

PERFORMANCE CONTRACT

This Performance Contract (this "Agreement") is made this 18th day of January, 2024 between:

PARTIES

JOHNSON CONTROLS, INC. ("JCI")
35 ARKAY DRIVE, SUITE 100
HAUPPAUGE, NY 11788

and

MASSAPEQUA UNION FREE SCHOOL DISTRICT ("CUSTOMER" or "DISTRICT")
4925 MERRICK ROAD
MASSAPEQUA, NY 11758

RECITALS

WHEREAS, Customer desires to retain JCI to perform the work specified in Schedule 1 (Scope of Work) hereto (the "Work") relating to the installation of the Energy Conservation Measures ("ECMs") and improvement measures (collectively, the "Improvement Measures") described therein; and

WHEREAS, Customer is authorized and empowered under applicable Laws (as defined below) to enter into this Agreement, and has taken all necessary action under applicable Laws to enter into this Agreement; and

WHEREAS, Customer has selected JCI to perform the Work after it determined JCI's proposal was the most advantageous to Customer in accordance with all applicable procurement and other Laws.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

AGREEMENT

- SCOPE OF THE AGREEMENT.** JCI shall perform the Work set forth in Schedule 1. After the Work is Substantially Complete (as defined below) and the Certificate of Substantial Completion is executed by Customer, H2M Architects + Engineers ("H2M" or "Architect/Engineer") (as defined below in paragraph 3) and JCI, JCI shall provide the assured performance guarantee (the "Assured Performance Guarantee") and the measurement and verification services (the "M&V Services") set forth in Schedule 2 (Assured Performance Guarantee). Customer shall make payments to JCI for the Work and the M&V Services in accordance with Schedule 4 (Price and Payment Terms). JCI shall pay for all labor, materials, equipment, tools, construction equipment and machinery, transportation and other facilities and services necessary for the proper installation, execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. JCI shall supervise and direct the Work and shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under this Agreement. Up through and including Substantial Completion, JCI shall ensure that the Work is free from defects and errors including but not limited to design defects and errors (subject to paragraph 3, below) and does not substantially disrupt the Customer's educational environment. All equipment installed and/or capital improvement(s) integrated by JCI to the Customer's property, buildings, or facilities shall become the sole and exclusive property of the Customer upon JCI's receipt of payment for the specific equipment and/or specific capital improvement.
- AGREEMENT DOCUMENTS:** In addition to the terms and conditions of this Agreement, the following Schedules are incorporated into and shall be deemed an integral part of this Agreement:

Schedule 1 – Scope of Work
Schedule 2 – Assured Performance Guarantee
Schedule 3 – Customer Responsibilities

Performance Contract [Rev 15 EC] 04/09
Johnson Controls, Inc. – Proprietary

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Schedule 4 – Price and Payment Terms

Attachment 1 – Notice to Proceed

Attachment 2 – Change Order

Attachment 3 – Certificate of Substantial Completion; Certificate of Final Completion

Attachment 4 – Lighting Line x Line (Massapequa - Rev-E (Flat Panels, Troffer Kits & Type-B TLEDS) 11-3-23)

In the event of any direct conflict between or among any of the Agreement Documents, the order of precedence shall be as follows: Agreement terms and conditions; Schedule 1; Schedule 2; Schedule 3; Schedule 4.

3. **ARCHITECT/ENGINEER OF RECORD.** The Customer has identified H2M Architects + Engineers (H2M) as the certified Architect/Engineer of Record to provide architectural/engineering services in connection with the Work to be performed by JCI. The fees and total compensation for such Architectural/Engineering Services shall be \$891,367 as set forth in Schedule 4 and are the sole responsibility of JCI. JCI shall indemnify and hold the Customer harmless from any and all claims made against the Customer by the Architect/Engineer for fees for Architectural/Engineering Services. Both JCI and Customer agree and acknowledge that H2M owes its/his/her professional obligations and duties, including duties of care to JCI and the Customer, provided that H2M owes its ultimate loyalty to Customer. The Architect/Engineer shall remain free from any financial interest in the Agreement which conflicts with the proper completion of its/his/her responsibilities under this Agreement and which conflicts with its/his/her responsibilities and duties to the Customer. In addition, when applicable law requires that services be performed by licensed professionals, JCI shall provide those services through qualified, licensed professionals.
4. **NOTICE TO PROCEED; SUBSTANTIAL COMPLETION; M&V SERVICES.** The term of this Agreement is eighteen (18) years or the useful life of the energy facilities and equipment being provided by JCI pursuant to this Agreement, whichever is less. This Agreement shall become effective on the date of the last signature on the signature page below. The parties' obligations hereunder are contingent upon written approval of the New York State Education Department ("SED") and the Customer's ability to secure financing, financing terms and/or other payment methods acceptable to Customer in its reasonable discretion, and compliance with the requirements of the Regulations of the Commissioner of Education, Section 155.20. Customer shall diligently pursue financing and shall endeavor to obtain such financing within one hundred eighty (180) days following SED approval. After receipt of written approval of the Project from SED, and after Customer has secured financing in accordance with this Agreement, the Customer shall issue a Notice to Proceed, a form of which is attached hereto as Attachment 1 and which is in form acceptable to SED. In the event that the Notice to Proceed is not issued within ninety (90) days of NYSED approval, JCI may equitably adjust the contract, and the parties shall execute a mutually acceptable effectuating amendment. JCI shall commence performance of the Work within ten (10) business days of receipt of Customer's Notice to Proceed and shall achieve Substantial Completion of the Work by the Substantial Completion date set forth in the schedule mutually agreed upon by Customer and H2M Architect/Engineer, unless extended with Customer's approval. Customer and the Architect/Engineer shall execute a Certificate of Substantial Completion substantially in the form attached hereto as Attachment 3 upon a determination by the Customer and H2M that the Work is substantially complete.

For purposes of this Agreement, "Substantial Completion" means that JCI has provided sufficient materials and services to permit Customer to operate the Improvement Measures and utilize the Work to obtain savings as set forth in this Agreement. After an on-site inspection of the Work and a demonstration by JCI that the Work is substantially complete, the Architect/Engineer shall certify the date that the Work has been substantially completed by JCI for approval by Customer. The Architect/Engineer shall also provide Customer and JCI in writing a description of all "punch-list" items that remain to be completed. Substantial Completion shall not be attained if it is determined by the Architect/Engineer that JCI must correct any condition(s) which impairs the reliability or safety of the Work. Substantial Completion shall not be attained until all heating plants or heating plant modifications have been inspected and accepted by the local utility and the Customer's insurance inspector. No Improvement Measure will be considered substantially complete until it is actually capable of generating the savings it is designed to generate. In the case of control improvements, any associated operator interface must be complete and operable by the Customer before Substantial Completion is attained. The Project Benefits shall begin to be achieved at the date of Substantial Completion.

As a condition to the issuance of the Certificate of Substantial Completion, JCI must provide to the Customer a complete list of all manuals and training sessions provided by JCI to Customer which shall include a description of the manual or training provided, the date, and location where the manual or training was provided, the name of the person providing the manual or training, and the name of the person receiving the manual or training. Customer shall review the list and description provided by JCI and if Customer agrees that such manuals and

training were provided as set forth herein, Customer will provide acknowledgement of receipt of manuals and training by executing the Certificate of Substantial Completion. Prior to the issuance of the Certificate of Substantial Completion, the Customer and Architect/Engineer will provide JCI a punch list of items remaining to be completed by JCI. All punch list items shall be completed within 90 days, unless otherwise agreed to by the parties in writing.

The M&V Services shall commence on the first day of the month following the month in which Customer executes a Certificate of Substantial Completion and shall continue throughout the M&V Services Period, subject to earlier termination of the Assured Performance Guarantee as described in Schedule 2 (Assured Performance Guarantee). The final completion date shall be the date when all Work is completed, including all punch list items, as evidenced by the execution of the Certificate of Final Completion by the Customer and Architect/Engineer.

5. DELAYS AND IMPACTS. If JCI is delayed in the commencement, performance, or completion of the Work and/or M&V Services by causes beyond its control and without its fault, including, but not limited to, inability to access property; concealed or unknown conditions encountered at the project, differing from the conditions represented by Customer in the bid documents or otherwise disclosed by Customer to JCI prior to the commencement of the Work (unless JCI should have discovered those conditions through reasonable visual inspection of the property and/or facilities and/or through a reasonable review of specifications, drawings, and/or plans regarding the Project); a Force Majeure (as defined below) condition; failure by Customer to perform its obligations under this Agreement; or failure by Customer to cooperate with JCI in the timely completion of the Work, JCI shall provide written notice to Customer of the existence, extent of, and reason for such delays and impacts. Under such circumstances, an equitable adjustment in the time for performance, price and payment terms, and the Assured Performance Guarantee shall be made, subject to the mutual written agreement of the parties.

6. ACCESS. Customer shall provide JCI, its subcontractors, and its agents reasonable and safe access to all facilities and properties in Customer's control that are subject to the Work and M&V Services. JCI shall not perform the Work in areas where classes or student activities are in progress while such classes or student activities are in progress, except as agreed to by both parties. Customer further agrees to assist JCI, its subcontractors, and its agents to gain access to facilities and properties that are not controlled by Customer but are necessary for JCI to complete the Work and provide the M&V Services. An equitable adjustment in the time for performance, price and payment terms, and Assured Performance Guarantee shall be made as a result of any failure to grant such access, subject to the mutual written agreement of the parties.

7. PERMITS, TAXES, AND FEES.

JCI shall comply with and be responsible for obtaining, at its expense, all licenses and permits required by Federal, State and local laws, rules, and ordinances in connection with the Work. Unless otherwise specified in Schedule 3 (Customer Responsibilities), JCI shall be responsible for obtaining all building permits required for it to perform the Work. JCI shall not be obligated to provide any changes to or improvement of the facilities or any portion thereof required under any applicable building, fire, safety, sprinkler or other applicable code, standard, law, regulation, ordinance or other requirement unless the same expressly regulates the installation of the Improvement Measures. Without limiting the foregoing, JCI's obligations with respect to the Work is not intended to encompass any changes or improvements that relate to any compliance matters (whether known or unknown) that are not directly related to the installation of the Improvement Measures or which have been imposed or enforced because of the occasion or opportunity of review by any governmental authority. Customer shall be responsible for and shall pay when due all assessments, charges and sales, use, property, excise, or other taxes now or hereafter imposed by any governmental body or agency upon the provision of the Work or the M&V Services, implementation or presence of the Improvement Measures, the use of the Improvement Measures or payments due to JCI under this Agreement, other than taxes upon the net income of JCI. Customer shall also be responsible for real or personal property taxes relating to equipment or material included in the Improvement Measures. Any fees, taxes, or other lawful charges paid by JCI on account of Customer shall become immediately due from Customer to JCI.

8. WARRANTY. JCI will perform the Work in a professional, workman-like manner. JCI shall ensure that the Work is free from defects, errors, and/or omissions, including, but not limited to, design defects, errors and/or omissions (subject to Paragraph 3 herein), and fulfills its essential function to provide the energy savings described hereunder while not substantially disrupting the Customer's educational environment. JCI will promptly re-perform any non-conforming or defective Work for no charge, as long as Customer provides written notice to JCI within

the shorter of two (2) years following Substantial Completion or such other period identified in Schedule 1, provided that any warranty work shall extend the warranty as to that non-conforming or defective Work starting from the date that the warranty work is Substantially Complete, as determined by the Architect/Engineer and approved by Customer. If JCI installs or furnishes goods or equipment under this Agreement, and such goods or equipment are covered by an end-user warranty from their manufacturer, JCI will transfer the benefits of such warranty to Customer, provided that such transfer shall not relieve JCI of its obligations hereunder. JCI shall provide Customer with such manufacturer's warranties. The foregoing remedy with respect to the Work, together with any remedy provided by goods or equipment manufacturers, shall be Customer's sole and exclusive remedies for warranty claims, provided that in the event JCI fails to re-perform any non-conforming work, the Customer reserves the right to bring a claim for breach of warranties, in which case the Customer shall be entitled to attorneys' fees and expert fees in the event it is determined that JCI breached the warranty. Customer agrees that the two (2) year period following Substantial Completion, or such other period identified in Schedule 1, shall be a reasonable time for purposes of submitting valid warranty claims with respect to the Work. NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE PROVIDED BY JCI. JCI does not guaranty that any Improvement Measures will perform in accordance with the manufacturer's specifications over the term of this Agreement, other than with respect to the limited warranty applicable to equipment actually manufactured by JCI, or if the performance failure is related to JCI's workmanship, each as described above. Customer's sole remedy for failed or non-performing Improvement Measures not related to JCI's workmanship is to pursue claims under any manufacturer's warranty claims then in effect. This warranty does not extend to any Work that has been abused, altered, or misused, or repaired by Customer or third parties without the supervision or prior written approval of JCI. Except with respect to goods or equipment manufactured by JCI and furnished to Customer hereunder, for which JCI shall provide its express written manufacturer's warranty, JCI shall not be considered a merchant or vendor of goods or equipment, provided that JCI's warranty shall cover any defects or errors related to performance of the Work, including, but not limited to, the installation of goods and equipment.

Notwithstanding any provision herein to the contrary, JCI agrees and acknowledges that it is the intention of the parties that the Work shall not interfere with or affect the validity of the existing warranty(ies) on the Customer's properties and that the Work shall be performed using existing manufacturer standards to maintain current warranty(ies). JCI agrees that the Work will not interfere with or affect the validity of such warranty(ies) and that upon completion of the Work, if requested JCI shall obtain an assurance on behalf of the District from the provider of such warranty(ies) that the such warranty(ies) remain in effect. In the event that JCI is unable to obtain such an assurance as a result of the Work, JCI agrees to assume full responsibility for the warranty(ies).

9. **CLEANUP.** JCI shall keep the premises and the surrounding area free from accumulation of waste materials or rubbish caused by the Work and, upon completion of the Work, JCI shall remove all waste materials, rubbish, tools, construction equipment, machinery, and surplus materials and restore the premises to its condition as of the commencement of the Work.
10. **SAFETY; COMPLIANCE WITH LAWS.** JCI shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Work and M&V Services. Each of JCI and Customer shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities (collectively, "Laws") in connection with its performance hereunder. JCI shall comply with any applicable licensing requirements in the jurisdiction where the Project is located. JCI shall ensure all JCI authorized workers have OSHA 30 Training Cards and require such OSHA 30 Training Cards be submitted with prevailing wage sheets. JCI shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities including, but not limited to any prevailing wage requirements. If JCI performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, JCI shall correct such Work and shall bear the costs attributable to correction.

11. ASBESTOS-CONTAINING MATERIALS AND OTHER HAZARDOUS MATERIALS.

- A. JCI shall be responsible for removing or disposing of any JCI Hazardous Materials, Non-JCI Hazardous Materials (where noted in Schedule 1), and for the remediation of any areas to the extent impacted by the release of JCI Hazardous Materials. For any asbestos abatement of Non-JCI Hazardous Materials indicated in Schedule 1, pre-inspections of all potentially impacted Work areas must be documented by the architectural team, which shall be comprised of the Architect of record, and the District's independent

consultant. The inspections and sampling, if required, will be coordinated and performed by the Architect of record and the District's independent consultant. Customer shall supply JCI with any information in its possession relating to the presence of Non-JCI Hazardous Materials if their presence may affect JCI's performance of the Work. It is JCI's policy to seek certification for facilities constructed prior to 1982 that no asbestos containing materials are present, and Customer shall provide such certification for buildings it owns or aid JCI in obtaining such certification from facility owners in the case of buildings that Customer does not own, if JCI will undertake Work in the facility that could disturb such asbestos containing materials, the cost of which shall be included in the Price and Payment Terms contained in Schedule 4 for abatement scope indicated in Schedule 1. If Customer becomes aware of or suspects the presence of Non-JCI Hazardous Materials that may be disturbed by JCI's work or M&V Services, it will immediately provide notice to JCI. Upon such notice, or if JCI becomes aware of or suspects the presence of Non-JCI Hazardous Materials that may be disturbed by JCI's Work or M&V Services, JCI shall promptly stop the Work in the affected area and immediately notify Customer. Except as to any abatement scope specified within Schedule 1 (which would be performed through JCI-subcontracted forces), as between Customer and JCI, Customer shall be responsible at its sole expense for removing and disposing of Non-JCI Hazardous Materials from its facilities and the remediation of any areas impacted by the release of Non-JCI Hazardous Materials in conformance with all applicable Laws and addressing the impact of its disturbance before JCI continues with its Work. Customer shall be responsible for paying, at its sole expense, for independent monitoring and oversight of Hazardous Materials during any removals required to be completed to carry out the Work.

- B. To the fullest extent permitted by Law, Customer shall indemnify and hold harmless JCI and its directors, officers, employees, agents, representatives, shareholders, affiliates, and successors and assigns, from and against any and all losses, costs, damages, expenses (including reasonable legal fees and defense costs), claims, causes of action or liability, directly or indirectly, relating to or arising from Customer's negligent use, storage, release, discharge, handling or presence of Non-JCI Hazardous Materials on, under or about the facilities, or Customer's failure to comply with this Article 11. This environmental indemnity shall not apply to any claims, causes of action, and/or suits to the extent they arise out of JCI's handling, removing and/or disposing of ACM or any Hazardous Materials pursuant to this Agreement.
- C. Definitions Applicable to this Article 10:
- a. "Hazardous Materials" – Hazardous Materials are any material or substance that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant or contaminant under applicable Laws relating to or addressing public or employee health and safety and protection of the environment, or which is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, mutagenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel, fuel, another petroleum hydrocarbon product, or polychlorinated biphenyls. Hazardous Materials specifically includes without limitation mold, lead-based paint and asbestos containing materials.
 - b. "JCI Hazardous Materials" – JCI Hazardous Materials are any Hazardous Materials brought onto Customer's premises by JCI in providing the Work. JCI shall provide one (1) week's written notice to Customer prior to JCI bringing any JCI Hazardous Materials on to Customer's property.
 - c. "Non-JCI Hazardous Materials" – Non-JCI Hazardous Materials are any Hazardous Materials located on, about or under Customer's premises, other than JCI Hazardous Materials.

