requirements for reimbursement set forth in Treas. Reg. 1.150-2 is hereby attached. Lessor's approval hereof shall evidence that Lessee has delivered to Lessor such required documentation.

IF REQUEST IS FINAL REQUEST, CHECK HERE ☐. Lessee hereby certifies that (a) all of the Equipment described in the Agreement has been received in good condition and has been installed in accordance with the Contract; (b) such Equipment is accepted **"AS-IS, WHERE-IS"**; (c) Lessee has inspected the Equipment, and determined that it is in good working order and complies with all purchase orders, contracts and specifications; (d) Lessee has fully and satisfactorily performed all covenants and conditions to be performed by it as of this date under the Agreement with regard to such Equipment; (e) Lessee waives any right to revoke its acceptance; and (f) the Equipment is fully insured in accordance with Section 22 of the Agreement. This certificate is made without prejudice to any rights against third parties which may exist as of the date hereof or which may subsequently come into being.

Date: _____, 20___.

Approved for Payment:

CAPITAL ONE PUBLIC FUNDING, LLC
(assignee of MUNICIPAL LEASING
CONSULTANTS, LLC), as Lessor

By: _____

Name: _____

Title: _____

CITY OF NASHUA, NEW HAMPSHIRE, ON
BEHALF OF NASHUA SCHOOL DISTRICT,
as Lessee

By: _____

Name: _____

Title: _____

EXHIBIT B-1 TO ESCROW AGREEMENT
INCUMBENCY CERTIFICATE REGARDING LESSEE REPRESENTATIVES

$6,671,814
EQUIPMENT LEASE PURCHASE AGREEMENT
DATED AS OF OCTOBER 20, 2020, BETWEEN
MUNICIPAL LEASING CONSULTANTS, LLC, AS LESSOR, AND THE
CITY OF NASHUA, NEW HAMPSHIRE,
ON BEHALF OF NASHUA SCHOOL DISTRICT, AS LESSEE

The undersigned officer of the City of Nashua, New Hampshire, on behalf of Nashua School District ("Lessee") hereby certifies that the persons listed below are each designated as an authorized representative of Lessee for the Escrow Agreement dated October 20, 2020 (the "Escrow Agreement"), among Lessee, Municipal Leasing Consultants, LLC and TMI Trust Company, as escrow agent (the "Escrow Agent"), including but not limited to initiating and approving transactions under the Escrow Agreement and confirming such approvals through call-backs from Lessor and the Escrow Agent relating thereto, all on behalf of Lessee. Each such person is the current holder of the office or title indicated, and the signature set forth opposite the name of each such authorized representative is the true and correct specimen of such person's signature:

Name/Title/Telephone/Email	**Specimen Signature**
_____ Name	_____ Signature
_____ Title	
_____ Telephone#	
_____ Email Address	

Name/Title/Telephone/Email	**Specimen Signature**
_____ Name	_____ Signature
_____ Title	
_____ Telephone#	
_____ Email Address	

Dated: October 20, 2020.

CITY OF NASHUA, NEW HAMPSHIRE, ON BEHALF OF
NASHUA SCHOOL DISTRICT

By: _____
Name: _____
Title: _____
(*To be signed by someone other than signatories listed above.*)

EXHIBIT B-2

AUTHORIZED LESSOR REPRESENTATIVES FOR ESCROW AGREEMENT

Name/Title/Telephone/Email	**Specimen Signature**
Jonathan A. Lewis Name President Title 631-531-2824 Telephone # Jonathan.lewis@capitalone.com Email Address	Signature ☒ Initiate ☐ Verify transactions initiated by others

Name/Title/Telephone/Email	**Specimen Signature**
Drew Scrivener Name Senior Vice President Title 631-776-3844 Telephone # Drew.scrivener@capitalone.com Email Address	Signature ☒ Initiate ☐ Verify transactions initiated by others

Name/Title/Telephone/Email	**Specimen Signature**
Catherine DeLuca Name Vice President Title 631-531-2802 Telephone # Catherine.deluca@capitalone.com Email Address	Signature ☐ Initiate ☒ Verify transactions initiated by others

Name/Title/Telephone/Email	**Specimen Signature**
Pauline Stochla Name Senior Associate Title 631-776-3848 Telephone # Pauline.stochla@capitalone.com Email Address	Signature ☐ Initiate ☒ Verify transactions initiated by others

The Escrow Agent is authorized to comply with and rely upon any notices, instructions or other communications believed by it to have been sent or given by the person or persons identified above, including without limitation, to initiate and verify funds transfers as indicated.

CAPITAL ONE PUBLIC FUNDING, LLC

By: _____

Name: Maryann Santos

Title: Senior Vice President

FEDERAL TAX AGREEMENT

THIS FEDERAL TAX AGREEMENT (the "Tax Agreement"), is executed as of October 20, 2020, by the City of Nashua, New Hampshire (the "Issuer") and Nashua School District (the "District"), for the benefit of Capital One Public Funding, LLC and its successors and assigns (the "Lender"), and any firm of attorneys rendering an opinion on the exclusion from gross income for federal income tax purposes of the interest portion of rental payments payable under the Lease Agreement (defined below).

RECITALS

1. This Tax Agreement is being executed and delivered in connection with that certain Equipment Lease Purchase Agreement dated as of October 20, 2020 (the "Lease Agreement"), entered into by and between the City of Nashua, New Hampshire, on behalf of Nashua School District, as lessee, and Municipal Leasing Consultants, LLC, as lessor (the "Lessor").