12. CHANGE ORDERS. The parties, without invalidating this Agreement, may request changes in the Work to be performed under this Agreement, consisting of additions, deletions, or other revisions to the Work ("Change Orders"). The price and payment terms, time for performance and, if necessary, the Assured Performance Guarantee, may be equitably adjusted in accordance with the Change Order. Such adjustments shall be determined by mutual written agreement of the parties. JCI may reasonably delay performance relating to the Work subject to the Change Order until adjustments arising out of the Change Order are clarified and agreed upon, if the Customer requests such Change Order. Any Change Order must be signed by an authorized representative of each party and the Architect/Engineer and acceptable to SED. If concealed or unknown

conditions are encountered at the project, differing from the conditions represented by Customer in the bid documents or otherwise disclosed by Customer to JCI prior to the commencement of the Work, or of which JCI could not have become aware during a reasonable visual inspection of the conditions, price and payment terms, time for performance and, if necessary, the Assured Performance Guarantee, must be equitably adjusted upon mutual written agreement of the parties. Claims for equitable adjustment may be asserted in writing within a reasonable time, but no later than thirty days, from the date a party becomes aware of a change to the Work by written notification. Failure to promptly assert a request for equitable adjustment, however, shall not constitute a waiver of any rights to seek any equitable adjustment with respect to such change.

13. CUSTOMER FINANCING; TREATMENT; TAXES. The parties acknowledge and agree that JCI is not making any representation or warranty to Customer with respect to matters not expressly addressed in this Agreement, including, but not limited to:

- (a) Customer's ability to obtain or make payments on any financing associated with paying for the Improvement Measures, related services, or otherwise;
- (b) Customer's proper legal, tax, accounting, or credit rating agency treatment relating to this Agreement; and
- (c) the necessity of Customer to raise taxes or seek additional funding for any purpose.

Customer is solely responsible for its obligations and determinations with respect to the foregoing matters. In addition, the parties acknowledge and agree that Customer shall be responsible to comply, at its cost and expense, with all Laws that may be applicable to it relating to performance contracting, including, without limitation, any requirements relating to the procurement of goods and/or services and any legal, accounting, or architectural/engineering opinions or reviews required or obtained in connection with this Agreement.

14. INSURANCE AND BONDS. A. JCI shall maintain insurance in amounts no less than those set forth in Attachment "5" of this Agreement, which is incorporated by reference herein and made a part of this Agreement, in full force and effect at all times until the Work has been completed, and shall provide a certificate, which names Customer and Architect/Engineer as additional insureds, evidencing such coverage upon the parties' execution of this Agreement and prior to commencement of the Work:

SEE ATTACHMENT "5"

B. **Payment and Performance Bond.** JCI shall, prior to commencement of construction, secure and deliver to the Customer a Performance Bond to cover the Work to be performed under this Agreement and Payment Bond guaranteeing prompt payment of moneys due to all persons furnishing labor or materials to JCI or any subcontractors in the prosecution of the Work provided for in this Agreement in accordance with New York State Finance Law § 137, in a sum equal to the Contract Price guaranteed by a Surety licensed in the State of New York and satisfactory to the Customer conditioned upon the faithful performance by JCI. Such bonds shall be in such form and otherwise contain such provisions which are reasonably satisfactory to the Customer.

The Performance Bonds shall specify that the Surety agrees that it consents to and waives notice of any addition, alteration, omission, change, or other modification of the Agreement, or a forbearance on the part of either the Owner or JCI to the other, shall not release the Surety of its obligations hereunder and notice to the Surety of such matter is hereby waived.

Surety further agrees that in the event of any default by the Customer in the performance of the Customer's obligations to JCI under the Agreement, JCI or Surety shall cause written notice of such default (specifying said default in detail) to be given to the Customer, and the Customer shall have thirty (30) days from time after receipt of such notice within which to cure such default, or such additional reasonable period of time as may be required if the nature of such default is such that it cannot be cured within thirty (30) days. Such Notice of Default shall be sent by certified or registered U.S. Mail, return receipt requested, first class postage prepaid, to the Customer.

15. INDEMNIFICATION. To the fullest extent permitted by applicable Law, each party shall indemnify the other with respect to any third party claim alleging bodily injury, including death, or property damage to the extent such

claim, damages, liabilities and expenses, loss, injury or damage arises out of or is related to this Agreement to the extent such claim, action, damage, liabilities and expense is caused by the negligence or willful misconduct of the indemnifying party. JCI shall also indemnify and hold harmless Customer, its Board of Education, employees, agents, and/or assigns against all loss, damages, liabilities, and expenses, including reasonable attorneys' fees, arising out of or related to any claims of patent infringement and any claims of construction or materialman's lien made by any subcontractor or materialman.

To the fullest extent permitted by law, JCI shall indemnify and hold harmless the Customer, its Board of Education employees, agents, officers, directors, Board members and/or assigns from and against any and all third-party claims, suits, actions, fines, charges, penalties, costs, damages, losses, liabilities and expenses, including reasonable attorneys' fees and expert fees, arising out of or related to the performance of the Work and/or this Agreement to the extent such claims, suits, actions, fines, charges, penalties, costs, damages, losses, liabilities and expenses are caused by the negligence, willful or intentional misconduct of JCI's employees, contractors, consultants, agents, officers, subcontractors and/or assigns.

Neither party's indemnification obligation hereunder shall be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Customer, JCI, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts, other employee benefit acts.

A condition precedent to any obligation of a party to indemnify the other pursuant to this Section 15 shall be for the indemnified party to advise the indemnifying party within a reasonable time of the claim pursuant to the notice provision of this Agreement.

16. TERMINATION. Subject to the other terms and conditions of the Agreement Documents, including without limitation, Schedule 2 attached hereto, Customer may terminate this Agreement for any reason, or no reason whatsoever, upon thirty (30) days' prior written notice to JCI, and except for as provided for herein, JCI shall be entitled to recover from Customer payment for work properly performed and authorized by Customer pursuant to this Agreement upon such termination.

If at any time prior to the issuance of the Notice to Proceed, JCI discovers that the Project Benefits (as such term is used in Schedule 2) cannot be attained as set forth in Schedule 2, JCI shall promptly notify Customer in writing of such determination. In such event, Customer shall have the right to terminate this Agreement upon written notice to JCI, given within ten (10) working days of Customer's receipt of notice from JCI, whereupon this Agreement shall terminate and Customer shall have no obligation to pay any cost or expense associated with the Work. If Customer fails to timely exercise this termination right, such termination right shall be deemed to be waived.

17. LIMITATION OF LIABILITY. NEITHER JCI NOR CUSTOMER WILL BE RESPONSIBLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, REMOTE, PUNITIVE, EXEMPLARY, LOSS OF PROFITS OR REVENUE, LOSS OF USE, OR SIMILAR DAMAGES, REGARDLESS OF HOW CHARACTERIZED AND REGARDLESS OF A PARTY HAVING BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSSES OR RELIEF, ARISING IN ANY MANNER FROM THIS AGREEMENT, THE WORK, THE IMPROVEMENT MEASURES, THE PREMISES, THE M&V SERVICES, OR OTHERWISE. WITHOUT LIMITING JCI'S EXPRESS OBLIGATIONS UNDER THE ASSURED PERFORMANCE GUARANTEE, JCI'S LIABILITY UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE AMOUNTS PAID TO JCI UNDER SCHEDULE 4 HEREIN, PROVIDED, HOWEVER, THAT THIS LIMITATION ON LIABILITY SHALL NOT APPLY TO DAMAGES CAUSED BY JCI'S GROSS NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL MISCONDUCT. If this Agreement covers fire safety or security equipment, Customer understands that JCI is not an insurer regarding those services, and that JCI shall not be responsible for any damage or loss that may result from fire safety or security equipment that fails to prevent a casualty loss. The foregoing waivers and limitations are fundamental elements of the basis for this Agreement between JCI and Customer, and each party acknowledges that JCI would not be able to provide the work and services contemplated by this Agreement on an economic basis in the absence of such waivers and limitations and would not have entered into this Agreement without such waivers and limitations.

18. **FORCE MAJEURE.** Neither party will be responsible to the other for damages, loss, injury, or delay caused by conditions that are beyond the reasonable control, and without the intentional misconduct or negligence of that party. Such conditions (each, a "Force Majeure") include, but are not limited to: acts of God; acts of government agencies; strikes; labor disputes; fires; explosions or other casualties; thefts; vandalism; riots or war; acts of terrorism; electrical power outages; interruptions or degradations in telecommunications, computer, or electronic communications systems; changes in Laws; or unavailability of parts, materials or supplies.
19. **JCI'S PROPERTY.** All materials furnished or used by JCI personnel and/or JCI subcontractors or agents at the installation site, including documentation, schematics, test equipment, software and associated media remain the exclusive property of JCI and/or JCI's subcontractor(s) and/or agent(s) or third parties, as applicable. Customer agrees not to use such materials for any purpose at any time without the express authorization of JCI. Customer agrees to allow JCI personnel and/or JCI subcontractors or agents to retrieve and to remove all such materials remaining after installation or maintenance operations have been completed. Notwithstanding the above, all software furnished or installed as part of the Work and which is needed to operate the systems installed as part of the Work or any part thereof shall remain in place and shall not be removed from the site except upon the mutual written agreement of the parties. Notwithstanding the above, Customer shall have access to all software furnished or installed as part of the Work and which is needed to operate the systems installed as part of the Work. All data generated as a result of the M & V services shall be the property of the Customer. Customer acknowledges that any software furnished in connection with the Work and/or M&V Services is proprietary and subject to the provisions of any software license agreement associated with such software.
20. **DISPUTES.** JCI and Customer will attempt to settle any controversy, dispute, difference, or claim between them concerning the performance, enforcement, or interpretation of this Agreement (collectively, "Dispute") through direct discussion in good faith.
21. **GOVERNING LAW.** This Agreement and the construction and enforceability thereof shall be interpreted in accordance with the laws of the state of New York. Venue shall only be proper in either the New York State Courts located in Nassau County, New York, or the U.S. District Court for the Eastern District of New York, Central Islip Courthouse.
22. **MODIFICATIONS.** Additions, deletions, and modifications to this Agreement may be made upon the mutual agreement of the parties in writing subject to SED review and approval where necessary. The parties contemplate that such modifications may include, but are not limited to, the installation of additional improvement measures, energy conservation measures, facility improvement measures, and operational efficiency improvements or furnishing of additional services within the identified facilities, as well as other facilities owned or operated by the Customer. These modifications may take the form of additional phases of work or modifications to the original scope of Work or Services.
23. **CONSENTS; APPROVALS; COOPERATION.** JCI shall designate in writing a representative who is authorized to act on JCI's behalf with respect to the Project. Whenever Customer's consent, approval, satisfaction or determination shall be required or permitted under this Agreement, and this Agreement does not expressly state that Customer may act in its sole discretion, such consent, approval, satisfaction or determination shall not be unreasonably withheld, qualified, conditioned or delayed, whether or not such a "reasonableness" standard is expressly stated in this Agreement. Whenever JCI's consent shall be required or permitted under this Agreement, and this Agreement does not expressly state that JCI may act in its sole discretion, such consent shall not be unreasonably withheld, qualified, conditioned or delayed, whether or not such a "reasonableness" standard is expressly stated in this Agreement. Whenever Customer's cooperation is required by JCI in order to carry out JCI's obligations hereunder, Customer agrees that it shall act in good faith and reasonably in so cooperating with JCI and/or JCI's designated representatives or assignees or subcontractors. Customer shall furnish decisions, information, and approvals required by this Agreement in a timely manner so as not to delay the performance of the Work or M&V Services. Whenever JCI's cooperation is required by Customer in order to carry out Customer's

obligations hereunder, JCI agrees that it shall act in good faith and reasonably in so cooperating with Customer and/or Customer's designated representatives or assigns.

With respect to the Work, JCI shall not utilize personnel, or contract with Contractors or suppliers to whom Customer has made timely and reasonable objections. JCI shall not be permitted to contract with anyone to whom Customer has made timely objections. JCI, as soon as practicable, shall furnish in writing to Customer the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. Customer may reply within ten (10) business days to JCI in writing stating: (1) whether Customer has an objection to any such proposed person or entity; or (2) that Customer requires additional time for review. Failure of Customer to reply within the ten (10) business day period shall constitute notice of no objection.

With respect to the Work, if JCI changes any of the personnel, Contractors or suppliers, JCI shall notify Customer and provide the name and qualifications of the new personnel, Contractor or supplier. Customer may reply within ten (10) business days to JCI in writing, stating: (1) whether Customer has an objection to the proposed personnel, Contractor or supplier; or (2) that Customer requires additional time to review. Failure of Customer to reply within the ten (10) business day period shall constitute notice of no objection.

If Customer has an objection to a person or entity proposed by JCI, JCI shall propose another to whom Customer has no objection.

24. FURTHER ASSURANCES. The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement.

25. INDEPENDENT CONTRACTOR. The relationship of the parties hereunder shall be that of independent contractors. Nothing in this Agreement shall be deemed to create a partnership, joint venture, fiduciary, or similar relationship between the parties.

Neither JCI nor any other person performing any duties or engaged in any work on Customer's property on behalf of JCI shall be deemed an employee or agent of the Customer.

Nothing in this Section shall be deemed to be a waiver of the Customer of the right to use its property. The Customer and JCI are independent of one another and shall have no other relationship relating to or arising out of this Agreement. Neither party shall have or hold itself out as having the right or omission, or to make any contract or otherwise assume any obligation or responsibility in the name of or on behalf of the other party.

It is understood and agreed that JCI, its employees, agents, subcontractors and employees of such agents and subcontractors, shall adhere to Customer's policies with respect to conduct on school property as well as any and all Federal, State, and local laws, rules, ordinances, and Customer policies and procedures applicable to construction projects on school premises.

26. POWER AND AUTHORITY. Each party represents and warrants to the other that (i) it has all requisite power and authority to execute and deliver this Agreement and perform its obligations hereunder, (ii) all corporate, board, body politic, or other approvals necessary for its execution, delivery, and performance of this Agreement have been or will be obtained, and (iii) this Agreement constitutes its legal, valid, and binding obligation.

27. SEVERABILITY. In the event that any clause, provision, or portion of this Agreement or any part thereof shall be declared invalid, void, or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Agreement unless the result would be manifestly inequitable or materially impair the benefits intended to inure to either party under this Agreement.

28. COMPLETE AGREEMENT. It is understood and agreed that this Agreement contains the entire agreement between the parties relating to all issues involving the subject matter of this Agreement. No binding understandings, statements, promises or inducements contrary to this Agreement exist. This Agreement supersedes and cancels all previous agreements, negotiations, communications, commitments and understandings with respect to the subject matter hereof, whether made orally or in writing. Each of the parties

to this Agreement expressly warrants and represents to the other that no promise or agreement which is not herein expressed has been made to the other, and that neither party is relying upon any statement or representation of the other that is not expressly set forth in this Agreement. Each party hereto is relying exclusively on the terms of this Agreement, its own judgment, and the advice of its own legal counsel and/or other advisors in entering into this Agreement. Customer acknowledges and agrees that any purchase order issued by Customer associated with this Agreement is intended only to establish payment authority for Customer's internal accounting purposes. No purchase order shall be considered a counteroffer, amendment, modification, or other revision to the terms of this Agreement.