2. The Internal Revenue Code of 1986, as amended, and the applicable Regulations (as defined herein), impose certain limitations on the uses and investment of the Lease Proceeds (as defined herein) and of certain other money relating to the Lease Agreement, and set forth the conditions under which the interest portion of rental payments payable under the Lease Agreement will be excluded from gross income for federal income tax purposes.

3. The Issuer and the District are executing this Tax Agreement in order to set forth certain facts, covenants, representations, and expectations relating to the use of the Lease Proceeds and the property financed or refinanced with those proceeds and the investment of the Lease Proceeds and of certain other related money, in order to establish and maintain the exclusion of the interest portion of rental payments payable under the Lease Agreement from gross income for federal income tax purposes, and to provide guidance for complying with the arbitrage rebate provisions of Code § 148(f).

4. This Tax Agreement is being entered into for the purpose of setting forth general procedures for the Issuer and the District to continuously monitor and comply with the federal income tax requirements set forth in the Code and the Regulations.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, covenants and agreements set forth in this Tax Agreement, the Issuer and the District represent, covenant and agree as follows:

Section 1. Definitions of Words and Terms. Except as otherwise provided in this Tax Agreement or unless the context otherwise requires, capitalized words and terms used in this Tax Agreement have the same meanings as set forth in the Lease Agreement, and certain other words and phrases have the meanings assigned in Code §§ 103, 141-150 and the Regulations. The following words and terms used in this Tax Agreement have the following meanings:

"**Annual Compliance Checklist**" means a checklist for the Project designed to measure compliance with the requirements of this Tax Agreement after the Closing Date substantially in the form attached as **Exhibit D**.

"Benefitted Facilities" or **"Benefitted Facility"** means, as the context requires, all or any of the District's buildings and facilities benefitted from the energy conservation improvements, comprising the Financed Assets as further described on **Exhibit C** to this Tax Agreement. The Benefitted Facilities are expected to include the buildings and facilities set forth on **Exhibit C** to this Tax Agreement.

"Closing Date" means October 20, 2020.

"Code" means the Internal Revenue Code of 1986, as amended.

"Compliance Officer" means the _____ or its designee.

"Financed Assets" and **"Financed Asset"** means, as the context requires, all or any portion of the Project financed with proceeds of the Lease Agreement, as described on **Exhibit C** hereto.

"Investment" means any security, obligation, annuity contract or other investment-type property that is purchased directly with, or otherwise allocated to, Lease Proceeds. This term does not include a tax-exempt bond, except for "specified private activity bonds" as defined in Code § 57(a)(5)(C), but it does include the investment element of most interest rate caps.

"IRS" means the Internal Revenue Service.

"Lease Agreement" means the Equipment Lease Purchase Agreement dated as of October 20, 2020, between the City of Nashua, New Hampshire, on behalf of Nashua School District, as lessee, and the Lessor, as lessor, as amended from time to time.

"Lease Proceeds" means the gross proceeds of the Lease Agreement, which include (a) sale proceeds (any amounts actually or constructively received by the Issuer or the District from the execution and delivery of the Lease Agreement, including amounts used to pay a discount or fees to the Lessor, but excluding pre-issuance accrued interest), (b) any amounts received from investing sale proceeds or transferred proceeds or other investment proceeds, (c) any amounts held in a sinking fund for the Lease Agreement, (d) any amounts held in a pledged fund or reserve fund for the Lease Agreement, (e) any other replacement proceeds, and (f) any transferred proceeds.

"Management Agreement" means a legal agreement defined in Regulations § 1.141-3(b) as a management, service, or incentive payment contract with an entity that provides services involving all or a portion of any function of a Financed Asset or a Benefitted Facility, such as a contract to manage all or any portion of the Financed Assets or the Benefitted Facilities. However, contracts for services that are solely incidental to the primary governmental function of a Financed Asset or a Benefitted Facility (for example, contracts for janitorial, office equipment repair, billing or similar services); however, are not treated as Management Agreements.

"Measurement Period" means, with respect to the Financed Assets, the period beginning on the later of (i) the Closing Date or (ii) the date the property is placed in service and ending on the earlier of (A) the final maturity date of the Lease Agreement or (B) the expected economic useful life of the property.

"Non-Qualified Use" generally means any use of a Financed Asset or a Benefitted Facility in a trade or business carried on by any Non-Qualified User that is different in form or substance to the use made of a Financed Asset or a Benefitted Facility by any other member of the general public. Generally, ownership, a lease agreement or any other use that provides a Non-Qualified User a special legal right or entitlement to use a Financed Asset or a Benefitted Facility will constitute Non-Qualified Use.

"Non-Qualified User" means any person or entity other than the Issuer or the District.

"Opinion of Special Tax Counsel" means the written opinion of Special Tax Counsel addressed to the Lender to the effect that the proposed action or the failure to act will not adversely affect the exclusion of the interest portion of rental payments under the Lease Agreement from gross income for federal income tax purposes or an opinion describing additions, modifications or additional procedures required to preserve the interest portion of rental payments under the Lease Agreement from gross income for federal income tax purposes.

"Post-Issuance Tax Requirements" means those requirements related to the use of Lease Proceeds, the use of the Financed Assets and Benefitted Facilities, and the investment of Lease Proceeds after the Closing Date.

"Project" means all of the property acquired, installed, constructed, and equipped by the District using Lease Proceeds [**and other money contributed by the Issuer or the District**].

"Qualified Use Agreement" means any of the following:

(1) A lease or other short-term use by members of the general public who use the Project on a short-term basis in the ordinary course of the Issuer's or the District's governmental purposes.