- 29. HEADINGS.** The captions and titles in this Agreement are for convenience only and shall not affect the interpretation or meaning of this Agreement.
- 30. COUNTERPARTS.** This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one single agreement between the parties.
- 31. NOTICES.** All notices or communications related to this Agreement shall be in writing and shall be deemed served if and when sent by facsimile or mailed by certified or registered mail: to Johnson Controls, Inc. at the address listed on the first page of this Agreement, ATTN: Area General Manager - Sustainable Infrastructure, with a copy to Johnson Controls, Inc., ATTN: VP & General Counsel - Building Solutions North America, 5757 N. Green Bay Avenue, Milwaukee, Wisconsin, 53209, and to Customer at the address listed on the first page of this Agreement.
- 32.** Pursuant to NYS Energy Law § 9-103, this Agreement shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the Agreement, and no liability on account therefore shall be incurred beyond the amount of such monies. It is understood that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the Agreement.
- 33.** According to the Regulations of the Commissioner of Education, Section 155.20(d), this Agreement shall not be executory until approval of the Commissioner is obtained in writing. The Customer's obligations within this Agreement are contingent upon and subject to prior review and written approval of SED, pursuant to the laws and regulations of the State of New York and are also contingent upon and subject to the Customer's securing of financing, terms and conditions of financing and other means of payment acceptable to Customer in its sole discretion. In the event approval of said financing or other means of payment has not been secured by the Customer within 180 days after SED approval, then this Agreement shall terminate with no further obligation of Customer to JCI or any other party. This Agreement may be extended beyond 180 days if such extension is in writing signed by both parties.
- 34.** It is understood and agreed that, except as otherwise provided in this Agreement, the Customer shall not be responsible for any costs incurred by JCI, including, but not limited to, costs associated with the audit and/or costs associated with the Architect/Engineer of record and/or costs incurred by JCI in attempting to obtain SED approval, should SED not approve this Agreement.
- 35.** Except in the case of a corporate restructuring, neither party shall assign, transfer or otherwise dispose of this Agreement or its rights, title or interests as set forth herein or its power to execute this Agreement to any other person, entity or corporation without the prior written permission of the other party. Nothing within this provision shall be construed to limit, restrict and/or preclude the subrogation rights of any insurer(s) of either the Customer or JCI.
- 36.** This Agreement is subject to prevailing wage requirements. All workers will be paid according to the prevailing wage rates set forth by the New York Department of Labor

- 37. NON-DISCRIMINATION.** JCI agrees not to discriminate against any employee, or applicant for employment, to be employed in the performance of this Agreement, including the Work and M&V Services, with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to the employment, because of age, sex, race, disability, color, religion, national origin, military service, sexual orientation, gender, gender identity or expression, or ancestry in accordance with applicable Federal, New York State or local laws, rules, and ordinances.
- 38. WAIVER.** The failure of either party to require compliance with the provisions of this Agreement shall not affect the party's right to later enforce the same. It is agreed that the waiver by either party of performance of any other terms of this Agreement or any breach thereof will not be held or deemed to be a waiver by that party of any subsequent failure to perform the same or any other term or condition of this Agreement or any breach thereof.
- 39. THIRD PARTY BENEFICIARIES.** Except as may be specifically provided for in this Agreement, the parties hereto do not intend to create any rights for, or grant any remedies to, any third party beneficiary of this Agreement.
- 40. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, JCI agrees, as a material condition of the Agreement, that neither JCI nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 U.S.C. App. Sections 2401 et seq.) or regulations thereunder. If JCI, or any of the aforesaid affiliates of JCI, is convicted or is otherwise found to have violated said laws or regulations under the final determination of the U.S. Commerce Department or any other appropriate agency of the United States subsequent to the execution of this Agreement, such Agreement, amendment or modification thereto shall be rendered forfeit and void. JCI shall notify the Customer within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).
- 41. SET-OFF RIGHTS.** The Customer shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the Customer's option to withhold for the purposes of set-off any moneys due to JCI under this Agreement up to any amounts due and owing to the Customer with regard to this Agreement, any other contract between Customer and JCI, including any contract for a term commencing prior to the term of this Agreement, plus any amounts due owing to the Customer for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The Customer shall exercise its set-off rights in accordance with normal school district practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.
- 42. RECORDS.** JCI will maintain cost accounting records on the Work performed under actual costs for labor and material. JCI shall establish and maintain complete and accurate books, records, documents, and other evidence directly pertinent to performance under this Agreement (hereinafter, collectively "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. If requested by the State Comptroller, the Attorney General or the Commissioner of Education, then JCI will, subject to Section 87 of the New York Public Officer's Law, produce the Records for examination, and fully disclose all costs relating to the Work, including all costs of any subcontractors during the normal business hours at an office of JCI within the State of New York for the purposes of inspection, auditing and copying. Nothing contained herein shall diminish, or in any way adversely affect the Customer's right to discovery in any pending or future litigation.
- 43. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law and Rules ("CPLR"), JCI hereby consents to service of process upon it by registered or certified mail, return receipt

requested, in lieu of any service of process required under the CPLR. Service hereunder shall be complete upon JCI's actual receipt of process or upon the Customer's receipt of the return thereof by the United States Postal Service as refused or undeliverable. JCI must promptly notify the Customer, in writing, of each and every change of address to which service of process can be made. Service by the Customer to the last known address shall be sufficient.

MASSAPEQUA UNION FREE SCHOOL DISTRICT

Signature: Kerry Washter

Printed Name: Kerry Washter

Title: BOE President

Date: January 18, 2024

JOHNSON CONTROLS, INC.

Signature: [Handwritten Signature]

Printed Name: David F. Angello

Title: Director Development

Date: January 16, 2024

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Construction Management

All work set forth in the Agreement shall be coordinated with the Customer and approved by the Architect and the Construction Manager as set forth in the Agreement and attachments thereto.

1. JCI will prepare and maintain an overall Project Management Plan and Construction Schedule. Updates will be provided to the district on an on-going basis. JCI shall hold, at a minimum, bi-weekly construction project meetings with Customer representatives.
2. JCI will maintain a staff to administer the contract terms and conditions with project subcontractors.
3. JCI will provide coordination and supervision of the work of separate ECMs ensuring enforcement of contract provisions, compliance with energy initiatives, and timely completion of the project.
4. JCI will establish and maintain coordination procedures, e.g. project meetings, documentation process.
5. JCI will coordinate site accessibility for Customer and contractors for continuous operation of school services and activities.
6. JCI will perform inspection work necessary to assure the conformity to the plans and specifications until final completion and acceptance of the project by Customer.
7. JCI will coordinate post-completion activities including the assembly of guarantee, manuals, as-built drawings of trade and subcontractors, and Customer's final acceptance. Coordinate training of Customer's personnel by installers and vendors for the operations of the project ECMs.
8. JCI shall subcontract with a District-approved Architectural/engineering firm H2M to prepare and submit necessary design work to the New York State Education Department for approval.
9. JCI and its subcontractors will be required to wear photo identification at all times while on District property. Work will commence upon SED approval. Hours of work are 7AM to 4PM Monday thru Friday or after school hours as directed by the District and the work will not interfere with the operations of Massapequa Union Free School District. It is anticipated that Customer will be required to provide consent to perform lighting work during evening hours. If work is required off-hours; all custodial overtime costs are the responsibility of JCI.
10. Construction phase services will be performed by JCI according to the terms and conditions, Scope of Construction Services.
11. The District will provide JCI with at least an eight (8) hour day at least 5 days per week to perform all construction activities at no cost to JCI, except when the District is closed for school or custodial Unit holidays.

SCOPE OF WORK

SUMMARY OF WORK: The following energy conservation measures (ECM) matrix summarizes the Work to be provided by JCI under this Agreement, as further defined below:

ECM #	Proposed Measures	Massapequa High School	MHS Ames Campus	Alfred G. Berner Middle School	Birch Lane Elementary	East Lake Elementary	Fairfield Elementary
ECM 1	Lighting - Interior Upgrades	x	x	x	x	x	x
ECM 2	Building Envelope - Weatherization	x	x	x	x	x	x
ECM 3.1	Energy Management System - Temperature Setback / Optimal Start						
ECM 3.2	Energy Management System - Kitchen Hood Exhaust Fan Control	x	x	x	x	x	x
ECM 4	Rooftop Unit (RTU) Replacement			x			
ECM 5	Energy Efficient Motors Replacement	x		x		x	
ECM 6	Heating System - Boiler Replacement	x					
ECM 7	Heating System - Boiler/DHW/Furnace Controllers	x	x	x	x	x	x
ECM 8	Heating System - Steam Trap Replacement	x	x			x	x
ECM 9	Heating System - Pipe and Valve Insulation	x	x	x	x		
ECM 10	AC Compressor Controllers	x	x	x	x	x	x
ECM 11	Refrigeration Compressor Controllers	x	x				
ECM 12	Energy Efficient Transformers	x					
ECM 13	Renewable Energy- Photovoltaic Generation	x	x	x	x	x	x

ECM #	Proposed Measures	Lockhart Elementary	McKenna Elementary	Unqua Elementary	Grounds Operation Center	Hawthorne Building
ECM 1	Lighting - Interior Upgrades	x	x	x	x	x
ECM 2	Building Envelope - Weatherization	x	x	x		
ECM 3.1	Energy Management System - Temperature Setback / Optimal Start					x
ECM 3.2	Energy Management System - Kitchen Hood Exhaust Fan Control	x	x	x		x
ECM 4	Rooftop Unit (RTU) Replacement					
ECM 5	Energy Efficient Motors Replacement				x	
ECM 6	Heating System - Boiler Replacement					
ECM 7	Heating System - Boiler/DHW/Furnace Controllers	x	x	x		
ECM 8	Heating System - Steam Trap Replacement					
ECM 9	Heating System - Pipe and Valve Insulation		x	x		
ECM 10	AC Compressor Controllers					x
ECM 11	Refrigeration Compressor Controllers	x	x	x		
ECM 12	Energy Efficient Transformers					
ECM 13	Renewable Energy- Photovoltaic Generation	x	x	x	x	x

GENERAL

The following scope of work is included in this Agreement and shall be provided by JCI:

ECM 1: Lighting – Interior Upgrades

Johnson Controls will furnish and install energy efficient LED lighting in specified areas in the facilities listed above in the ECM Matrix and detailed in the Attachment 4 - Line by Line by retrofitting the existing fixture with new lamps and/or ballasts or by replacing with new lighting fixtures. Please refer to the detailed lighting survey in Attachment 4 for the retrofit type and locations.

Demolition and Removal Work

Existing lamps, ballasts and fixtures associated with the above-referenced scope of work will be removed and properly disposed according to applicable, laws, rules and regulations in effect at the time of SED approval of the Agreement.

New Installation Work

Johnson Controls will furnish necessary materials, labor and necessary equipment to complete the above Interior LED Retrofits. No reconfiguration of lighting systems is included. No repair, replacement, or upgrade of existing indoor or exterior emergency and/or egress lighting system is included unless otherwise noted in the Scope of Work.

Exclusions:

- Repair or replacement of defective equipment, other than the equipment specifically described in the ECM description. Johnson Controls will identify the location of defective equipment and notify Customer in writing.
- Repair or upgrades required to rectify existing lighting or electrical system code violations unless specifically described in this scope of work. Johnson Controls will identify the location of the existing violation and notify Customer in writing.
- Repair, replacement, or calibration of damaged or defective motion sensors, time clocks, switches, breakers, and wiring unless otherwise noted in the Scope of Work.
- Repair, replacement or upgrade of existing indoor or exterior emergency and/or egress lighting system unless otherwise noted in the Scope of Work.
- Reconfiguration of existing lighting system layout, except where noted herein.

ECM 2: Building Envelope – Weatherization

Johnson Controls shall furnish and install foam and/or caulking around roof wall connections and door weather stripping where appropriate as outlined below:

Massapequa High School

2 Overhead Garage Doors (Seal perimeter with aluminum weather-stripping)
1322' Roof/Wall Connection (Seal intersection with polyurethane foam)

Massapequa Ames Campus School

947' Roof-Wall Connection (Seal intersection with polyurethane foam)

Berner Middle School

1803' Roof-Wall Connection (Seal intersection with polyurethane foam)
3 Overhead Door Weather Stripping

Birch Lane Elementary School

55' Bulkhead (Seal intersection with polyurethane foam)

East Lake Elementary School

777' Roof-Wall Connection (Seal intersection with polyurethane foam)
18' Bulkhead (Seal intersection with polyurethane foam)

Fairfield Elementary School

656' Roof-Wall Connection (Seal intersection with polyurethane foam)
18' Bulkhead (Seal intersection with polyurethane foam)

Lochart Elementary School

1068' Roof-Wall Connection (Seal intersection with polyurethane foam)

McKenna Elementary School

1733' Roof-Wall Connection (Seal intersection with polyurethane foam)

Unqua Elementary School

662' Roof-Wall Connection (Seal intersection with polyurethane foam)

Exclusions:

- Repair or replacement of existing exterior doors and windows is excluded in this scope of work other than as described in the scope of work. If any doors are found to be inoperable, or windows are found to be broken, JCI will report the deficiency to the customer for repair or replacement prior to JCI retrofitting the seals.
- Repair or replacement of existing brick or other masonry materials/systems is excluded in this scope of work.
- Repair or replacement of existing attic space including rafters, ceiling, or roof areas.
- Modifications to address non-compliance with existing codes, including but not limited to the Americans with Disabilities Act (ADA) and egress, are excluded.
- Cutting, patching, and painting is excluded.
- The scope of work does not include the repair or installation of any structural systems.
- All testing and abatement of hazardous materials is solely the responsibility of the customer.
- All weather-stripping is to be made of aluminum mill finish carrier with a black gasket, unless specified otherwise.

ECM 3.1: Energy Management System – Temperature Setback / Optimal Start

Variable Frequency Drives

At Hawthorne Building, Johnson Controls will supply and install new variable frequency drives (VFDs) on supply side of the three (3) existing Air Handling Units as part of this measure and tie them into the new FX-80 supervisory controller.

Optimal Start

At Hawthorne Building, Johnson Controls will program connected HVAC equipment to allow optimal start warm up cycle.

Exclusions

- Resolution of existing design, service, and or distribution conditions known or unknown.

- Correction of any existing applicable building code violations and Federal Americans with Disabilities Act (ADA) violations identified by JCI during the execution of the Work. Such violations will be brought to the attention of the Customer for remedy.
- Test and balance of existing air and water HVAC systems unless otherwise noted in a specification ECM Scope of Work.
- Repair or replacement of defective mechanical, controls, and electrical equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Repairs/replacement of electrical found to be corroded or rusted or otherwise unacceptable for installation of components or fittings required for installation other than what is specified in the Scope of Work.
- Providing Ethernet ports for buildings or any infrastructure hardware/software needed to connect the building to the base IT network, Connection to the Owners Wide-Area Network to be coordinated with Client's IT Services.
- The Owner will provide, free of charge, high-speed Internet connections and the required Virtual Private Network (VPN) services to the Contractor, for monitoring, tuning, and making system changes to the building automation system connected to the HVAC Systems or Equipment.
- Phone line use or new fiber installation, if required.
- Non-Johnson Controls software upgrades (such as Microsoft, Norton Antivirus, etc.) for the Customer's front-end unless otherwise noted in the Scope of Work.
- Ongoing annual fees associated with licenses and access fees.

ECM 3.2: Energy Management System – Kitchen Hood Exhaust Fan Control

Johnson Controls will tie in existing Kitchen Hood Exhaust Fans to the BMS system.

Kitchen Hood - Exhaust Fans

- Provide DDC control for Kitchen hood exhaust fans at locations in the buildings listed.
- Provide start/stop, status and alarm.
- Provide local timed (2 hour) user override, with feedback to BMS.
- Integrate into workstation and provide individual system graphic.
- Provide alarming and trending as per project requirement.

Building	Kitchen Hood Fans
Massapequa High School	1
MHS Ames Campus	1
Alfred G. Berner Middle School	1
Birch Lane Elementary	1
East Lake Elementary	1
Fairfield Elementary	1
Lockhart Elementary	1
McKenna Elementary	1
Unqua Elementary	1
Total	9

Supervisory Controllers

Johnson Controls will supply and install supervisory controllers at High School, Ames Campus, Berner Middle School, Birch Lane, East Lake, Fairfield, Lockhart, McKenna, Unqua and Hawthorne including a virtual BMS server upgrade.

- Provide new web-enabled (JCI FX-80) platform network supervisory controller for the building. New and existing points scheduled for migration shall be incorporated in the new supervisory network. Incorporate the functionality, including setbacks, of existing systems and additional sequences as required to provide energy savings. Provide alarming and trending as specified and required.
- Network supervisory controllers shall be integrated into a temperature control network running on remote server at Owner-specified location.
- Owner IT department to provide addresses and permissions for integration to site LAN.

Exclusions

- Resolution of existing design, service, and or distribution conditions known or unknown.
- Correction of any existing applicable building code violations and Federal Americans with Disabilities Act (ADA) violations identified by JCI during the execution of the Work. Such violations will be brought to the attention of the Customer for remedy.
- Test and balance of existing air and water HVAC systems unless otherwise noted in a specification ECM Scope of Work.
- Repair or replacement of defective mechanical, controls, and electrical equipment and electrical distribution system, including the kitchen hoods, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Repairs/replacement of electrical found to be corroded or rusted or otherwise unacceptable for installation of components or fittings required for installation other than what is specified in the Scope of Work.
- Providing Ethernet ports for buildings or any infrastructure hardware/software needed to connect the building to the base IT network, Connection to the Owners Wide-Area Network to be coordinated with Client's IT Services.
- The Owner will provide, free of charge, high-speed Internet connections and the required Virtual Private Network (VPN) services to the Contractor, for monitoring, tuning, and making system changes to the building automation system connected to the HVAC Systems or Equipment.
- Phone line use or new fiber installation, if required.
- Non-Johnson Controls software upgrades (such as Microsoft, Norton Antivirus, etc.) for the Customer's front-end unless otherwise noted in the Scope of Work.
- Ongoing annual fees associated with licenses and access fees.

ECM 4: Rooftop Unit (RTU) Replacement

Johnson Controls will furnish and replace the existing units listed in the table below with new, York units with SEER meeting or exceeding NYS energy code, at the time of NYSED Approval.

Building	No. of RTU
Berner Middle School	1
Total	1

Building	Area Served	Type	Existing Unit Make	Existing Model Numbers	Cooling Capacity (Tons)
Berner Middle School	Cooling	RTU	Trane	TCD120C30AAB	10

Scope of Work:

- Properly remove and dispose of existing RTUs to be replaced and match existing CFM.
- Replace with Energy Efficient York units.
- Electrical disconnect and reconnect.
- Startup and testing.
- Provide new space thermostats at impacted locations and connect to existing BMS system.

Exclusions:

- Repair or replacement of defective equipment, other than the equipment specifically described in the ECM description. Johnson Controls will identify the location of defective equipment and notify Customer in writing.
- Repair or replacement of defective mechanical, controls, and electrical equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Repairs/replacement of insulation, piping, electrical or ductwork found to be corroded or rusted or otherwise unacceptable for installation of components or fittings required for installation other than what is specified in the Scope of Work.
- Resolution of existing design, service, and or distribution conditions known or unknown.
- Correction of any existing applicable building code violations and Federal Americans with Disabilities Act (ADA) violations identified by JCI during the execution of the Work. Such violations will be brought to the attention of the Customer for remedy.
- Temporary space conditioning unless otherwise identified in FIM Scope of Work.
- Test and balance of existing air and water HVAC systems unless otherwise noted in a specification FIM Scope of Work.
- Duct cleaning and coil cleaning unless otherwise identified in FIM Scope of Work.

ECM 5: Energy Efficient Motors Replacement

Johnson Controls shall replace the motors listed below with new premium efficiency units, installing new fan sheaves where applicable. This ECM will not impact the design, flow, or distribution.

Building	Location	Equipment	Horsepower
Massapequa High School	Gym/Cafeteria Fan Room 2nd Floor	H&V 1	5
Massapequa High School	Gym/Cafeteria Fan Room 2nd Floor	H&V 2	5
Massapequa High School	Gym/Cafeteria Fan Room 2nd Floor	H&V 4	5
Massapequa High School	Boiler Room	HWP-1	7.5
Massapequa High School	Boiler Room	HWP-2	7.5
Berner Middle School	Boiler Room	HWP-1	7.5
Berner Middle School	Boiler Room	HWP-2	7.5
East Lake Elementary School	Fan Room	H&V 2	5

The scope of work will be as follows:

- Remove and properly dispose of existing motors in accordance with applicable laws, rules, and regulations in effect at the time of SED approval.
- Provide and install new premium efficiency open drip-proof type motors.
- Provide precision alignment for motors, sheaves & pulleys.
- Provide new belts to match existing.

Exclusions:

- Repair or replacement of defective equipment, other than the equipment specifically described in the ECM description. Johnson Controls will identify the location of defective equipment and notify Customer in writing.
- Repair or replacement of defective mechanical, controls, and electrical equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Repairs/replacement of insulation, piping, electrical or ductwork found to be corroded or rusted or otherwise unacceptable for installation of components or fittings required for installation other than what is specified in the Scope of Work.
- Resolution of existing design, service, and or distribution conditions known or unknown.
- Correction of any existing applicable building code violations and Federal Americans with Disabilities Act (ADA) violations identified by JCI during the execution of the Work. Such violations will be brought to the attention of the Customer for remedy.
- Temporary space conditioning unless otherwise identified in ECM Scope of Work.
- Test and balance of existing air and water HVAC systems unless otherwise noted in a specification ECM Scope of Work.
- Duct cleaning and coil cleaning unless otherwise identified in ECM Scope of Work.

ECM 6: Heating System – Boilers Replacement

At Massapequa High School, Johnson Controls shall remove the existing three (3) boilers and three (3) burners and install three (3) new high efficiency three-pass firetube Industrial Steam (or equal) boiler with Power Flame Burner (or equal) according to the following specifications.

Existing Equipment	Existing Manufacturer	Existing Model Number	Existing Capacity
Boiler 1	Iron Fireman	302A-L-200	200 hp
Boiler 2	Iron Fireman	302A-L-200	200 hp
Boiler 3	Iron Fireman	302A-L-100	100 hp

- Assemble and install boiler-burner unit in compliance with manufacturer's installation instructions. All work must be done in a neat and workman like manner.
- Shall be hydrostatically pressure tested at factory in accordance with ASME requirements.
- Disconnect and reconnect existing oil and natural gas lines.
- Install new make-up water regulator and backflow preventer.
- New piping will be installed from the new boiler and tied into the existing header.
- New One (1) header isolation valve and One (1) boiler non-return valve will be installed.
- Impacted piping and appurtenances will be abated as needed within the boiler room and insulated with appropriate fiberglass insulation.
- Plant start up and testing will be performed and report will be provided.
- Provide Pipe Supports, Hangers and Brackets
- Provide Valve Tags and ID Chart
- Provide Pipe Labeling and Directional Arrows
- Remove existing feedwater storage tank and replace with new feed water tank to match existing.
- Remove existing Oil Pump Set and replace with new Oil Pump Set to match existing.
- Boilers will be equipped with lead lag control performed by the new DDC control system.

At Grounds Operations Center, Johnson Controls shall remove one (1) existing oil-fired boiler and replace it with one (1) natural gas fired Weil McLain Eco Tec Combi 199-C condensing boiler according to the following specifications.

- Demo existing boiler, safe off electrical for re-use.
- Disconnect and cap oil lines. District to repurpose existing underground oil tank.
- Furnish and install one (1) Weil-McLain Eco 199-C at the existing location.
- Tie-in existing Heating Hot Water and Domestic Hot Water piping to new boiler.
- Furnish and install two (2) low water cut-off controls, water temperature sensors, and high limit safety device.
- Run new exhaust and air intake piping from gas meter on South Side of the building. Gas meter to be provided by the utility company.
- Install condensate drain piping with condensate neutralizer.
- Insulate new water piping, as necessary.
- Start up and test operations of new equipment.

Regulatory Requirements

- Boiler(s) and controls to comply with applicable regulations in effect at the time of installation.
- Provide U.L. labeled burner(s).

Boiler foundation(s):

- Construct needed support and level concrete foundation(s) (under the new boiler) where boiler room floor may be found to be uneven or will not support the weight of the boiler(s), if needed.

Boiler trim:

All electrical components to be of high quality and bear the U.L. label.

Low water cut-off

- Boiler to be furnished with U.L. labeled low water cut-off with ASME working pressure rating equal to the ASME rating of the relief valve.
- Install cut-off according to manufacturer's instructions.
- Locate so burner shuts down if boiler water level falls below allowable safe waterline.
- Boiler primary low water cut-off shall be a float type – auto reset.
- Boiler secondary low water cut-off shall be float or probe – manual reset.

Start-up and Service

- JCI shall obtain the services of a factory-authorized agent to provide burner light off and adjustment. JCI's start-up agent shall provide a burner light-off report as written proof that the burner was adjusted to optimum performance.

Exclusions:

- Repair or replacement of defective equipment, other than the equipment specifically described in the ECM description. Johnson Controls will identify the location of defective equipment and notify Customer in writing.
- Repairs or upgrades to the existing oil system.
- Repair or replacement of defective mechanical, controls, and electrical equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Repairs/replacement of insulation, piping, electrical or ductwork found to be corroded or rusted or otherwise unacceptable for installation of components or fittings required for installation other than what is specified in the Scope of Work.
- Resolution of existing design, service, and or distribution conditions known or unknown.
- Correction of any existing applicable building code violations and Federal Americans with Disabilities Act (ADA) violations identified by JCI during the execution of the Work. Such violations will be brought to the attention of the Customer for remedy.
- Temporary space conditioning unless otherwise identified in a FIM Scope of Work.
- Test and balance of existing air and water HVAC systems unless otherwise noted in a specification FIM Scope of Work.
- Duct cleaning and coil cleaning unless otherwise identified in a FIM Scope of Work.

Modifications to existing chemical feed systems.

ECM 7: Heating System – Boiler/DHW/Furnace Controllers

Johnson Controls shall install Intelligent Control Systems I-CON fuel economizers on boiler, DHW heaters, and furnaces at the following locations:

Building	Boiler Controllers	Gas Fired RTU Furnace Controllers	DHW Controllers
Massapequa High School	3	4	2
MHS Ames Campus	2	-	1
Berner Middle School	3	-	-
Birch Lane Elementary School	2	-	1
East Lake Elementary School	3	-	2
Fairfield Elementary School	3	-	1
Lockhart Elementary School	-	-	1
McKenna Elementary School	3	-	1
Unqua Elementary School	2	-	4
Total	21	4	13

Exclusions:

- Resolution of existing design, service, and or distribution conditions known or unknown.
- Modifications to address non-compliance with existing codes, including but not limited to the Americans with Disabilities Act (ADA) and egress, are excluded.
- Temporary space conditioning unless otherwise identified in an ECM Scope of Work.
- Test and balance of existing air and water HVAC systems unless otherwise noted in a specification ECM Scope of Work.
- Repair or replacement of defective mechanical, electrical and controls equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).

ECM 8: Heating System – Steam Trap Replacement

Johnson Controls will replace the steam traps located in the buildings listed below. The scope and quantity of the steam traps identified are listed in the table below.

Building	Thermostatic (QTY)	F&T or Bucket (QTY)	Vacuum Breakers (QTY)
Massapequa High School	226	54	11
MHS Ames Campus	116	35	-
East Lake Elementary School	81	25	-
Fairfield Elementary School	119	24	-
Totals	542	138	11

Johnson Controls will also provide attic stock for future replacements for storage at customer's location.

Float & Thermostatic or Inverted Bucket (F&T/IB) and Thermostatic steam traps will be rebuilt/replaced with new Barnes and Jones units. Existing strainers, isolation valves, check valves, and fittings in good condition will be reused.

Exclusions:

- Resolution of existing design, service, and or distribution conditions known or unknown.
- Modifications to address non-compliance with existing codes, including but not limited to the Americans with Disabilities Act (ADA) and egress, are excluded.
- Temporary space conditioning unless otherwise identified in an ECM Scope of Work.
- Test and balance of existing HVAC systems unless otherwise noted in a specification ECM Scope of Work.
- Repair or replacement of defective mechanical, electrical and controls equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Repairs/replacement of piping found to be corroded or rusted or otherwise unacceptable for installation of components or fittings required for installation other than what is specified in the Scope of Work.

ECM 9: Heating System – Pipe and Valve Insulation

Johnson Controls shall install pipe and valve insulation and/or thermal jackets on existing hot water and steam systems to reduce heat loss according to the following table below:

The fiberglass pipe insulation shall be manufactured by Johns Manville or a manufacturer of equivalent type and quality (subject to JCI and Customer approval), and with PVC fitting covers where applicable. The removable insulated fiberglass pads on serviceable connections shall be made with Silicone Impregnated Fiberglass Cloth manufactured by GLT Products or a manufacturer of equivalent type and quality (subject to JCI and Customer approval).

The following table lists the items that shall be installed:

Building	Type of Piping/Tank	Location	Quantity / Length (ft.)	Pipe Material	Line Size Diam. (in/ft)
Massapequa High School	Control Valve (Steam)	Auditorium Fan Rm	2	Steel	2.5
Massapequa High School	Steam Piping	Auditorium Fan Rm	1	Steel	2.5
Massapequa High School	Gate Valve (Feed Water)	Boiler Room	4	Steel	1.5
Massapequa High School	Feed Water Piping	Boiler Room	1	Steel	1.5
Massapequa High School	Tee (Feed Water)	Boiler Room	4	Steel	1.5
Massapequa High School	Balancing Valve (HW)	Boiler Room	2	Steel	3
Massapequa High School	Suction Strainer (HW)	Boiler Room	2	Steel	3
Massapequa High School	Flange (Condensate)	Boiler Room	1	Steel	4
Massapequa High School	Flange (HW)	Boiler Room	2	Steel	4
Massapequa High School	Condensate Tank	Boiler Room	1	Steel	3' x 2' x 2'
Massapequa High School	Gate Valve (HW)	Boiler Room	1	Steel	4
Massapequa High School	Check Valve (HW)	Boiler Room	1	Steel	4
Massapequa High School	Gate Valve (HW)	Boiler Room	1	Steel	3
Massapequa High School	Heat Exchanger Head	Boiler Room	1	Steel	18

Schedule 1

Building	Type of Piping/Tank	Location	Quantity / Length (ft.)	Pipe Material	Line Size Diam. (in/ft)
Massapequa High School	Bonnet (HW)	Boiler Room	1	Steel	4
Massapequa High School	Bonnet (Steam)	Basement Corridor	4	Steel	4
Massapequa High School	Flange (Steam)	Basement Corridor	8	Steel	4
Massapequa High School	Strainer (Condensate)	DHW Tank Room	2	Steel	2
Massapequa High School	DHW Piping	DHW Tank Room	1	Copper	2
Massapequa High School	DHW Piping	DHW Tank Room	1	Copper	2.5
Massapequa High School	Control Valve (Steam)	DHW Tank Room	2	Steel	4
Massapequa High School	Strainer (Steam)	DHW Tank Room	1	Steel	4
Massapequa High School	Gate Valve (Steam)	DHW Tank Room	1	Steel	4
Massapequa High School	Bonnet (Steam)	DHW Tank Room	1	Steel	4
Massapequa High School	Bonnet (Condensate)	DHW Tank Room	1	Steel	4
Massapequa High School	Condensate Tank	DHW Tank Room	1	Steel	3' x 2' x 2'
Massapequa High School	DWH Tank Head	DHW Tank Room	2	Steel	12
Massapequa High School	Control Valve (Steam)	Gym/Locker Rms Fan Rm	2	Steel	2.5
Massapequa High School	Steam Piping	Gym/Locker Rms Fan Rm	1	Steel	2.5
Massapequa High School	Strainer (Steam)	Gym/Locker Rms Fan Rm	2	Steel	2.5
Massapequa High School	Gate Valve (Steam)	Gym/Locker Rms Fan Rm	2	Steel	2.5
MHS AMES Campus	Feed Water Piping	Boiler Room	1	Steel	1.25
MHS AMES Campus	Strainer (Condensate)	Boiler Room	1	Steel	2
MHS AMES Campus	Condensate Piping	Boiler Room	1	Steel	2
MHS AMES Campus	Balancing Valve (HW)	Boiler Room	2	Steel	2
MHS AMES Campus	Flex (HW)	Boiler Room	4	Steel	2
MHS AMES Campus	Suction Strainer (HW)	Boiler Room	2	Steel	2
MHS AMES Campus	DHW Piping	Boiler Room	1	Copper	2
MHS AMES Campus	Gate Valve (DHW)	Boiler Room	1	Steel	2
MHS AMES Campus	Control Valve (HW)	Boiler Room	1	Steel	3
MHS AMES Campus	Flange (HW)	Boiler Room	2	Steel	3
MHS AMES Campus	Flange Cap (DHW)	Boiler Room	2	Steel	3
MHS AMES Campus	Control Valve (DHW)	Boiler Room	1	Steel	3
MHS AMES Campus	Bonnet (Steam)	Boiler Room	1	Steel	6
MHS AMES Campus	Heat Exchanger Head	Boiler Room	1	Steel	16
MHS AMES Campus	Condensate Tank	Boiler Room	1	Steel	2' x 3' x 3'
MHS AMES Campus	Vapor Separator	Boiler Room	1	Steel	3' x 1.5'
Berner Middle School	Control Valve (DHW)	Boiler Room	1	Steel	3
Berner Middle School	DHW Piping	Boiler Room	1	Copper	3
Berner Middle School	Check Valve (DHW)	Boiler Room	1	Steel	3
Berner Middle School	Elbow (HW)	Boiler Room	1	Steel	3
Berner Middle School	Balancing Valve (HW)	Boiler Room	2	Steel	6
Berner Middle School	Bonnet (HW)	Boiler Room	2	Steel	6

Schedule 1

Building	Type of Piping/Tank	Location	Quantity / Length (ft.)	Pipe Material	Line Size Diam. (in/ft)
Berner Middle School	Flange Cap (HW)	Boiler Room	3	Steel	6
Berner Middle School	Suction Strainer (HW)	Boiler Room	2	Steel	6
Berner Middle School	Reducer (HW)	Boiler Room	1	Steel	6" - 3"
Birch Lane Elementary School	Hot Water Piping (Boiler Blend)	Boiler Room	1	Steel	2
Birch Lane Elementary School	Flange (HW Boiler Blend)	Boiler Room	5	Steel	2
Birch Lane Elementary School	Control Valve (HW)	Boiler Room	1	Steel	3
Birch Lane Elementary School	Balancing Valve (HW)	Boiler Room	3	Steel	4
Birch Lane Elementary School	Suction Strainer (HW)	Boiler Room	2	Steel	4
Birch Lane Elementary School	Flange (HW)	Boiler Room	1	Steel	4
Birch Lane Elementary School	Control Valve (HW)	Boiler Room	1	Steel	4
Birch Lane Elementary School	Flange (Boiler 2 Head)	Boiler Room	1	Steel	6
Birch Lane Elementary School	Bonnet (HW)	Fan Room	2	Steel	3
Birch Lane Elementary School	Control Valve (HW)	Fan Room	1	Steel	3
East Lake Elementary School	Strainer (Condensate)	Boiler Room	1	Steel	1.5
East Lake Elementary School	Gate Valve (Condensate)	Boiler Room	1	Steel	1.5
East Lake Elementary School	Condensate Piping	Boiler Room	1	Steel	3
East Lake Elementary School	Control Valve (HW)	Boiler Room	1	Steel	3
East Lake Elementary School	Flange (HW)	Boiler Room	2	Steel	3
East Lake Elementary School	Strainer (Condensate)	Boiler Room	1	Steel	4
East Lake Elementary School	Elbow (Condensate)	Boiler Room	1	Steel	4
East Lake Elementary School	Tee (Condensate)	Boiler Room	1	Steel	4
East Lake Elementary School	Balancing Valve (HW)	Boiler Room	2	Steel	4
East Lake Elementary School	Suction Strainer (HW)	Boiler Room	2	Steel	4
East Lake Elementary School	Flex (HW)	Boiler Room	4	Steel	4
East Lake Elementary School	Control Valve (HW)	Fan Room	2	Steel	1
East Lake Elementary School	HW Piping	Fan Room	1	Steel	1
East Lake Elementary School	Gate Valve (HW)	Fan Room	5	Steel	1
Fairfield Elementary School	Steam Piping	Boiler Room	1	Steel	0.75
Fairfield Elementary School	Feed Water Piping	Boiler Room	1	Steel	1.5
Fairfield Elementary School	Gate Valve (Feed Water)	Boiler Room	7	Steel	1.5
Fairfield Elementary School	Condensate Piping	Boiler Room	1	Steel	2
Fairfield Elementary School	Gate Valve (Condensate)	Boiler Room	3	Steel	2
Fairfield Elementary School	Strainer (Condensate)	Boiler Room	1	Steel	2

Building	Type of Piping/Tank	Location	Quantity / Length (ft.)	Pipe Material	Line Size Diam. (in/ft)
Fairfield Elementary School	Bonnet (Condensate)	Boiler Room	1	Steel	4
Fairfield Elementary School	Flange (Condensate)	Boiler Room	1	Steel	4
Fairfield Elementary School	Flange (HW)	Boiler Room	1	Steel	6
Fairfield Elementary School	Flange (Steam)	Boiler Room	8	Steel	6
Fairfield Elementary School	Flange (Steam)	Boiler Room	2	Steel	8
Fairfield Elementary School	Reducer (Steam)	Boiler Room	3	Steel	10" - 6"
Fairfield Elementary School	Condensate Piping	Tunnel Near Air Compressor	1	Steel	1.25
Fairfield Elementary School	Condensate Piping	Tunnel Next to Boiler Rm	1	Steel	3
McKenna Elementary School	Check Valve (DHW)	Boiler Room	1	Steel	2.5
McKenna Elementary School	Gate Valve (DHW)	Boiler Room	1	Steel	2.5
McKenna Elementary School	Flange (HW Boiler Blend)	Boiler Room	6	Steel	2.5
McKenna Elementary School	Check Valve (HW)	Boiler Room	2	Steel	4
McKenna Elementary School	Balancing Valve (HW)	Boiler Room	3	Steel	4
McKenna Elementary School	Suction Strainer (HW)	Boiler Room	2	Steel	4
McKenna Elementary School	Control Valve (HW)	Fan Room (Basement)	2	Steel	4
Unqua Elementary School	Hot Water Piping (Boiler Blend)	Boiler Room	2	Steel	2
Unqua Elementary School	Balancing Valve (HW)	Boiler Room	2	Steel	2
Unqua Elementary School	Check Valve (DHW)	Boiler Room	1	Steel	3
Unqua Elementary School	Control Valve (HW)	Boiler Room	1	Steel	4
Unqua Elementary School	Balancing Valve (HW)	Boiler Room	2	Steel	4
Unqua Elementary School	Suction Strainer (HW)	Boiler Room	2	Steel	4
Unqua Elementary School	Flange (HW)	Boiler Room	2	Steel	4
Unqua Elementary School	Flange (Boiler Head)	Boiler Room	2	Steel	6

Exclusions

- Hazardous material abatement or removal, such as but not limited to asbestos, lead paint mold/mildew, etc. unless noted otherwise in the ECM Scope of Work.
- Repair or replacement of defective mechanical, controls, and electrical equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Repairs/replacement of insulation, piping, electrical or ductwork found to be corroded or rusted or otherwise unacceptable for installation of components or fittings required for installation other than what is specified in the Scope of Work.
- Resolution of existing design, service, and or distribution conditions known or unknown.
- Modifications to address non-compliance with existing codes, including but not limited to the Americans with Disabilities Act (ADA) and egress, are excluded.
- Test and balance of existing air and water HVAC systems unless otherwise noted in a specification ECM Scope of Work.