(2) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Project for a period up to 200 days in length pursuant to an arrangement whereby (a) the use of the Project under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business and (b) the compensation for the use is determined based on generally applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed. Any Qualified User or Non-Qualified User using all or any portion of the Project under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(3) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Project for a period up to 100 days in length pursuant to arrangements whereby (a) the use of the property by the person would be general public use but for the fact that generally applicable and uniformly applied rates are not reasonably available to natural persons not engaged in a trade or business, (b) the compensation for the use under the arrangement is determined based on applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed, and (c) the Project was not constructed for a principal purpose of providing the property for use by that Qualified User or Non-Qualified User. Any Qualified User or Non-Qualified User using all or any portion of the Project under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(4) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Project for a period up to 50 days in length pursuant to a negotiated arm's-length arrangement at fair market value so long as the Project was not constructed for a principal purpose of providing the property for use by that person.

"**Regulations**" means United States Treasury Regulations governing obligations the interest on which is excluded from gross income for federal income tax purposes under Code §§ 103 and 141-150.

"**Special Tax Counsel**" means Gilmore & Bell, P.C., Kansas City, Missouri, or other nationally recognized firm of bond counsel acceptable to the Lender.

"State" means the State of New Hampshire.

"Tax Compliance File" means documents and records for the Lease Agreement maintained by the Compliance Officer pursuant to this Tax Agreement.

"Yield" means the yield on the Lease Agreement, computed under Regulations § 1.148-4, and yield on an Investment, computed under Regulations § 1.148-5.

Section 2. Purpose of the Lease Agreement; Reimbursement; Use of Lease Proceeds.

(a) *Purpose.* The Lease Agreement is being executed and delivered for the purpose of paying (i) costs of the Project, and (ii) if requested by the Issuer and approved by the Lender, certain costs of issuance in connection with the execution and delivery of the Lease Agreement.

(b) *Reimbursement.* Reimbursement from proceeds of the Lease Agreement of expenditures paid prior to the Closing Date will satisfy the requirements of Regulations § 1.150-2. The list of expenditures to be reimbursed, if any, are set forth on **Exhibit C**.

(c) *Use of Lease Proceeds.* On the Closing Date, all proceeds of the Lease Agreement in the amount of $6,671,814 are expected to be deposited in the Escrow Fund and used to pay (i) costs of the Financed Assets, and (ii) if required by the Issuer and approved by the Lender, certain costs of issuance in connection with the Lease Agreement.

Section 3. Project Completion. The District has incurred, or will incur within 6 months after the Closing Date, a substantial binding obligation to a third party to spend at least 5% of the Lease Proceeds on the Financed Assets. The completion of the Financed Assets and the allocation of the Lease Proceeds to expenditures will proceed with due diligence. At least 85% of the proceeds of the Lease Agreement will be allocated to expenditures on the Financed Assets within 3 years after the Closing Date.

Section 4. Funds or Accounts. The Escrow Fund has been established under the Escrow Agreement with the Escrow Agent. Amounts held in the Escrow Fund will be used to pay a portion of the costs of the Project. No other funds or accounts have been established for the Lease Agreement to hold Lease Proceeds or other money that will be used to make rental payments under the Lease Agreement.

Section 5. Rebate and Yield Restriction.

(a) *Lender Certification – Issue Price.* The Lender has represented in the Certificate of Lender, dated as of the Closing Date and attached hereto as **Exhibit E**, that it has acquired the Lease Agreement from Lessor, pursuant to Regulations § 1.148-1(f)(2)(i) (relating to the so-called "private placement rule", for the amount of $_____ (the "**Issue Price**"), and intends to hold the Lease Agreement for its own account with no current intent to sell, assign or transfer the Lease Agreement.

(b) *Lease Agreement Yield.* Based on the Issue Price, Special Tax Counsel has determined that the Yield on the Lease Agreement is _____%. The amortization schedule and calculation of the Yield on the Lease Agreement is attached to this Tax Agreement as **Exhibit A**. Neither the Issuer nor the District has entered into an interest rate swap agreement with respect to any portion of Lease Proceeds.

(c) *Lease Agreement Subject to the Rebate Requirement.* The Lease Agreement is subject to the arbitrage rebate requirements of Code § 148(f). Pursuant to the Escrow

Agreement, investment of the Lease Agreement Proceeds is limited to placement in an interest-bearing demand deposit account. If the Yield on investments of the Escrow Fund exceeds ____%, or if the Issuer or the District establishes any sinking or reserve fund for the Lease Agreement, then the Issuer will contact Special Tax Counsel to seek advice regarding the need to calculate and pay arbitrage rebate.

Section 6. Use of Financed Assets and Benefitted Facilities.

(a) *General*. The Project will be owned by the District throughout the Measurement Period. Except as otherwise described in this **Section 6**, no portion of the buildings and facilities comprising the Project is expected to be used in a Non-Qualified Use during the Measurement Period. Unless the Issuer and the District obtains an Opinion of Special Tax Counsel, neither the Issuer nor the District will use, or permit the use of, the buildings and facilities comprising the Project in any other Non-Qualified Use.

(b) *Agreements*. As of the Closing Date, neither the District nor the Issuer has any agreements with Non-Qualified Users that relate to the management or operation of any portion of the buildings and facilities comprising the Project. During the Measurement Period, neither the Issuer nor the District will enter into or renew any agreement with any Non-Qualified User with respect to the management or operation of any portion of the buildings and facilities comprising the Project without first obtaining an Opinion of Special Tax Counsel.

(c) *Leases*. Except as otherwise described in this subsection (c), as of the Closing Date, neither the Issuer nor the District has any leases with Non-Qualified Users with respect to the buildings and facilities comprising the Project. During the Measurement Period, neither the Issuer nor the District will enter into or renew any other leases with any Non-Qualified Users, other than Qualified Use Agreements, with respect to the buildings and facilities comprising the Project without first obtaining an Opinion of Special Tax Counsel.