ECM 10: Air Conditioning Compressor Controllers

Johnson Controls shall furnish and install Intelligent Control Systems ICON-2400/2600 controllers on the existing individual compressor units located in the buildings listed below:

Location	No. of Compressors
Massapequa High School	19
MHS Ames Campus	2
Berner Middle School	24
Birch Lane Elementary School	1
Total	46

Building	Equipment Type	Manufacturer	Model Number	Compressor Data (RLA)	No. of Compressors
Massapequa High School	Rooftop Unit	Carrier	48PGNC05LM-60-QY	7.1	1
Massapequa High School	Rooftop Unit	Carrier	48PGMC14LJ-60-QY	x2: 10.6	2
Massapequa High School	Rooftop Unit	Carrier	48PGMC06LM-60-QY	9.6	1
Massapequa High School	Rooftop Unit	Carrier	48PGMC14LJ-60-QY	x2: 10.6	2
Massapequa High School	Condensing Unit	Luxaire	HABC-F024SD	10.9	1
Massapequa High School	Condensing Unit	Luxaire	HBBC-F060SA	28.8	1
Massapequa High School	Rooftop Air Handling Unit	Seasons 4	6MJE21-0302-HW-4.4-055E	159.6	1
Massapequa High School	Condensing Unit	Trane	RAUCC604BT03A0D000010	x4: 26.3	4
Massapequa High School	Rooftop Unit	Trane	TSC090A3R0A2S	22.4	1
Massapequa High School	Rooftop Unit	Trane	TCH241C400AB	x2: 17.4	2
Massapequa High School	Rooftop Unit	Carrier			2
Massapequa High School	Rooftop Unit	York	D2NP030N05606A	12.2	1
MHS Ames Campus	Rooftop Unit	Trane	TCD060C300BD	18.6	1
MHS Ames Campus	Rooftop Unit	Carrier	50HJ-007-M-541HY	20.5	1
Berner Middle School	Rooftop Unit	Trane	TCD120C30AAB	19 16	2
Berner Middle School	Rooftop Unit	Trane	TSC072H3R0A260	22.4	1
Berner Middle School	Rooftop Unit	Trane	THD150G3R0B05P0B0A1B6B0C1B1	22.4	2
Berner Middle School	Rooftop Unit	Trane	THD150G3R0B05P0B0A1B6B0C1B1	22.4	2
Berner Middle School	Rooftop Unit	Trane	THD150G3R0B05P0B0A1B6B0C1B1	22.4	2
Berner Middle School	Rooftop Unit	Trane	THD150G3R0B05P0B0A1B6B0C1B1	22.4	2
Berner Middle School	Rooftop Unit	Trane	THD150G3R0B05P0B0A1B6B0C1B1	22.4	2
Berner Middle School	Rooftop Unit	Trane	THD150G3R0B05P0B0A1B6B0C1B1	22.4	2
Berner Middle School	Rooftop Unit	Trane	THD150G3R0B05P0B0A1B6B0C1B1	22.4	2
Berner Middle School	Rooftop Unit	Trane	THD150G3R0B05P0B0A1B6B0C1B1	22.4	2
Berner Middle School	Rooftop Unit	Trane	THD150G3R0B05P0B0A1B6B0C1B1	22.4	2
Berner Middle School	Rooftop Unit	Carrier	50LC0A07A3M6A1R2C0	5.1, 6.0	2
Berner Middle School	Rooftop Unit	Carrier	50LC0A08A3M6A1R2F0	6.0, 6.2	2
Berner Middle School	Rooftop Unit	Carrier	50GC-N06A2M6A2W2C0	7.6	1
Birch Lane Elementary School	Condensing Unit	Trane	TWA090D30RAB	25	1

Exclusions:

- Repair or replacement of defective mechanical, electrical and controls equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Resolution of existing design, service, and or distribution conditions known or unknown.
- Modifications to address non-compliance with existing codes, including but not limited to the Americans with Disabilities Act (ADA) and egress, are excluded.
- Temporary space conditioning.

ECM 11: Refrigeration Compressor Controllers

Johnson Controls shall furnish and install fifteen (15) Intelligent Control Systems ICON-2500 controllers on the existing individual compressor units located in the buildings listed below.

Location	No. of Compressors
Massapequa High School	2
MHS Ames Campus	2
Berner Middle School	2
Birch Lane Elementary School	2
East Lake Elementary School	1
Fairfield Elementary School	1
Lockhart Elementary School	1
McKenna Elementary School	4
Unqua Elementary School	1
Hawthorne Building	1
Total	17

Building	Location	Area-System Served
Massapequa High School	Kitchen	Walk-In Refrigeration Unit
Massapequa High School	Kitchen	Walk-In Refrigeration Unit
MHS Ames Campus	Kitchen	Walk-In Refrigeration Unit
MHS Ames Campus	Kitchen	Walk-In Refrigeration Unit
Berner Middle School	Kitchen	Walk-In Refrigeration Unit
Berner Middle School	Kitchen	Walk-In Refrigeration Unit
Birch Lane Elementary School	Kitchen	Walk-In Refrigeration Unit
Birch Lane Elementary School	Outside	Walk-In Refrigeration Unit (in Storage Closet)
East Lake Elementary School	Kitchen	Walk-In Refrigeration Unit
Fairfield Elementary School	Kitchen	Walk-In Refrigeration Unit
Lockhart Elementary School	Roof	Walk-In Refrigeration Unit
McKenna Elementary School	Roof	Walk-In Refrigeration Unit
McKenna Elementary School	Roof	Walk-In Refrigeration Unit
McKenna Elementary School	Roof	Walk-In Refrigeration Unit
McKenna Elementary School	Roof	Walk-In Refrigeration Unit
Unqua Elementary School	Kitchen	Walk-In Refrigeration Unit

Building	Location	Area-System Served
Hawthorne Building	Kitchen	Walk-In Refrigeration Unit

Exclusions:

- Repair or replacement of defective mechanical, electrical and controls equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Resolution of existing design, service, and or distribution conditions known or unknown.
- Modifications to address non-compliance with existing codes, including but not limited to the Americans with Disabilities Act (ADA) and egress, are excluded.
- Removal of food from the units.
- Temporary refrigeration.

ECM 12: Energy Efficient Transformers

Johnson Controls will replace the existing transformer installed at the locations specified and furnish and install with new Hammond high efficiency transformers. The only change to the electrical system will be new transformers as identified below:

Location	No. of Transformers
Massapequa High School	4
MHS Ames Campus	1
Total	5

Building	Location	Manufacturer	Model Number	Capacity
Massapequa High School	Storage Closet (Near Shops)	Cutler-Hammer	N48M28T75CUEE	75 kVA
Massapequa High School	Storage Closet (Near Shops)	Cutler-Hammer	N48M28T75CUEE	75 kVA
Massapequa High School	Main Office EC-15 Fan Room	Cutler-Hammer	N48M28T12A	112.5 kVA
Massapequa High School	Main Office EC-15 Fan Room	Cutler-Hammer	45T3HFISNLP	45 kVA
MHS AMES Campus	Electric Room	Cutler-Hammer	N29R28B22CU	225 kVA

Johnson Controls will install the following scope:

- Accept delivery of Transformers at a location to be approved by the District and its Architect/Engineer.
- Rigging of transformers from staging area to transformer location, pads where needed.
- Disconnect and remove existing transformer.
- Supply and install new high efficiency transformer of same size, utilizing existing feeds and grounds.

Exclusions:

- Resolution of existing design, service, and or distribution conditions known or unknown.

- Correction of any existing applicable building code violations and Federal Americans with Disabilities Act (ADA) violations identified by JCI during the execution of the Work. Such violations will be brought to the attention of the Customer for remedy.
- Temporary Power. Replacement will be coordinated with the District to minimize disruptions.
- Repair or replacement of defective mechanical, controls, and electrical equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).
- Repairs/replacement of insulation, piping, electrical or ductwork found to be corroded or rusted or otherwise unacceptable for installation of components or fittings required for installation other than what is specified in the Scope of Work.

ECM 13: Renewable Energy – Photovoltaic Electric Generation

Johnson Controls will furnish, install, and commission a total of 3,814.44 kW roof mounted photovoltaic electrical generation systems as detailed in the table below that will interconnect with the existing electrical distribution system at the associated schools.

At the Hawthorne Building, Johnson Controls will also furnish and install one digital kWh production meter with revenue grade Current Transducer (CTs).

The following table identifies the PV sizes and installation type at each location:

Building	Roof Mounted PV (kW-DC)
Massapequa High School	440.44
MHS Ames Campus	426.30
Alfred G. Berner Middle School	630.60
Birch Lane Elementary	322.50
East Lake Elementary	307.90
Fairfield Elementary	222.60
Lockhart Elementary	325.40
McKenna Elementary	517.50
Unqua Elementary	396.00
Grounds Operations Center	25.20
Hawthorne Building	200.00
Total	3,814.44

Installation includes the following specifications for new Roof Ballasted Systems:

- UL Certificate
- New wiring to meet the requirements of the 2017 National Electric Code ("NEC"), as amended.
- Solar Modules to be 72 cell 400 watt JA Solar or equal and as approved by Customer's Architect/Engineer and Johnson Controls.
- Inverters to be SMA or equal and as approved by Customer's Architect/Engineer and Johnson Controls.
- Balance of new system to meet 2017 NEC Code, as amended.
- Required Interconnection to building system located as per 2017 NEC Code, as amended, lineside tap or load side tap as determined by the utility(ies) having jurisdiction.

- Unirac RM, Ecofoot or equal self-ballasted racking system or rails with fasteners in area where roof slopes don't allow for non-penetrating systems.
- Furnish and install required ballast block as per design.
- One time training for 4 hours to the District
- District to support monitoring by supplying an IT drop to gateway locations and necessary IP addresses that the District will maintain for 18 years.
- Protective slip sheet to meet roofing warranty certifications and requirements.

In the event that any of the building roofs are determined to be unsuitable for roof mounted PV arrays, Johnson Controls will attempt to move the arrays or portions of the arrays to another location that is suitable at any of the other buildings outlined above, subject to all necessary review and approvals.

Johnson Controls shall install the new PV systems with existing roof manufacturer standards to maintain current and any new roof warranty(ies) as it relates to the solar panel installation. At impacted locations, existing structural steel, joists, roof decks, walkways are anticipated to be adequate for solar panel installation. If during the design phase the Architect / Engineer of record, H2M, encounters structural issues, geo-tech issues, drainage issues with any of roofs, roof framing, and walkways, JCI shall relocate the problem areas of solar arrays to a different location in order to maintain the 3,814.44 kW DC of total system size. An adjustment to the guarantee will occur if the new location is on a different electric rate.

In the event that any of the proposed locations are determined to not be a viable option, the scope of work for this ECM shall be reduced subject to Customer's written approval by deduct change order and the costs associated with the reduced scope shall be credited to the Customer. The guaranteed savings and/or any other monetary benefits shall also be adjusted accordingly by a formal written amendment to the Agreement. All adjustments require Customer's written approval and must maintain a positive cash flow as set forth in the contract documents.

The weather station monitoring (cloud-based platform) is provided by the inverter manufacturer with lifetime free access with the installation of inverter hardware data manager as long as the internet IP address is maintained to allow access to the cloud-based portal where the information is stored and displayed. Johnson Controls will install one (1) weather-station at the District due to system sizes listed above. The proposed system will include the pyranometer, weather-station, ambient temperature sensor, and module temperature with the data displayed on cloud-based portal. The irradiance value will be trended and logged into the cloud.

Power to each building will be temporarily shut down by the utility for up to four (4) hours during the tie-in. Coordination with the District will be required at the time of the tie-in.

Exclusions:

- Repair or replacement of defective electrical equipment and electrical distribution system, except the equipment described in the Scope of Work, unless said repair or replacement is required due to the acts or omissions of JCI. (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer in writing).
- Resolution of existing design, service, and or distribution conditions known or unknown.
- Correction of any existing applicable building code violations and Federal Americans with Disabilities Act (ADA) violations identified by JCI during the execution of the Work. Such violations will be brought to the attention of the Customer for remedy.
- Hazardous material abatement or removal, such as but not limited to asbestos, lead paint mold/mildew, etc. unless noted otherwise in the ECM Scope of Work.
- Repair or replacement of defective electrical equipment and electrical distribution system, except the equipment described in the Scope of Work (Defective equipment identified by JCI during implementation of the Scope of Work will be brought to the attention of the Customer).

- Repairs/replacement of electrical found to be corroded or rusted or otherwise unacceptable for installation other than what is specified in the Scope of Work.
- Temporary power during tie in.
- Structural Upgrades
- Repair or replacement of the roof.
- Delays caused by the utility company or other third parties, and the impact on any savings, ITC Direct Pay, and/or any other monetary benefits.
- JCI does not anticipate and has not included any hard digging (I.E., no blasting or rock removal). All trenching to be performed by normal means (Case 580 backhoe). Should additional means of excavation be required then JCI shall notify the Customer to mitigate or address at additional cost.
- Tree Removals

ASSURED PERFORMANCE GUARANTEE

A. **Certain Definitions.** For purposes of this Agreement, the following terms have the meanings set forth below:

Annual Project Benefits are the portion of the projected Total Project Benefits to be achieved in any one year of the Guarantee Period.

Annual Project Benefits Realized are the Project Benefits actually realized for any one year of the Guarantee Period.

Annual Project Benefits Shortfall is the amount by which the Annual Project Benefits exceed the Annual Project Benefits Realized in any one year of the Guarantee Period.

Annual Project Benefits Surplus is the amount by which the Annual Project Benefits Realized exceed the Annual Project Benefits in any one year of the Guarantee Period.

Baseline is the mutually agreed upon data and/or usage amounts that reflect conditions prior to the installation of the Improvement Measures as set forth in Schedule 2, Exhibit 6 below.

Guarantee Period will commence on the first day of the next month following the Substantial Completion date and will continue for eighteen (18) years or the useful life of the equipment being installed pursuant to this Agreement, whichever is less.

M&V Services means the services performed to monitor and report the performance relative to the guarantee defined in the Assured Performance Guarantee set forth in Schedule 2.

M&V Services Period will commence on the first day of the next month following the Substantial Completion date and will continue for 3 years, unless extended by the parties, subject to earlier termination as provided in this Agreement.

Installation Period is the period beginning on JCI's receipt of Customer's Notice to Proceed and ending on the commencement of the Guarantee Period.

Measured Project Benefits are the utility savings and cost avoidance calculated in accordance with the methodologies set forth in Schedule 2, Exhibit 2 below.

Operational & Maintenance Project Benefits are the savings achieved through material reduction and the reduction in maintenance of the new equipment that were installed as set forth in Schedule 2, Exhibit 4.

Project Benefits are the Measured Project Benefits plus the Operational and Maintenance Project Benefits and Non-Recurring Benefits to be achieved for a particular period during the term of this Agreement.

Total Project Benefits are the projected Project Benefits to be achieved during the entire term of this Agreement. The cost of the M&V Services is included in the Total Project Benefits guaranteed to be achieved during the entire term of this Agreement.

B: Guarantee Details

The following Exhibits are attached and made part of this Schedule 2, Section B:

Table 2.1.1: Exhibits Summary

Exhibit 1	Total Project Benefits
Exhibit 2	Measurement and Verification Methodologies
Exhibit 3	Measured Project Benefits
Exhibit 4	Operational & Maintenance (O&M) and Non-Recurring Benefits
Exhibit 5	Change in Use or Condition
Exhibit 6	Baseline Calculations and Utility Rates
Exhibit 7	Primary Operations Schedules Pre & Post Retrofit
Exhibit 8	Measurement and Verification Services

EXHIBIT 1: TOTAL PROJECT BENEFITS

Subject to the terms and conditions of this Agreement JCI guarantees that Customer will achieve a total of \$24,844,630 in Measured Project Benefit (Utility Cost Avoidance Measurable Savings), \$950,021 in Operations and Maintenance Cost Avoidance, and \$2,330,000 in Rebates/IRA Direct Pay during the term of this Agreement, for Total Guaranteed Project Benefits of \$28,124,651 as set forth in the Total Project Benefits Table below.

Table 2.1.2: Total Project Benefits

Performance Year	Measured Utility Cost Avoidance*	Operations & Maintenance Cost Avoidance**	Non-Recurring Benefits (Rebates and IRA Direct Pay***)	Total Guaranteed Project Benefits
Installation				\$0
1	\$1,160,296	\$44,368	\$30,000	\$1,234,664
2	\$1,183,502	\$45,255		\$1,228,758
3	\$1,207,172	\$46,160	\$2,300,000	\$3,553,333
4	\$1,231,316	\$47,084		\$1,278,400
5	\$1,255,942	\$48,025		\$1,303,968
6	\$1,281,061	\$48,986		\$1,330,047
7	\$1,306,682	\$49,966		\$1,356,648
8	\$1,332,816	\$50,965		\$1,383,781
9	\$1,359,472	\$51,984		\$1,411,456
10	\$1,386,662	\$53,024		\$1,439,686
11	\$1,414,395	\$54,084		\$1,468,479
12	\$1,442,683	\$55,166		\$1,497,849
13	\$1,471,536	\$56,269		\$1,527,806
14	\$1,500,967	\$57,395		\$1,558,362
15	\$1,530,987	\$58,543		\$1,589,529
16	\$1,561,606	\$59,713		\$1,621,320
17	\$1,592,838	\$60,908		\$1,653,746
18	\$1,624,695	\$62,126		\$1,686,821
Totals	\$24,844,630	\$950,021	\$2,330,000	\$28,124,651

Values in table above are rounded to the nearest dollar.

* Utility Cost Avoidance is a Measured Project Benefit. Utility Cost Avoidance figures in the table above are based on anticipated 2% increase in unit energy costs as set forth in the table in Exhibit 6.

** Operation & Maintenance (O&M) Project Benefit. O&M cost Avoidance figures in the table above are based on anticipated 2% increase in O&M costs as set forth in the table in Exhibit 4.

Measurement and Verification (M&V) Services

JCI shall provide M&V Services for a period of three (3) years starting on the first day of the month next following the Substantial Completion Date (the "Initial M&V Service Period"). The cost of the M&V Services provided during the Initial M&V Services Period is included in the Total Project Costs stated in Schedule 4. Within sixty (60) days of the commencement of the M&V Services Period, JCI will calculate the Measured Project Benefits achieved during the Installation Period plus any Operations & Maintenance Project Benefits applicable to such period and advise the Customer of same. Any Project Benefits achieved during the Installation Period may be allocated to the Annual Project Benefits for the first year of the Guarantee Period at JCI's discretion. Within sixty (60) days of each anniversary of the commencement of the Guarantee Period, for so long as the M&V Services Period is in effect, JCI will calculate the Measured Project Benefits achieved for the applicable year plus any Operations & Maintenance Project Benefits applicable to such period and advise Customer of same.

As set forth in the Certification provided by JCI to the NY State Education Department, JCI guarantees recovery of costs of the Agreement from energy savings realized by the Customer during a period of 18 years, or the useful life of the equipment being installed, whichever is less.

Customer acknowledges and agrees that if, for any reason during the initial 3-year period of M&V Services or any subsequent year in which Customer has elected to continue M&V Services, it (i) cancels or terminates receipt of M&V Services, other than due to JCI's material breach of its Assured Performance Guarantee or this Agreement, or (ii) cancels or terminates this Agreement, it shall be assumed (in accordance with Option A of the North American Energy Measurement and Verification Protocol (NEMVP), and based upon the equipment continuing to operate in accordance with specified criteria) that the Annual Project Benefits will be met during each year of the Guarantee Period.

Customer further acknowledges and agrees that if, for any reason, it (i) fails to pay for M&V Services in accordance with Schedule 4 – Price and Payment Terms, (ii) fails to substantially fulfill any of Customer's material responsibilities necessary to enable JCI to complete the Work and provide the M&V Services, including but not limited to Customer's failure to reasonably operate and maintain the equipment and/or systems substantially as stipulated by JCI, or (iii) otherwise materially breaches this Agreement, JCI may issue a written notice to the Customer stating the nature of the alleged breach and will provide Customer with a thirty (30) calendar day period to cure such breach. If the Customer fails to cure such breach within such thirty (30) calendar day period or such greater time as is commercially reasonable in the event such breach cannot be cured within such thirty (30) calendar day period, Customer acknowledges and agrees that the Assured Performance Guarantee shall automatically terminate, unless otherwise agreed to in writing by the parties.

Project Benefits Shortfalls or Surpluses.

(1) During the Initial M&V Services Period, the following shall apply:

(a) Project Benefits Shortfalls. If an Annual Project Benefits Shortfall occurs for any one year of the Initial M&V Services Period, JCI shall, subject to Customer's agreement, which shall not be unreasonably withheld, (a) pay to Customer the amount of such shortfall, and/or (b) subject to Customer's agreement, provide to Customer additional products or services, in the value of such shortfall, at no additional cost to Customer.

(b) Project Benefits Surpluses. If an Annual Project Benefits Surplus occurs for any one year of the Initial M&V Services Period, such Annual Project Benefits Surplus shall accrue to the benefit of the Customer and shall not be applied to any shortfall during any year of the Initial M&V Services Period.

(c) Additional Improvements. Where an Annual Project Benefits Shortfall has occurred, in addition to the payment due Customer, JCI may, subject to Customer's approval (which approval shall not be unreasonably withheld, conditioned, or delayed), implement additional Improvement

Measures, at no cost to Customer, which may generate additional Project Benefits in future years of the Guarantee Period.

- (2) Following the conclusion of the Initial M&V Services Period, the following shall apply:
- (a) If the Annual Project Benefits are met in each year during the period that M&V Services are provided, it shall be assumed (in accordance with Option A of the NEMVP and based upon the equipment continuing to operate in accordance with specified criteria) that the Annual Project Benefits will be met during each year of the Guarantee Period.
 - (b) If there is an Annual Project Benefits Shortfall at the end of the Initial M&V Services Period and such Shortfall is the result of the equipment not operating in accordance with specified criteria, then, subject to the Customer's agreement, either: (a) the M&V Services will be renewed for a minimum of one (1) year, subject to Schedule 4 – Price and Payment Terms; and/or (b) Customer must, allow JCI access to the property to conduct repairs or make adjustments to the equipment as necessary to resolve the cause of the Shortfall. Once the cause of the Shortfall is resolved, it shall be assumed (based upon the equipment continuing to operate during each subsequent year of the Guarantee Period in accordance with the specified criteria) that the Annual Project Benefits will be met during each subsequent year of the Guarantee Period. If a Shortfall continues to exist notwithstanding the equipment operating in accordance with the specified criteria, JCI shall pay the amount of such Shortfall to Customer for each remaining year of the Guarantee Period.

EXHIBIT 2: MEASUREMENT AND VERIFICATION METHODOLOGIES

The following is a brief overview of the measurement and verification methodologies applicable to the Improvement Measures set forth below. JCI shall apply these methodologies, as more fully detailed in the guidelines and standards of the North American Energy Measurement and Verification Protocol (NEMVP), in connection with the provision of M&V Services hereunder.

NEMVP Option A

Potential to Perform Verification and Performance Calculation

Option A is a verification approach designed for projects where the potential to perform needs to be verified, but the actual performance (savings) can be calculated based on the results of the "potential to perform and generate savings" verification and engineering calculations. Option A involves procedures for verifying that:

- Baseline conditions have been properly defined.
- The equipment and/or systems that were contracted to be installed have been installed.
- The installed equipment/systems meet the specifications of the Agreement in terms of quantity, quality and rating.
- The installed equipment is operating and performing in accordance with the specifications in the Agreement and meeting all functional tests.
- The installed equipment/systems continue, during the term of the Agreement, to meet the specifications of the Agreement in terms of quantity, quality and rating, operation and functional performance.

The potential to perform may be verified through inspections and/or spot or short-term metering conducted immediately before and/or immediately after project installation. Annual (or some other regular interval) inspections may also be conducted to verify an ECM's continued potential to perform and generate savings. With Option A, actual achieved energy or cost savings are not verified; they are predicted using engineering or statistical methods that do not involve long-term measurements. Reference: NEMVP Version 1.0

Measured Project Benefits from the following Improvement Measures will be calculated using Option A:

Table 2.2.1: Option A Measures

ECM #	ECM	M&V Option
1	Lighting - Interior Upgrades	A
2	Building Envelope - Weatherization	A
4	Condensing Unit/RTU Replacement	A
5	Energy Efficient Motors Replacement	A
6	Heating System - Boiler Replacement	A
7	Heating System - Boiler/DHW/Furnace Controllers	A
8	Heating System - Steam Trap Replacement	A
9	Heating System - Pipe and Valve Insulation	A
10	AC Compressor Controllers	A
11	Refrigeration Compressor Controllers	A
12	Energy Efficient Transformers	A
13	Renewable Energy- Photovoltaic Generation	A

ECM 1: Lighting - Interior Upgrades**M&V Option:** NEMVP-A (One Time)**Measurement Boundary:** Isolation – Project savings will be determined within the measurement boundary that encompasses only the light fixtures subject to the lighting upgrade project.**Measured Key Parameter:** kW**Estimated Parameter:** Standard hours of operation as set forth at Exhibit 7 of Schedule 2**Interaction:** Lighting kw reduction leads to increase in heat energy usage during winter and decrease in cooling energy usage during summer. The net energy usage due interaction will be accounted during pre-lighting installation and post-lighting installation savings calculation.**Measuring Equipment:** True-RMS Wattmeter (kw measurement) and light meter (light level measurement)**Measuring Equipment Accuracy:**True RMS Watt Meter: $\pm 3\%$ of measurement rangeLight Meter: $\pm 3\%$ of measurement range**Measuring Equipment Calibration:** Equipment will be quality checked for calibration at the time of measurement and documented in the M&V report.**Measurement Period:** One-minute average**Measurement Frequency:** One-time post-lighting installation measurement. Annual inspection checks for remainder of M&V Services Period**Measurement and Verification Details:****Sampling Procedure:**To reduce M&V cost, all fixtures installed will not be measured, an effective NEMVP recommended sampling method will be used. Lighting fixture types that account for greater than 10% of the total fixtures installed will be measured. Lighting fixtures will be separated into homogenous groups and sampled to achieve $\pm 20\%$ precision with 80% confidence.

An initial sample size will be used based on an assumption of 0.5 for coefficient of variance. The average savings calculated will be used as the true savings and the uncertainty calculated will have no effect on true savings.

Measurement Procedure:

True RMS power measurements will be taken at the light switch that energizes the circuit containing only the sampled fixtures.

Quality Check Procedure:

In order to ensure that a room is not under lit due to lighting kw reduction, a sample of light levels pre and post lighting installation will be measured. This data will be compared against the ASHRAE/IES recommended light levels for each user type. The installation team will check the lighting installation line by line. The M&V team will quality check the line by line and take photographs for documentation.

Pre-Installation Activities:

Pre-lighting installation kw will be analyzed and listed in the lighting line by line by location and fixture type. The kw data from the line by line will be used for pre-lighting installation savings calculation. Pre-kw will be sampled and measured to validate the line by line. Light level will be quality checked.

Post-Installation Activities:

Post-kw measurements will be sampled and measured once after installing the new lighting and will be used for

remainder of the M&V Services Period. Light level will be quality checked one time. Inspection results and JCI warranty commitments will be communicated to the Customer in writing to maximize warranty benefits. Warranty claim procedure will be the responsibility of the Customer with the assistance of JCI. Visual inspections of a sample of fixtures will occur annually during the term of M&V services.

Formulas and run hours in the DEA will be used to calculate the savings

ECM 2: Building Envelope - Weatherization

M&V Option: NEMVP-A (One Time)

Measurement Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to this Pipe and Valve Insulation project.

Verification Equipment: Thermal gun (or infrared camera)

Verification Frequency & Period: One time during both pre-retrofit period and post-retrofit period

Pre-Installation Activities:

A digital or thermal camera will be used to document the pre-retrofit conditions.

Post- Installation Activities:

Accuracy of the as built will be verified. A digital camera will be used to document the post-retrofit conditions. A thermal gun or an infrared camera will be used to verify the operation. Visual inspections of a sample of insulation will occur annually.

Formulas and assumptions in the DEA will be used to calculate the savings

ECM 4: Rooftop Unit (RTU) Replacement

M&V Option: NEMVP-A (One Time)

Verification Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to this RTU replacement project.

Interaction: All thermal ECMs.

Verification Period & Frequency: One time during both pre-retrofit period and post-retrofit period.

Pre-Installation Activities:

A digital camera will be used to document the existing conditions.

Post-Installation Activities:

A digital camera will be used to document the post-retrofit conditions. Inspect and verify RTU to see if they meet the specifications of the DEA in terms of quantity, quality, and rating. Verify if they perform in accordance with the functional specifications in the contract and meet all functional tests.

Formulas and run hours in the DEA will be used to calculate the savings.

ECM 5: Energy Efficient Motors Replacement

M&V Option: NEMVP-A (One Time)

Verification Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to this motor replacement project.

Interaction: None.

Pre-Installation Activities: Document the existing conditions of the old motors using a digital camera.

Post- Installation Activities:

JCI will verify the efficiency of the newly installed motors. A digital camera will be used to document the post-retrofit conditions one time. Annual inspection checks for the remainder of the M&V services period.

Formulas and assumptions in the DEA will be used to calculate the savings.

ECM 6: Heating System – Boiler Replacements

M&V Option: NEMVP-A (One Time)

Verification Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to this boiler burner replacement project.

Verification Period & Frequency: One time during both pre-retrofit period and post-retrofit period.

Pre-Installation Activities: A combustion efficiency test using a combustion analyzer will be performed to measure the existing operating efficiency of the boilers at a minimum 80% load.

Post- Installation Activities:

A digital camera will be used to document the post- retrofit conditions. Inspect and verify the installed boiler to see if they meet the specifications of the DEA in terms of quantity. Verify they perform in accordance with the functional specifications in the DEA and meeting all functional tests and provide commissioning report for each unit. A combustion efficiency test using a combustion analyzer will be performed on the new boilers at a minimum 80% load to confirm that it meets specified efficiency. This will be done one time during the first heating season and visual inspections every year thereafter..

Formulas and values in the DEA will be used to calculate the savings.

ECM 7: Heating System – Boilers/DHW Heaters/Furnace Controllers

M&V Option: NEMVP-A (One Time)

Verification Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to controllers project.

Verification Period & Frequency: One time during both pre-retrofit period and post-retrofit period.

Pre-Installation Activities: Verify that the boilers do not have any burner controllers installed on them.

Post- Installation Activities:

A digital camera will be used to document the post- retrofit conditions. Inspect and verify installed boiler controllers to see if they meet the specifications of the contract in terms of quantity. Verify if they perform in accordance with all functional tests and provide start up and check out report for each unit. Visual inspections every year thereafter.

Formulas and values in the DEA will be used to calculate the savings

ECM 8: Heating System – Steam Trap Replacement

M&V Option: NEMVP-A (One Time)

Verification Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to the steam trap replacement project.

Verification Period & Frequency: One time during both pre-retrofit period and post-retrofit period.

Pre-Installation Activities:

Document the pre-existing steam trap conditions with a digital camera.

Post-Installation Activities:

Accuracy of the as built will be verified (sampling will be conducted as detailed in the sampling procedure). A digital camera will be used to document the post-retrofit conditions. A thermal gun or infrared camera will be used to verify installation. Visual inspections of a sample of steam traps will occur annually.

Formulas and assumptions in the DEA will be used to calculate the savings

ECM 9: Heating System – Pipe and Valve Insulation

M&V Option: NEMVP-A (One Time)

Measurement Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to this Pipe and Valve Installation project.

Verification Equipment: Thermal gun (or infrared camera) and measuring tape.

Verification Frequency & Period: One time during both pre-retrofit period and post-retrofit period

Pre-Installation Activities:

A thermal gun will be used to measure surface temperatures, or an infrared camera will be used to capture the thermos-graphic image of the pre-retrofit thermal leaks.

Post-Installation Activities:

Accuracy of the as built will be verified (sampling will be conducted as detailed in the sampling procedure). A digital camera will be used to document the post-retrofit conditions. A thermal gun or an infrared camera will be used to verify installation. Visual inspections of a sample of insulation will occur annually.

Formulas and assumptions in the DEA will be used to calculate the savings

ECM 10: Air Conditioning Compressor Controllers

M&V Option: NEMVP-A (One Time)

Verification Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to this controllers project.

Interaction: Electric ECMs.

Verification Period & Frequency: One time during both pre-retrofit and post-retrofit period.

Pre-Installation Activities:

A digital camera will be used to document that a controller does not exist.

Post- Installation Activities:

A digital camera will be used to document the post- retrofit conditions. Inspect and verify the air conditioning compressor controller installation to see if they meet the specifications of the DEA in terms of quantity. Verify if they perform in accordance with the functional specifications in the contract and meeting all functional tests. An annual visual inspection of a sample of units will occur to ensure the equipment is still in place and operational.

Formulas and values in the DEA will be used to calculate the savings

ECM 11 Refrigeration Compressor Controllers

M&V Option: NEMVP-A (One Time)

Verification Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to the refrigeration compressor controller project.

Verification Period & Frequency: One time during both pre-retrofit period and post-retrofit period.

Pre-Installation Activities:

Document with the digital camera that the compressor controllers are not installed.

Post-Installation Activities:

A digital camera will be used to document the post- retrofit conditions. Inspect and verify the refrigeration compressor controller installation to see if they meet the specifications of the DEA in terms of quantity. Verify if they perform in accordance with the specifications in the DEA and meeting all functional tests and provide commissioning report for each unit. An annual inspection of a sample of units will occur to ensure that the equipment is still in place and operational.