(d) *Written Policies and Procedures*. The Issuer and the District intend for this Tax Agreement to be its primary written policies and procedures for monitoring compliance with the Post-Issuance Tax Requirements for the Lease Agreement and to supplement any other formal policies and procedures related to the Post-Issuance Tax Requirements that have been established.

(e) *Compliance Officer*. The Issuer or the District, when necessary to fulfill the Post-Issuance Tax Requirements, will, through the Compliance Officer, sign Form 8038-T in connection with the payment of arbitrage rebate or Yield reduction payments, participate in any federal income tax audit of the Lease Agreement or related proceedings under a voluntary compliance agreement procedures (VCAP) or undertake a remedial action procedure pursuant to Regulations § 1.141-12.

(f) *Annual Compliance Checklist*. Attached as **Exhibit D** is a form of Annual Compliance Checklist for the Lease Agreement. The Compliance Officer will prepare and complete an Annual Compliance Checklist for the Financed Assets and Benefitted Facilities at least annually. In the event the Annual Compliance Checklist identifies a deficiency in compliance with the requirements of this Tax Agreement, the Compliance Officer will obtain an Opinion of Special Tax Counsel and take actions to correct any deficiency.

Section 7. Recordkeeping. The Compliance Officer will maintain the Tax Compliance File for the Lease Agreement in accordance with this Tax Agreement. Unless otherwise specifically instructed in a written Opinion of Special Tax Counsel or to the extent otherwise provided in this Tax Agreement, the Compliance Officer shall retain records related to the Post-Issuance Tax Requirements until 3 years following the final maturity of (i) the Lease Agreement or (ii) any obligation issued to refund the Lease Agreement. Any records maintained

electronically must comply with Section 4.01 of Revenue Procedure 97-22, which generally provides that an electronic storage system must (1) ensure an accurate and complete transfer of the hardcopy records which indexes, stores, preserves, retrieves and reproduces the electronic records, (2) include reasonable controls to ensure integrity, accuracy and reliability of the electronic storage system and to prevent unauthorized alteration or deterioration of electronic records, (3) exhibit a high degree of legibility and readability both electronically and in hardcopy, (4) provide support for other books and records of the District, and (5) not be subject to any agreement that would limit the ability of the IRS to access and use the electronic storage system on the District's premises.

Section 8. Miscellaneous

(a) *Form 8038-G*. A copy of the completed and fully executed IRS Form 8038-G (Information Return for Tax-Exempt Governmental Obligations) is attached to this Tax Agreement as **Exhibit B**. The Form 8038-G was prepared by Special Tax Counsel based on representations and covenants by the Issuer and the District contained in this Tax Agreement or otherwise made by the Issuer and the District. The information contained on Form 8038-G is true, complete and correct to the knowledge of the undersigned, and the undersigned is authorized to sign the Form 8038-G on behalf of the Issuer and deliver it to Special Tax Counsel for filing with the IRS.

(b) *Single Issue*. No other debt obligations of the Issuer: (1) are being sold within 15 days of the execution and delivery of the Lease Agreement, (2) are being sold under the same plan of financing as the Lease Agreement, and (3) are expected to be paid from substantially the same source of funds as the Lease Agreement (disregarding guarantees from unrelated parties, such as bond insurance).

(c) *Bank Qualification.* The Issuer has not designated the Lease Agreement as a "qualified tax-exempt obligation" under Code § 265(b)(3).

(d) *No Federal Guaranty*. The payment of rental payments under the Lease Agreement are not, and neither the Issuer nor the District will permit the payment of rental payments under the Lease Agreement to be, directly or indirectly guaranteed by the United States of America or any agency thereof.

(e) *Hedge Bonds*. The Issuer and the District reasonably expect that at least 85% of the net sale proceeds (the sale proceeds of the Lease Agreement less any sale proceeds invested in a reserve fund) of the Lease Agreement will be used to carry out the governmental purpose of the Lease Agreement within 3 years after the Closing Date, and not more than 50% of the proceeds of the Lease Agreement will be invested in Investments having a substantially guaranteed Yield for 4 years or more.

(f) *Registration Requirement; Record Owner*. The Issuer will maintain or cause to be maintained a record of the owner(s) of the Lease Agreement and the person/entity entitled to the receipt of the interest portions of rental payments under the Lease Agreement. Transfer of ownership of the Lease Agreement is effective only if entered in these records. The Agreement will be held in registered form within the meaning of Code § 149(a).

(g) *Reliance*. The Issuer and the District understand that their certifications will be relied upon by the law firm of Gilmore & Bell, P.C., in rendering its opinion as to the validity of the Lease Agreement and the exclusion from federal gross income of the interest portion of payments payable by the Issuer under the Lease Agreement.

(h) *Enforceability*. If any provision in this Tax Agreement or in the Lease Agreement is determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired.

(i) *Electronic Transactions*. The transaction described in this Tax Agreement may be conducted, and related documents may be sent, received and stored, by electronic means.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned, by execution of this Tax Agreement, hereby makes the foregoing certifications, representations, and agreements contained in this Tax Agreement on behalf of the Issuer and the District.

CITY OF NASHUA, NEW HAMPSHIRE

By: _____
Name: _____
Title: Mayor

NASHUA SCHOOL DISTRICT

By: _____
Name: Daniel Donovan
Title: Chief Operating Officer

EXHIBIT A

AMORTIZATION SCHEDULE AND CALCULATION OF WEIGHTED AVERAGE MATURITY AND YIELD ON THE LEASE AGREEMENT

[To be prepared by Gilmore & Bell.]