Formulas and assumptions in the DEA will be used to calculate the savings.

ECM 12: Energy Efficient Transformers Replacement

M&V Option: NEMVP-A (One Time)

Verification Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to this transformers replacement project.

Interaction: None.

Pre-Installation Activities: Document the existing conditions of the old transformers using a digital camera.

Post- Installation Activities:

JCI will verify the efficiency of the newly installed transformers. A digital camera will be used to document the post- retrofit conditions one time. Annual inspection checks on a sample set for the remainder of the M&V services period.

ECM 13: Renewable Energy- Photovoltaic Generation

M&V Option: NEMVP-A (Short term)

Verification Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the items that are subject to this photovoltaic electric generation project.

Measuring Equipment: PV dashboard will log 15-minute interval data for kW, kWh and solar irradiance.

Interaction: Electrical System

Key Parameter	Measurement Frequency	Measurement Description (including sampling plan)
Electricity Generated (kW and kWh)	30 day period in the summer during performance year 1	The amount of electricity generated (kW and kWh) will be verified using data from the inverter. Measurements from all the panels installed by the project will be used.
Sunshine for Normalization (Measured as irradiance (kWh/m ²))	30 day period in the summer during performance year 1	Average expected Irradiance data for Long Island, NY is used to calculate the contract savings.

Month	Contract Assumption for Expected Irradiance in Long Island, NY Area (kWh/m ²)
January	61.6
February	80.3
March	129.7
April	147.1
May	169.3
June	178.4
July	185.4
August	162.8
September	133.4
October	99.4
November	61.0
December	53.8
Annual	1462.2

The energy production guarantee shall assume the monthly baseline (reference) solar irradiance as shown above. On a monthly basis, the average amount of electricity produced per kWh/m² of solar irradiance will be calculated and the savings will be adjusted accordingly:

$$kWh_{Adjusted} = (kWh_{measured}) \left(\frac{kWh/m^2_{contract}}{kWh/m^2_{measured}} \right) (\%RSS_{adjusted})$$

Where kWh/m² is the irradiance. The achieved dollar savings shown in Table 2.3 are based on the rates shown in Exhibit 6.

$$\%RSS_{Month} = \left(\frac{Irradiance (kWh/m^2)_{Month}}{Irradiance (kWh/m^2)_{Total}} \right)$$

$$\%RSS_{adjusted} = \sum_{1-12}^{Month} (\%RSS_{Month}) \left(\frac{Days_{Month} - (Days_{offline}) \left(\frac{Panels_{offline}}{Panels_{total}} \right)}{Days_{Month}} \right)$$

Where %RSS_{month} = Percentage of the total annual solar resource for that month
 Days_{month} = number of days in that month, Days_{offline} = number of days each inverter is offline
 Panels_{offline} = number of panels offline, Panels_{total} = total number of panels installed

Schedule 2

kWh impact of any production factors that occur during the measurement period. Production factors are defined as events outside JCI control that has the effect of reducing kWh generation or failures in system operation due to maintenance that influences data collection and recording for complete and accurate data pertaining to production and weather. Other production factors include, but are not limited to, physical obstructions or interference with the solar irradiation of each array (i.e. over shadowing or shading), snow-frost-ice, utility grid outages, outages directed by the owner-customer, casualty events, Force Majeure events, theft, vandalism, equipment failure, DAS failure (lost connection or data), or utility system permit events (system disabled).

NEMVP Option B: Retrofit Isolation
Potential to Perform Verification and Continuous Performance Measurement

Option B is for projects where: i) the potential to perform and generate savings needs to be verified, and ii) actual performance during the term of the contract needs to be measured (verified). Option B involves procedures for verifying the same items as Option A plus actual achieved energy savings during the term of the M&V period. Performance verification techniques involve engineering calculations with metering and monitoring. Option B:

- Confirms that the proper equipment/systems were installed and that they have the potential to generate the predicted savings.
- Determines an energy (and cost) savings value using measured data taken throughout the term of the contract.

Methods employed in this option will involve the use of long-term measurement of one or more variables.

Table 2.2.2: Option B Measures

ECM #	ECM	M&V Option
3.1	Energy Management System - Temperature Setback / Optimal Start	B
3.2	Energy Management System - Kitchen Hood Exhaust Fan Control	B

ECM 3.1: Energy Management System - Temperature Setback/Optimal Start

M&V Option: NEMVP-B (Continuous).

Measurement Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the spaces temperatures affected by the energy project.

Measured Parameter: Continuous measurement of a sample set of space temperatures, space temperature set points, and outdoor air temperature.

Measuring Equipment: Energy Management System

Measurement Period: Hourly samples

Measurement Frequency: Continuous measurement

Measurement and Verification Details:

Post-Installation Activities:

Energy Management system will continuously monitor post-retrofit space temperature and outside air temperature. The date-time stamp will be included to differentiate occupied/unoccupied and summer/winter periods. Johnson Controls will also monitor and record the setpoint changes during the Measurement and Verification (M&V) period.

Formulas and values in the DEA will be used to calculate the savings

ECM 3.2: Energy Management System – Kitchen Hood Exhaust Fan Control

M&V Option: NEMVP-B (Continuous).

Measurement Boundary: Retrofit isolation – Project savings will be determined within the measurement boundary that encompasses only the kitchen hood controls affected by the energy project.

Measured Parameter: Kitchen exhaust fan controls enable/disable command

Measuring Equipment: Energy Management System

Measurement Period: Hourly samples

Measurement Frequency: Continuous measurement

Measurement and Verification Details:

Post-Installation Activities:

Kitchen exhaust fan controls enable/disable command will be trended.

Formulas and values in the DEA will be used to calculate the savings.

EXHIBIT 3: MEASURED PROJECT BENEFITS

Table 2.3 below defines and describes the ECMs included in this guarantee that comprise Measured Utility Cost Avoidance savings:

Table 2.3: Measured Project Benefits Summary

ECM #	ECM	Savings						Total (\$)
		Electric Use		Elect. Demand		Thermal Usage		
		\$	kWh	\$	kW	\$	MMBtu	
1	Lighting - Interior Retrofit	\$180,138	1,126,227	\$57,623	352	-\$26,537	(2,159)	\$211,224
2	Building Envelope - Weatherization	\$919	5,765	\$0	-	\$11,436	929	\$12,355
3.1	Energy Management System - Temperature Setback / Optimal Start	\$13,247	85,589	\$0	-	\$0	-	\$13,247
3.2	Energy Management System - Kitchen Hood Exhaust Fan Control	\$2,987	18,744	\$0	-	\$13,577	1,098	\$16,564
4	Condensing Unit/RTU Replacement	\$3,161	20,125	\$0	-	\$0	-	\$3,161
5	Energy Efficient Motors Replacement	\$2,469	15,404	\$392	23	\$0	-	\$2,861
6	Heating System - Boiler Replacement	\$0	-	\$0	-	\$24,232	1,905	\$24,232
7	Heating System - Boiler/DHW/Furnace Controllers	\$0	-	\$0	-	\$38,923	3,183	\$38,923
8	Heating System - Steam Trap Replacement	\$0	-	\$0	-	\$29,794	2,445	\$29,794
9	Heating System - Pipe and Valve Insulation	\$0	-	\$0	-	\$9,954	819	\$9,954
10	AC Compressor Controllers	\$16,598	104,289	\$0	-	\$0	-	\$16,598
11	Refrigeration Compressor Controllers	\$3,711	23,146	\$0	-	\$0	-	\$3,711
12	Energy Efficient Transformers	\$7,328	45,902	\$1,368	7	\$0	-	\$8,696
13	Renewable Energy- Photovoltaic Generation	\$768,977	4,818,644	\$0	-	\$0	-	\$768,977
	Totals	\$999,536	6,263,836	\$59,383	382	\$101,378	8,221	\$1,160,296

EXHIBIT 4: OPERATIONAL & MAINTENANCE (O&M) & REBATE PROJECT BENEFITS

Operational and Maintenance Cost Avoidance:

M&V Option: NEMVP-A

For measures where the baseline (or boundary) is well understood, and measure operating hours are not expected to change, only the "change in equipment performance" is needed to calculate the savings (or cost avoidance).

Lighting Operational Cost Avoidance is calculated by comparing the existing lamp and ballast average failure rate and replacement cost with the proposed project replacement lamp and ballast average failure rate and replacement cost. Measure operating hours are not expected to change. The average annual savings for all schools is determined to be \$39,868.

Boiler Operational Cost Avoidance is calculated by comparing the cost of maintaining the existing boilers versus the newly installed boilers. The reduction in repairs of the new boilers is deemed to be the cost avoidance. The average annual savings for all schools is determined to be \$4,500.

Total Operational and Maintenance Cost Avoidance: \$44,368

The O&M savings are based on the scope of work as well as discussions with the customer. The customer agrees that the O&M Project Benefits are reasonable and supportable, and that the installation of the Improvement Measures will enable the Customer to take actions that will result in the achievement of such O&M Project Benefits.

Energy Rebates/Incentives:

Rebates: \$30,000

Total Rebates: \$30,000

JCI will apply for utility company rebates programs at the time of application. JCI hereby guarantees the rebate amount and if the customer receives the rebate less than the guaranteed amount then JCI will pay the difference in rebates to the Customer. All rebates and incentives shall inure to the benefit of Customer. All rebates and/or incentives shall be payable to Customer. JCI shall be responsible for assuring that said rebates/incentives are distributed to Customer. JCI anticipates the rebates will be secured during the implementation period however due to the program structure some of the money may be procured during Year 1. No shortfall will be paid if the total rebates match the guaranteed amount, regardless of when they are received.

ITC Direct Pay under the IRA:

IRA Incentives: \$2,300,000

JCI and Customer acknowledge that the Solar PV ECMs are eligible for the Investment Tax Credit (ITC) under the Inflation Reduction Act (IRA). The IRA allows for non-taxable entities, like Customer, to receive a direct payment from the federal government to monetize tax incentives, reduce renewable energy costs, and accelerate the transition to a clean energy economy.

JCI shall assist the Customer, as reasonably requested, in providing information about Project implementation for the direct pay election form(s). The submittal and contents of such form (which is anticipated to take the nature of a tax return), and any other pre-registration, tax, or compliance documentation, are the responsibility of Customer. The Parties acknowledge that JCI will not provide tax, accounting, legal, or municipal security advice. All funds received from the ITC direct pay program as a result of the Project, including amounts in excess of the guaranteed value, shall be included in the Annual Project Benefits Realized. No shortfall will be paid if the total ITC direct pay equals or exceeds the guaranteed amount, regardless of when the federal government distributes such funds.

JCI guarantees that Customer shall be entitled to an ITC direct pay of at least \$2,300,000 attributable to implementation of the ECMs as specified in this Agreement, provided that Customer timely satisfies its responsibilities and conditions to eligibility under this Agreement, the IRA, and other applicable law, and subject further to an equitable adjustment in the event of any material changes in scope or law (including without limitation new or changed interpretations of law and administrative guidance; third-party or inter-governmental delays, acts, or omissions; or revised appropriation of funds by the federal government). For avoidance of doubt, JCI is not responsible for delays in direct payment, ITC recapture, unavailability of federal funds, or changes in the ITC program or other laws, regulations, guidance, or interpretations that occur after the effective date of this Agreement. Customer agrees to take such action necessary for achievement of ITC direct pay funds and provide JCI information regarding Customer's receipt of ITC funds upon request for measurement and verification. Customer acknowledges that its receipt of ITC direct pay funds may exceed or otherwise vary from guaranteed amounts based on factors that include without limitation Customer's eligibility for bonus credits and environmental justice adders, use of tax-exempt financing, and forthcoming federal guidance.

EXHIBIT 5: Changes in Use or Condition**ADJUSTMENT TO BASELINE
AND/OR ANNUAL PROJECT BENEFITS**

Customer agrees to notify JCI, within fourteen (14) days, of (i) any material change, whether before or during the Guarantee Period, in the use of any facility, equipment, or Improvement Measure to which this Schedule applies; (ii) any proposed or actual material expansions or additions to the premises or any building or facility at the premises; (iii) a change to utility services to all or any portion of the premises; or (iv) any other change or condition arising before or during the Guarantee Period that reasonably could be expected to have a material change in the amount of Project Benefits realized under this Agreement.

Such a change, expansion, addition, or condition would include, but is not limited to: (a) material changes in the primary use of any facility, Improvement Measure, or portion of the premises; (b) material changes to the hours of operation of any facility, Improvement Measure, or portion of the premises; (c) material changes or modifications to the Improvement Measures or any related equipment; (d) material changes to the M&V Services provided under this Agreement; (e) failure of any portion of the premises to meet building codes; (f) material changes in utility suppliers, utility rates, method of utility billing, or method of utility purchasing; (g) material failure to provide sufficient or proper maintenance or sound usage of the Improvement Measures or any related equipment at any facility or portion of the premises (other than by JCI); (h) material changes to the Improvement Measures or any related equipment or to any facility or portion of the premises required by building codes or any governmental or quasi-governmental entity; or (i) material additions or deletions of Improvement Measures or any related equipment at any facility or portion of the premises.

Such a change or condition need not be identified in the Baseline in order to permit JCI to propose an adjustment to the Baseline and/or the Annual Project Benefits, subject to mutual agreement of the parties. If JCI: (1) does not receive the notice within the time period specified above and JCI notifies the Customer of a suspected material change, expansion, addition or condition that may require an adjustment to the baseline; and (2) is required to travel to either Customer's location or the project site to determine the nature and scope of such changes because Customer did not respond to the notification within ten (10) business days; and (3) JCI can prove a proposed material change(s) exists, as set forth above that warrants an equitable adjustment to the Baseline and/or Annual Project Benefits, Customer agrees to pay JCI, in addition to any other amounts due under this Agreement, the applicable hourly consulting rate for the time it took to determine the changes and to make any adjustments and/or corrections to the project as a result of the proposed change(s), plus all reasonable and documented out-of-pocket expenses, including travel costs. Upon receipt of such notice, or if JCI independently learns of any such change or condition, JCI shall calculate and send to Customer a notice of adjustment to the Baseline and/or Annual Project Benefits to reflect the impact of such change or condition, and the adjustment shall become effective as of the date the change or condition first arose, only if there has been the mutual agreement of the parties. Should Customer fail to promptly provide JCI with notice of any such change or condition, JCI may make reasonable estimates as to the proposed impact of such change or condition and as to the date on which such change or condition first arose in calculating the impact of such change or condition, and propose a change to the Baseline and/or Annual Project Benefits, provided, however, no change in the Baseline or Annual Project Benefits may be made without Customer's express written agreement, such agreement not to be unreasonably withheld, conditioned or delayed.

EXHIBIT 6: BASELINE CALCUALTIONS AND UTILITY RATES

The unit utility costs for the Baseline period are set forth below as "Base Utility Cost" and shall be used for all calculations made under this Schedule. The Base Utility Cost shall be escalated annually by the actual utility cost escalation, but such escalation shall be no less than the mutually agreed "floor" escalation rate of three percent (2%). The Base Utility Cost for each type of utility represents the 12-month average utility costs from July 2022 to June 2023.

Table 2.6.1: Baseline Electrical Consumption Data & Rates

Name	Electric Usage and Cost					
	Demand kW	Avg kW Cost	Electric Usage kWh	Usage kWh Cost	Unblended \$/kWh	Total Electric Cost
Massapequa High School	463	\$17.53	1,906,829	\$307,192	\$0.16	\$404,617
MHS Ames Campus	188	\$16.73	682,800	\$107,633	\$0.16	\$145,311
Alfred G. Berner Middle School	354	\$17.07	1,229,044	\$193,012	\$0.16	\$265,469
Birch Lane Elementary	185	\$18.02	710,100	\$116,748	\$0.16	\$156,721
East Lake Elementary	138	\$17.22	472,160	\$78,034	\$0.17	\$106,523
Fairfield Elementary	122	\$18.09	482,880	\$77,452	\$0.16	\$104,036
Lockhart Elementary	126	\$16.49	552,300	\$84,162	\$0.15	\$109,082
McKenna Elementary	239	\$16.28	771,900	\$125,014	\$0.16	\$171,783
Unqua Elementary	164	\$17.50	560,160	\$91,008	\$0.16	\$125,523
Grounds Operation Center	6	\$18.15	29,011	\$5,131	\$0.18	\$6,447
Hawthorne - BOCES Center	50	\$16.54	318,900	\$49,359	\$0.15	\$59,265
	2,035		7,716,084	\$1,234,745		\$1,654,776

The above rates shown in Table 2.6.1 will be known as **Floor Electrical Rates**, for the purpose of the Assured Performance Guarantee. The annual calculated electric rates are expected to increase every year. In the event that the annual rates are lower than the above baseline rates, the 2% escalated floor rates will be substituted for the annual calculated rate.

The Electric Rates will be averaged over the course of the one-year baseline period, as provided by customer. In turn, the Incremental Electric Rate (IER), and the Demand Rate (DR) will be averaged annually over the course of the reporting periods, as reflected on utility invoices, for equitable cost avoidance savings reporting.

The following formula will be used to calculate the current reporting period Incremental Energy Rate (IER):

FORMULA B-2

IER = $\frac{\sum TKC_{1-12}}{\sum TKWH_{1-12}}$

Where:

IER: Incremental Electrical Rate (Dollars per kWh)

$\sum TKC_{1-12}$: Sum Total of Monthly Electrical Utility Costs (Dollars) for kWh included Fuel Adjustment Cost and other related Energy Charges for Months 1 Through 12 of the current reporting period.

$\sum TKWH_{1-12}$: Sum Total of Monthly Electrical Incremental Use (kWh) for Months 1 Through 12 of the current reporting period.