EXHIBIT B

IRS FORM 8038-G

[Post Closing Item -- To be prepared and filed by Gilmore & Bell.]

EXHIBIT C

DESCRIPTION OF EQUIPMENT COMPRISING THE FINANCED ASSETS AND BENEFITTED FACILITIES[; REIMBURSEMENT**]**

The Project includes the energy savings improvements, as set forth in the Energy Performance Contract dated as of _____, 2020, between Nashua School District and Energy Efficient Investments, Inc., as described therein and at the locations set forth on **Exhibit C-1** attached hereto.

The estimated average economic life of the Financed Assets is not less than [**20**] years, and the Financed Assets are expected to be placed in service in 2021.

*[**List of Reimbursements, if any, to be listed.**]*

EXHIBIT C-1

LIST OF LOCATIONS FOR FINANCED ASSETS AND BENEFITTED FACILITIES

Nashua High School
8 Titan Way
Nashua, NH 03063

Nashua South High School
36 Riverside Street
Nashua, NH 03062

EXHIBIT D

SAMPLE ANNUAL COMPLIANCE CHECKLIST

Name of tax-exempt obligation ("Lease Agreement") financing the Financed Assets:	This Annual Compliance Checklist is designed to cover that certain Equipment Lease Purchase Agreement (the "Lease Agreement") dated as of October 20, 2020, entered into by and between the City of Nashua, New Hampshire (the "Issuer"), on behalf of Nashua School District (the "District"), as lessee, and Municipal Leasing Consultants, LLC, as lessor
Placed in service date of Financed Assets:	
Benefitted Facilities:	
Name of Compliance Officer:	
Period covered by request ("Annual Period"):	

Item	Question	Response
1 Ownership	For federal income tax purposes, were all of the Financed Assets and Benefitted Facilities owned by the Issuer or the District for federal tax purposes during the entire Annual Period?	☐ Yes ☐ No
	If answer above was "No," was an Opinion of Special Tax Counsel obtained prior to the transfer? If Yes, include a copy of the Opinion in the Tax Compliance File. If No, contact Special Tax Counsel and include description of resolution in the Tax Compliance File.	☐ Yes ☐ No
2 Use of the Financed Assets and the Benefitted Facilities	During the Annual Period, was any Financed Asset or Benefitted Facility used by a Non-Qualified User pursuant to a lease agreement, management or service agreement or any other agreement granting the Non-Qualified User special legal rights to use any Financed Asset or Benefitted Facility?	☐ Yes ☐ No
	If answer above was "Yes," was an Opinion of Special Tax Counsel obtained prior to entering into the arrangement? If Yes, include a copy of the Opinion in the Tax Compliance File. If No, contact Special Tax Counsel and include description of resolution in the Tax Compliance File.	☐ Yes ☐ No

3 Arbitrage & Rebate	1. Were the proceeds of the Lease Agreement spent in accordance with the following schedule? (a) at least 15% within 6 months from the Closing Date; (b) at least 60% within 12 months from the Closing Date; and (c) 100% within 18 months from the Closing Date. 2. Has the Issuer or the District established a fund or account to make rental payments under the Lease Agreement or has the Issuer or the District established a segregated portion of investments in an account to make rental payments under the Lease Agreement?	☐ Yes ☐ No ☐ Yes ☐ No
	If the answer to question 1 above is "No," or the answer to question 2 above was "Yes," contact Special Tax Counsel to determine if an arbitrage rebate or yield restriction calculation must be completed. Include a description of Special Tax Counsel's advice in the Tax Compliance File. If an arbitrage rebate or yield restriction calculation is prepared, include a copy of the report in the Tax Compliance File.	

By: _____
Compliance Officer

Date Completed: _____

EXHIBIT E

CERTIFICATE OF LENDER

$6,671,814
EQUIPMENT LEASE PURCHASE AGREEMENT
DATED AS OF OCTOBER 20, 2020, BETWEEN
MUNICIPAL LEASING CONSULTANTS, LLC, AS LESSOR, AND THE
CITY OF NASHUA, NEW HAMPSHIRE,
ON BEHALF OF NASHUA SCHOOL DISTRICT, AS LESSEE

The undersigned, on behalf of Capital One Public Funding, LLC (the "Lender"), as assignee of Municipal Leasing Consultants, LLC, as lessor, under the above-referenced equipment lease purchase agreement (the "Lease"), being executed and delivered on the date hereof, certifies and represents as follows:

1. Issue Price.

(a) *Issue Price*. On the date of this certificate, the Lender is acquiring the Lease for the amount of $6,671,814, plus $_____ payable to Municipal Leasing Consultants, LLC. The Lender is not acting as an Underwriter with respect to the Lease. The Lender has no present intention to sell, reoffer, or otherwise dispose of the Lease (or any portion of the Lease or any interest in the Lease). The Lender has not contracted with any person pursuant to a written agreement to have such person participate in the execution and delivery of the Lease, and the Lender has not agreed with the City of Nashua, New Hampshire (the "City") or Nashua School District (the "District") pursuant to a written agreement to sell the Lease to persons other than the Lender or a Related Party to the Lender.

(b) *Defined Terms*.

(i) The term "Public" means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a Related Party to an Underwriter.

(ii) The term "Related Party" is defined in U.S. Treasury Regulation § 1.150-1(b) which generally provides that the term related party means any two or more persons who have a greater than 50 percent common ownership, directly or indirectly.

(iii) The term "Underwriter" means (A) any person that agrees pursuant to a written contract with the District (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Lease to the Public, and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) of this paragraph to participate in the initial sale of the Lease to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Lease to the Public).

This certificate may be relied upon by the City and District in executing and delivering the Federal Tax Agreement relating to the Lease, and by Gilmore & Bell, P.C., Special Tax Counsel to the Lender, in rendering its opinion relating to the exclusion from federal gross income of the interest portion of rental payments paid under the Lease and in preparing any informational return required to be filed with the Internal Revenue Service in connection with the execution and delivery of the Lease.

[Signature page follows.]

Dated: October 20, 2020.

CAPITAL ONE PUBLIC FUNDING, LLC

By: _____
Name: Catherine DeLuca
Title: Vice President

LESSEE'S CLOSING CERTIFICATE

Re: Equipment Lease Purchase Agreement dated as of October 20, 2020, between the City of Nashua, New Hampshire, on behalf of Nashua School District, as lessee ("Lessee"), and Municipal Leasing Consultants, LLC, as lessor ("Lessor") (the "Agreement")

We, the undersigned, the duly appointed, qualified and acting Mayor and City Clerk of the above-captioned Lessee, do hereby certify as follows:

(1) Lessee did, at a meeting of the governing body of Lessee held October 13, 2020, by motion duly made, seconded and carried, in accordance with all requirements of law, approve and authorize the execution and delivery of the above-referenced Agreement and the related escrow agreement and tax agreement on its behalf by the following named representative of Lessee:

Mayor

Printed Name Title Signature

[This signature line to be signed by person who executed the Agreement and the related escrow agreement and tax agreement on behalf of Lessee.]

(2) The above-named representative of Lessee held at the time of such authorization and holds at the present time the office designated above and the signature set forth opposite his or her name is the true and correct specimen of his or her genuine signature.

(3) The meeting of the governing body of Lessee at which the Agreement was approved and authorized to be executed was duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and the action approving the Agreement and authorizing the execution thereof has not been altered or rescinded. *Attached hereto* as **Exhibits A-1 and A-2** are true and correct copies of resolutions, ordinances or other documents constituting such official action by the City of Nashua, New Hampshire and by Nashua School District.

(4) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof.

(5) All insurance required in accordance with the Agreement is currently maintained by Lessee.

(6) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the Original Term and to meet its other obligations for the Original Term (as such terms are defined in the Agreement), and such funds have not been expended for other purposes.

(7) There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Agreement or the interest of Lessor or its assigns, as the case may be, in the Equipment.

(8) The Equipment has not been the subject of a referendum that failed to receive the approval of the voters of Lessee within the preceding four years.

(9) Since June 30, 2019 (date of Lessee's last audited financial statements), Lessee has not entered into any direct or contingent bond debt, lease, installment purchase or loan obligation, other than those listed on **Exhibit B** attached hereto.

(10) The correct billing address for Rental Payments is as follows:

Nashua School District
141 Ledge Street
Nashua, NH 03060
Attention: Chief Operating Officer

Dated: October 20, 2020.

CITY OF NASHUA, NEW HAMPSHIRE, ON
BEHALF OF NASHUA SCHOOL DISTRICT

By: _____
Name: _____
Title: Mayor

ACCEPTED:
NASHUA SCHOOL DISTRICT

By: _____
Name: Daniel Donovan
Title: Chief Operating Officer

EXHIBIT A-1 TO
LESSEE'S CLOSING CERTIFICATE

COPY OF AUTHORIZATION DOCUMENT FROM THE
CITY OF NASHUA, NEW HAMPSHIRE
(per Section 3)

[Please provide. Attached is a form of resolution for adoption if no resolution previously adopted.]

RESOLUTION

The undersigned, being the officer identified below of the City of Nashua, New Hampshire (the "City"), hereby certifies that the following is a true and correct copy of a resolution adopted by the governing body of the City at a meeting duly held on October 13, 2020.

* * * *

WHEREAS, the City of Nashua, New Hampshire (the "City"), is a political subdivision duly organized under the constitution and laws of the State of New Hampshire; and

WHEREAS, it is hereby determined that a true and real need exists for the acquisition and installation of certain energy savings equipment to be acquired and installed at certain facilities of the Nashua School District (the "Equipment"); and

WHEREAS, it is necessary and desirable and in the best interest of the City of Nashua, New Hampshire, on behalf of Nashua School District, as lessee, to enter into an Equipment Lease Purchase Agreement (the "Agreement") with Municipal Leasing Consultants, LLC, as initial lessor (the "Lessor"), for the purposes described therein, including the leasing of the Equipment;

NOW, THEREFORE, BE IT RESOLVED, BY THE GOVERNING BODY OF THE CITY OF NASHUA, NEW HAMPSHIRE, AS FOLLOWS:

Section 1. The Agreement, in substantially the same form as presented to this meeting, and the terms and performance thereof are hereby approved, and the Mayor (or its designee) of the City is hereby authorized to execute and deliver the Agreement on behalf of the City, with such changes therein as shall be approved by such officer, such approval to be conclusively evidenced by such officer's execution thereof.

Section 2. The Escrow Agreement (the "Escrow Agreement"), among the City, the Lessor and the escrow agent named therein, in substantially the same form as presented to this meeting, and the terms and performance thereof are hereby approved, and the Escrow Agreement is hereby authorized to be executed and delivered on behalf of the City by a duly authorized officer of the City, with such changes therein as shall be approved by such officer, such approval to be conclusively evidenced by such officer's execution thereof.

Section 3. The Energy Performance Contract (the "Energy Contract"), between Nashua School District and Energy Efficient Investments, Inc. in substantially the same form as presented to this meeting, and the Energy Contract is hereby authorized to be executed and delivered.

Section 4. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments, as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the City with respect to the Agreement, the Escrow Agreement and the Energy Contract.

Section 5. The City has made certain capital expenditures in connection with the acquisition of the Equipment prior to the date hereof, and the City expects to make additional capital expenditures in connection with the acquisition of the Equipment in the future. The City intends to reimburse itself for all or a portion of such expenditures, to the extent permitted by law, with the proceeds of the Agreement or other tax-exempt obligations to be delivered by the City. The maximum principal amount of the Agreement or other tax-exempt obligations expected to be delivered for the Equipment is not expected to exceed $6,671,814

Section 6. This Resolution shall take effect and be in full force immediately after its adoption by the governing body of the City.

PASSED AND ADOPTED by the governing body of the City of Nashua, New Hampshire, this 13th day of October, 2020.

CITY OF NASHUA, NEW HAMPSHIRE

By: _____
Name: _____
Title: _____
(*To be signed by someone other than officer of the City that signed the Agreement and the Escrow Agreement.)*

EXHIBIT A-2 TO
LESSEE'S CLOSING CERTIFICATE

COPY OF AUTHORIZATION DOCUMENT FROM
NASHUA SCHOOL DISTRICT
(per Section 3)

[Please provide evidence of authorization of the Agreement by the governing body of Nashua School District.]

EXHIBIT B TO
LESSEE'S CLOSING CERTIFICATE

LIST OF OUTSTANDING OBLIGATIONS SINCE JUNE 30, 2019
(DATE OF LESSEE'S LAST AUDITED FINANCIAL STATEMENTS)
(per Section 9)

Please list all direct or contingent bond debt, lease, installment purchase or loan obligations (including estimated outstanding principal amount) that Lessee has entered into since June 30, 2019. If this statement is not applicable, please state "None."

_____

_____

_____

ESSENTIAL USE CERTIFICATE

October 20, 2020

Municipal Leasing Consultants, LLC
7 Old Town Lane
Grand Isle, VT 05458

Re: Equipment Lease Purchase Agreement dated as of October 20, 2020, between the City of Nashua, New Hampshire, on behalf of Nashua School District, as lessee ("Lessee"), and Municipal Leasing Consultants, LLC, as lessor ("Lessor") (the "Agreement")

Ladies and Gentlemen:

I, Daniel Donovan, a duly elected, appointed, or designated representative of Nashua School District, am qualified to answer the questions set forth below regarding the Equipment to be acquired in connection with the above-referenced Agreement:

1. *What is the specific use of the Equipment?*

_____

2. *What increased capabilities will the Equipment provide?*

_____

3. *Why is the Equipment essential to your ability to deliver governmental services?*

_____

4. *Does the Equipment replace existing equipment?*
   (If so, please explain why you are replacing the existing equipment)

   _____

5. *Why did you choose this specific Equipment?*

   _____

6. *For how many years do you expect to utilize the Equipment?*

   _____

7. *What revenue source will be utilized to make Rental Payments due under the Agreement?*

   _____

Very truly yours,

NASHUA SCHOOL DISTRICT

By: _____
Name: Daniel Donovan
Title: Chief Operating Officer

OPINION OF LESSEE COUNSEL
[Please furnish on Attorney's Letterhead.]

October 20, 2020

Municipal Leasing Consultants, LLC
7 Old Town Lane
Grand Isle, VT 05458

Re: Equipment Lease Purchase Agreement dated as of October 20, 2020, between the City of Nashua, New Hampshire, on behalf of Nashua School District, as lessee ("Lessee"), and Municipal Leasing Consultants, LLC, as lessor ("Lessor") (the "Agreement")

Ladies and Gentlemen:

As legal counsel to Lessee, I have examined (a) an executed counterpart of the Agreement, which, among other things, provides for the lease by Lessee from Lessor of the Equipment, (b) an executed counterpart of the Escrow Agreement, dated as of October 20, 2020 (the "Escrow Agreement"), among Lessor, Lessee and the escrow agent named therein, (c) an executed counterpart of the Federal Tax Agreement, dated October 20, 2020 (the "Tax Agreement"), from Lessee and Nashua School District (the "District"), (d) an executed counterpart of the Energy Performance Contract dated _____, 2020 (the "Performance Contract"), between the District and Energy Efficient Investments, Inc., (e) executed copies of the resolution(s), ordinance(s) or other evidence of authorization from Lessee's governing body and the governing of the District which, among other things, authorizes Lessee to execute the Agreement, the Escrow Agreement, the Tax Agreement and the Performance Contract, and (f) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions.

Based on the foregoing, I am of the following opinions:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State of New Hampshire, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power.

2. Lessee has the requisite power and authority to purchase the Equipment and to execute and deliver the Agreement, the Escrow Agreement, the Tax Agreement and the Performance Contract and to perform its obligations thereunder.

3. The Agreement, the Escrow Agreement, the Tax Agreement and the Performance Contract and the other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of Lessee, and the Agreement, the Escrow Agreement, the Tax Agreement and the Performance Contract are valid and binding obligations of Lessee enforceable in accordance with their respective terms.

4. The authorization, approval and execution of the Agreement, the Escrow Agreement, the Tax Agreement and the Performance Contract and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state and federal laws.

5. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Agreement, the Escrow Agreement, the Tax Agreement and the Performance Contract or the security interest of Lessor or its assigns, as the case may be, in the Equipment.

6. The Equipment to be leased pursuant to the Agreement constitutes personal property and when subjected to use by Lessee will not be or become a fixture under applicable law.

7. The authorization, execution, delivery and performance of the Agreement, the Escrow Agreement, the Tax Agreement and the Performance Contract by Lessee do not require submission to, approval of, or other action by any governmental authority or agency which action has not been taken and is final and non-appealable.

All capitalized terms herein will have the same meanings as in the Agreement. Lessor, its successors and assigns and any counsel rendering an opinion on the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation are entitled to rely on this opinion.

Very truly yours,

OPINION OF SPECIAL TAX COUNSEL

[To be provided by Gilmore & Bell.]

INSURANCE CERTIFICATES (PROPERTY, LIABILITY AND WORKERS' COMPENSATION) COMPLYING WITH THE PROVISIONS OF SECTION 22 OF THE AGREEMENT TO BE PROVIDED BY LESSEE, WITH THE FOLLOWING PARTY SHOWN AS LOSS PAYEE AND ADDITIONAL INSURED WITH RESPECT TO PROPERTY INSURANCE, AND SHOWN AS ADDITIONAL INSURED WITH RESPECT TO LIABILITY INSURANCE:

Capital One Public Funding, LLC and its successors and assigns
1307 Walt Whitman Road, 3rd Floor
Melville, NY 11747

[To be provided by Lessee before money is withdrawn from the Escrow Fund for costs of the Equipment.]

ENERGY PERFORMANCE CONTRACT
WITH ENERGY EFFICIENT INVESTMENTS, INC.

[Signed copy to be provided prior to Closing Date.]

PAYMENT AND PERFORMANCE BONDS RESPECTING THE EQUIPMENT, INCLUDING DUAL OBLIGEE RIDER NAMING THE FOLLOWING PARTY AS AN ADDITIONAL OBLIGEE

Capital One Public Funding, LLC and its successors and assigns
1307 Walt Whitman Road, 3rd Floor
Melville, NY 11747

[To be provided by Lessee before money is withdrawn from the Escrow Fund for costs of the Equipment.]

NOTICE OF ASSIGNMENT

October 20, 2020

City of Nashua, New Hampshire,
on behalf of Nashua School District
229 Main Street
Nashua, NH 03060

Re: Equipment Lease Purchase Agreement dated as of October 20, 2020, between the City of Nashua, New Hampshire, on behalf of Nashua School District, as lessee ("Lessee"), and Municipal Leasing Consultants, LLC, as lessor ("Lessor") (the "Agreement")

Ladies and Gentlemen:

Please be advised that the undersigned Lessor has assigned all of its right, title and interest in, to and under the Agreement, the Equipment leased thereunder, and the right to receive Rental Payments thereunder and the payment of the Purchase Price thereunder to Capital One Public Funding, LLC, a New York limited liability company ("Assignee"), whose mailing address is 1307 Walt Whitman Road, 3rd Floor, Melville, NY 11747, and whose tax identification number is 11-2209667.

All Rental Payments and payment of the Purchase Price due under the Agreement should be made to the Assignee by wire or other form of electronic payment in accordance with written instructions provided by Assignee or, with Assignee's consent, by mail at the address below or as otherwise instructed by Assignee

CAPITAL ONE PUBLIC FUNDING, LLC
1307 WALT WHITMAN ROAD, 3RD FLOOR
MELVILLE, NY 11747

Lessee acknowledges that Assignee is acting solely as Assignee for its own loan account and not as a fiduciary for Lessee or in the capacity of broker, dealer, placement agent, municipal securities underwriter, municipal advisor or fiduciary. Assignee has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of Lessee (including to any financial advisor or any placement agent engaged by Lessee) with respect to the structuring, issuance, sale or delivery of the Agreement. Lessee acknowledges that Assignee has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to Lessee with respect to the transactions relating to the structuring, issuance, sale or delivery of the Agreement and the discussions, undertakings and procedures leading thereto. Each of Lessee, its financial advisor and its placement agent has sought and shall seek and obtain financial, legal (including securities law), tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters and compliance with legal requirements applicable to such parties) with respect to the Agreement from its own financial, legal, tax and other advisors (and not from Assignee or its affiliates) to the extent that Lessee, its financial advisor or its placement agent desires, should or needs to obtain such advice. Assignee expresses no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, including but not limited to Lessee's financial advisor or placement agent, or the correctness of any legal interpretation made by counsel to any other party, including but not limited to counsel to Lessee's financial advisor or placement agent, with respect to any such matters. Lessee acknowledges that the transaction between Lessee and Assignee is an arm's length commercial transaction in which Assignee is acting and has acted solely as a principal and for its own interest, and Assignee has not made recommendations to Lessee with respect to the transaction relating to the Agreement.

[The remainder of this page left blank intentionally.]

Please acknowledge your receipt of this notice and your agreement to make payments due under the Agreement to Assignee by the signature of a duly authorized officer in the space provided on the enclosed counterpart of this letter and return it to us at the address set forth below.

Sincerely,

MUNICIPAL LEASING CONSULTANTS, LLC,
LESSOR

By: _____
Name: _____
Title: _____
Address: 7 Old Town Lane
Grand Isle, VT 05458

ACKNOWLEDGED AND AGREED TO:
CITY OF NASHUA, NEW HAMPSHIRE, ON BEHALF
OF NASHUA SCHOOL DISTRICT

By: _____
Name: _____
Title: Mayor

ACCEPTED:
NASHUA SCHOOL DISTRICT

By: _____
Name: Daniel Donovan
Title: Chief Operating Officer

ASSIGNMENT

[To be entered into between Initial Lessor and Capital One Public Funding, LLC]

UCC-1 FINANCING STATEMENTS

[To be prepared and filed by Lessor Counsel.]

LENDER CERTIFICATE

[See separate letter and form of Lender Certificate from Capital One Public Funding, LLC]

FORM W-9 FROM THE
CITY OF NASHUA, NEW HAMPSHIRE

[On file with Lessor.]