The following formula will be used to calculate the current reporting period Incremental Demand Rate (DR):

FORMULA B-3

$DR = \frac{\sum TKC_{1-12}}{\sum TKWH_{1-12}}$ <p>Where: DR: Demand Electrical Rate (Dollars per kW) $\sum TKC_{1-12}$: Sum Total of Monthly Electrical Utility Costs (Dollars) for kW included Fuel Adjustment Cost and other related Energy Charges for Months 1 Through 12 of the current reporting period. $\sum TKWH_{1-12}$: Sum Total of Monthly Electrical Demand Use (kW) for Months 1 Through 12 of the current reporting period.</p>

Table 2.6.2: Baseline Gas Consumption Data & Rates

Name	Nat Gas Usage and Cost		
	Gas Usage Therms	Gas Cost	Cost per Therm
Massapequa High School	184,673	\$217,499	\$1.18
MHS Ames Campus	49,686	\$62,966	\$1.27
Alfred G. Berner Middle School	84,822	\$102,048	\$1.20
Birch Lane Elementary	67,002	\$82,810	\$1.24
East Lake Elementary	47,083	\$60,106	\$1.28
Fairfield Elementary	63,526	\$78,519	\$1.24
Lockhart Elementary	57,376	\$68,625	\$1.20
McKenna Elementary	48,580	\$61,929	\$1.27
Unqua Elementary	54,990	\$68,585	\$1.25
Grounds Operation Center	0	\$0	
Hawthorne - BOCES Center	35,486	\$45,462	\$1.28
	693,224	\$848,550	\$1.22

The above rates shown above in Table 2.6.2 will be known as **Floor Natural Gas Rates**, for the purpose of the Assured Performance Guarantee. The annual calculated natural gas rates are expected to increase every year. In the event that the annual rates are lower than the above baseline rates, the 2% escalated floor rates will be substituted for the annual calculated rate.

The natural gas unit costs have been averaged over the course of the one-year period. In turn, unit costs will be averaged over the course of the reporting period, as reflected on utility invoices, for equitable cost avoidance savings reporting.

The following formulas will be used to calculate the current reporting period Fuel Rate(s) for Natural Gas:

FORMULA G-1

$$\text{NGR} = \frac{\sum \text{TGC}_{1-12}}{\sum \text{TGU}_{1-12}}$$

Where:

NGR: Natural Gas Rate (\$/Therm)
 $\sum \text{TGC}_{1-12}$: Sum Total of Monthly Gas Costs (\$)
 $\sum \text{TGU}_{1-12}$: Sum Total of Monthly Gas Purchased (Therms) for Months 1
 Through 12 of the reporting period.

Energy Conversion Conventions

For purposes of this Guarantee the follow fuel conversions will apply:

- 1 CCF (100 cubic feet) of Natural Gas = 103,000 Btus (British Thermal Units)
- 1 Therm of Natural Gas = 100,000 Btus
- 1 MMBtu of Natural Gas = 1,000,000 Btus
- 1 Decatherm of Natural Gas = 1,000,000 Btus
- 1 Gallon of Fuel Oil = 139,000 Btus

EXHIBIT 7: PRIMARY OPERATIONS SCHEDULE PRE & POST RETROFIT

District Wide Pre and Post Operation Schedule:

Daily occupied hours

School/Building	Existing			Proposed		
	Midnight - 8 AM	8 AM - 4 PM	4 PM - Midnight	Midnight - 8 AM	8 AM - 4 PM	4 PM - Midnight
Massapequa High School	2	8	8	2	8	8
MHS Ames Campus	2	8	8	2	8	8
Alfred G. Berner Middle School	2	8	8	2	8	8
Birch Lane Elementary	2	8	8	2	8	8
East Lake Elementary	2	8	8	2	8	8
Fairfield Elementary	2	8	8	2	8	8
Lockhart Elementary	2	8	8	2	8	8
McKenna Elementary	2	8	8	2	8	8
Unqua Elementary	2	8	8	2	8	8
Grounds Operation Center	2	8	8	2	8	8
Hawthorne Building	2	8	8	2	8	8

Weekly occupancy schedule

Day	Existing										
	Days of the week										
	Massapequa High School	MHS Ames Campus	Alfred G. Berner Middle School	Birch Lane Elementary	East Lake Elementary	Fairfield Elementary	Lockhart Elementary	McKenna Elementary	Unqua Elementary	Grounds Operation Center	Hawthorne Building
Monday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Tuesday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Wednesday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Thursday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Friday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Saturday	Occupied	Unoccupied	Occupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Occupied	Occupied	Occupied
Sunday	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied

Day	Proposed										
	Days of the week										
	Massapequa High School	MHS Ames Campus	Alfred G. Berner Middle School	Birch Lane Elementary	East Lake Elementary	Fairfield Elementary	Lockhart Elementary	McKenna Elementary	Unqua Elementary	Grounds Operation Center	Hawthorne Building
Monday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Tuesday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Wednesday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Thursday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Friday	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied	Occupied
Saturday	Occupied	Unoccupied	Occupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Occupied	Occupied	Occupied
Sunday	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied	Unoccupied

Monthly occupancy schedule

Month	Existing										
	Weeks Per Month										
	Massapequa High School	MHS Ames Campus	Alfred G. Berner Middle School	Birch Lane Elementary	East Lake Elementary	Fairfield Elementary	Lockhart Elementary	McKenna Elementary	Unqua Elementary	Grounds Operation Center	Hawthorne Building
Jan	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43
Feb	4.00	4	4	4	4	4	4	4	4	4	4
Mar	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43
Apr	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29
May	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43
Jun	2	2	2	2	2	2	2	2	2	2	2
Jul	0	0	0	0	0	0	0	0	0	0	0
Aug	0	0	0	0	0	0	0	0	0	0	0
Sep	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29
Oct	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43
Nov	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29
Dec	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43

Month	Existing										
	Weeks Per Month										
	Massapequa High School	MHS Ames Campus	Alfred G. Berner Middle School	Birch Lane Elementary	East Lake Elementary	Fairfield Elementary	Lockhart Elementary	McKenna Elementary	Unqua Elementary	Grounds Operation Center	Hawthorne Building
Jan	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43
Feb	4.00	4	4	4	4	4	4	4	4	4	4
Mar	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43
Apr	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29
May	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43
Jun	2	2	2	2	2	2	2	2	2	2	2
Jul	0	0	0	0	0	0	0	0	0	0	0
Aug	0	0	0	0	0	0	0	0	0	0	0
Sep	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29
Oct	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43
Nov	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29	4.29
Dec	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43	4.43

EXHIBIT 8: Measurement & Verification Services

JCI will provide the M&V Services set forth below in connection with the Assured Performance Guarantee.

1. During the Installation Period, a JCI Performance Assurance Specialist will track Measured Project Benefits. JCI will report the Measured Project Benefits achieved during the Installation Period, to Customer within 60 days of the commencement of the Guarantee Period.
2. Within 60 days of each anniversary of the commencement of the Guarantee Period, JCI will provide Customer with an annual report containing:
 - A. an executive overview of the project's performance and Project Benefits achieved to date;
 - B. a summary analysis of the Measured Project Benefits accounting; and
 - C. depending on the M&V Option, a detailed analysis of the Measured Project Benefits calculations.
3. During the M&V Services Period, a JCI Performance Assurance Specialist will monitor the on-going performance of the Improvement Measures, as specified in this Agreement, to determine whether anticipated Measured Project Benefits are being achieved. In this regard, the Performance Assurance Specialist will periodically assist Customer, on-site or remotely, with respect to the following activities:
 - A. review of information furnished by Customer from the facility management system to confirm that control strategies are in place and functioning;
 - B. advise Customer's designated personnel of any performance deficiencies based on such information;
 - C. coordinate with Customer's designated personnel to address any performance deficiencies that affect the realization of Measured Project Benefits; and
 - D. inform Customer of opportunities to further enhance project performance and of opportunities for the implementation of additional Improvement Measures.
4. For specified Improvement Measures utilizing an "Option A" M&V protocol, JCI will:
 - A. conduct pre and post installation measurements required under this Agreement;
 - B. confirm the building management system employs the control strategies and set points specified in this Agreement; and
 - C. analyze actual as-built information and adjust the Baseline and/or Measured Project Benefits to conform to actual installation conditions (e.g., final water benefits calculations will be determined from the as-built information to reflect the actual mix of retrofits encountered during installation).
 - D. confirm that the appropriate metering and data points required to track the variables associated with the applicable Improvement Measures' benefits calculation formulas are established; and
 - E. set up appropriate data capture systems (e.g., trend and totalization data on the facility management system) necessary to track and report Measured Project Benefits for the applicable Improvement Measure.
 - F. Trend data records maintained in the ordinary course of system operation shall be used and relied upon by Johnson Controls in connection with Project Benefit calculations. Johnson Controls will use commercially reasonable efforts to ensure the integrity of the data collected to calculate the required metrics. In the event data are lost due to equipment failure, power failure or other interruption in data collection, transmission or storage, Johnson Controls will use reasonable engineering methods to estimate or replace the lost data.

CUSTOMER RESPONSIBILITIES

In order for JCI to perform its obligations under this Agreement with respect to the Work, the Assured Performance Guarantee, and the M&V Services, Customer shall be responsible for:

1. Providing JCI, its subcontractors, and its agents reasonable and safe access to all facilities and properties that are subject to the Work and/or M&V Services;
2. Providing for shut down and scheduling of affected locations during installation, including timely shutdowns of chilled water and hot water systems as needed to accomplish the Work and/or M&V Services;
3. Providing timely reviews and approvals of design submissions, proposed change orders, and other project documents;
4. Providing the following information with respect to the project and project site as soon as practicable following JCI's written request:
 - a) surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;
 - b) geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the project site;
 - c) temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the project and enable JCI to perform the Work;
 - d) a legal description of the project site;
 - e) as-built and record drawings of any existing structures at the project site; and
 - f) environmental studies, reports and impact statement describing the environmental conditions, including hazardous conditions or materials, in existence at the project site.
5. Securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable JCI to perform the Work;
6. Providing assistance to JCI in obtaining any permits, approvals, and licenses that are JCI's responsibility to obtain as set forth in Schedule 1;
7. Properly maintaining, and performing appropriate preventative maintenance on, all equipment and building systems affecting the Assured Performance Guarantee in accordance with manufacturers' standards and specifications;
8. Providing the utility bills, reports, and similar information reasonably necessary for administering JCI's obligations under the Assured Performance Guarantee within seven (7) days of Customer receipt and/or generation or JCI's request therefor;
9. Providing all records relating to energy and/or water usage and related maintenance of the premises and relevant equipment requested by JCI;
10. Providing and installing utility sub-meters on all new construction and/or additions built during the M&V Services Period as recommended by JCI or, alternatively, paying JCI's applicable fees for calculating necessary adjustments to the Assured Performance Guarantee as a result of the new construction;
11. Providing and maintaining a dedicated telephone line and/or TCP/IP remote connection to facilitate remote monitoring of relevant equipment, including any requirements by PSEG for any communication lines for the Solar PV measure;
12. Promptly notifying JCI of any change in use or condition described in Section III of Schedule 2 or any other matter that may impact the Assured Performance Guarantee; and
13. If any equipment that is being controlled under this contract is changed out, ensuring any controls and controls programming is moved to the new equipment.

PRICE AND PAYMENT TERMS

Customer shall make payments to JCI pursuant to this Schedule 4.

1. **Total Agreement Price.** The total cost of the project, including payment for JCI, the Architect/Engineer, and the Customer Controlled Contingency is **\$23,525,555**.

Johnson Controls, Inc.:	\$22,284,188
Architect/Engineer (H2M):	\$891,367
Customer Controlled Contingency (e.g., for PSEG-LI Interconnections):	\$350,000
Total	\$23,525,555

The Agreement contains a Customer Controlled Contingency of \$350,000, that is not allocated to any particular item on the Project and is established for JCI's use (subject to District approval) for unforeseen causes, coordination gaps, or miscellaneous work items, including without limitation PSEG interconnections and incidental asbestos.

The total price to be paid by Customer for the Work, including payment for JCI (\$22,284,188) and the Engineer (\$891,367) is **\$23,175,555**.

Payments (including payment for materials delivered to JCI and work performed on and off-site) shall be made to JCI as follows:

First payment due: 30% down payment or \$6,952,667 due upon SED approval, customer's securing of acceptable financing, and the issuance of the Notice to Proceed. Balance shall be invoiced monthly using AIA Invoice format.

Customer shall make payment to JCI against monthly invoices for work completed and approved in accordance with the agreed upon Schedule of Values. Payments will be made on a progress payment basis for work completed and accepted by the Customer and the Architect using the AIA Invoice format. JCI must attach certified payrolls to each application for payment, together with supporting documents as required by the Customer and Architect.

JCI understands that, due to District cycles, payment timelines must be flexible. Therefore, payments are due upon Customer's receipt of JCI's invoice and shall be paid within forty-five (45) days. Invoicing disputes must be identified in writing within thirty (30) days of the date of the invoice. Payment of disputed amounts are due and payable upon resolution. All other amounts remain due within forty-five (45) days. Payment is a condition precedent to JCI's obligation to perform the Work hereunder.

Customer's failure to make payments when due, after written notice thereof to Customer and an additional thirty (30) day period to cure, will give JCI, without prejudice to any other right or remedy, the right to stop performing any Work or M&V Services, withhold deliveries of equipment and other materials, terminate or suspend any unpaid software licenses, and/or terminate this Agreement.

2. **Payments for Architectural/Engineering Services.** JCI shall be responsible for making payments directly to the H2M Architects + Engineers (H2M) as set forth herein. The total fee to be paid to the Architect/Engineer is \$891,367. JCI will make payments to H2M according to the following schedule:
- a. 25% upon full execution of this Agreement;
 - b. 25% upon submittal of plans and specifications to SED;
 - c. 25% upon approval of plans and specifications by the SED; and
 - d. 25% upon full execution of the Certificate of Final Completion.

Schedule 4

Each of the payments shall be made to H2M within forty-five (45) days of receipt of the invoice for payment from H2M.

3. **M&V Services.** M&V Services for the project from the construction period through Year 3 are included at no additional cost. M&V Services will be performed based on the NEMVP Option A/B methodology as detailed in Schedule 2. For M&V Services beyond Year 3, the Customer can request a proposal for additional years of M&V Services for which the price will be negotiated at that time.

NOTICE TO PROCEED

Johnson Controls, Inc.
35 Arkay Drive, Suite 100
Hauppauge, NY 11788.

ATTN: Danny Haffel

Re: **Notice to Proceed for MASSAPEQUA UNION FREE SCHOOL DISTRICT**

This Notice to Proceed is being issued by MASSAPEQUA UNION FREE SCHOOL DISTRICT ("Customer" or "District") to Johnson Controls, Inc. ("JCI") pursuant to that certain Performance Contract entered into between Customer and JCI for the purpose of notifying JCI to commence work under such contract. This Notice to Proceed shall not relieve JCI of its responsibility to perform any and all duties, tasks and/or obligations required by the Agreement, as may be amended, that may be required prior to commencement of the Work.

The parties' obligations under the Performance Contract are contingent upon written approval of the New York State Education Department ("SED"), the requirements of the Regulations of the Commissioner of Education, Section 155.20 and the Customer securing financing as set forth within Paragraph 33 of the Agreement. The Customer acknowledges that in executing this Notice to Proceed the Customer is representing that it has received written approval from SED and secured financing in accordance with Paragraph 33 of the Agreement.

By signing and dating this Notice to Proceed, the parties hereto agree to these terms and represent and warrant they have the authority to execute this Notice to Proceed on behalf of their respective organizations.

MASSAPEQUA UNION FREE SCHOOL DISTRICT

Signature: _____

Printed Name: _____

Title: _____

Date: _____

ACKNOWLEDGED & AGREED TO:

JOHNSON CONTROLS, INC.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

CHANGE ORDER

Performance Contract dated _____, 20____ between Johnson Controls, Inc. and Customer	Change Order No.		Date (mo/day/yr)
Customer Massapequa Union Free School District			
The above referenced Performance Contract is hereby modified to the extent described below in accordance with the Terms and Conditions of the CHANGE ORDERS section thereof.			
Scope of Work changed as follows: 			
Total amount of this Change Order			\$
Total Performance Contract amount as revised by this Change Order			\$
The time for completion is: <input type="checkbox"/> increased, <input type="checkbox"/> decreased, <input type="checkbox"/> unchanged. The new completion date resulting from this Change Order is:			(mo, day, yr)
[check if applicable] Assured Performance Guarantee changed as follows: 			
Unless specifically changed by this Change Order, all terms, conditions and provisions of the above referenced Performance Contract remain unchanged and in full effect.			
JOHNSON CONTROLS, INC.	Massapequa Union Free School District		
Signature:	Signature:		
Printed Name:	Printed Name:		
Title:	Title:		

CERTIFICATE OF SUBSTANTIAL COMPLETION

PARTIES: JOHNSON CONTROLS, INC. ("JCI")
35 ARKAY DRIVE, SUITE 100
HAUPPAUGE, NY 11788.

MASSAPEQUA UNION FREE SCHOOL DISTRICT ("CUSTOMER")
4925 MERRICK ROAD
MASSAPEQUA, NY 11758

PROJECT: Massapequa Union Free School District Performance Contract dated _____, 202_ between JCI and Customer

By executing this Certificate of Substantial Completion, Customer acknowledges the following:

- a. The work set forth in the Performance Contract is substantially complete.
- b. Customer has received the manuals, warranty information, and training required under the Performance Contract.
- c. The following punch list items must be completed by JCI (check as applicable):

- punch list attached
- punch list complete

- d. Upon completion of the punch list items, or if such punch list items are complete, JCI and Customer shall sign the Certificate of Final Completion attached hereto.

Dated _____, 20__

MASSAPEQUA UNION FREE SCHOOL DISTRICT

JOHNSON CONTROLS, INC.

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

CERTIFICATE OF FINAL COMPLETION

PARTIES: JOHNSON CONTROLS, INC. ("JCI")
35 ARKAY DRIVE, SUITE 100
HAUPPAUGE, NY 11788

MASSAPEQUA UNION FREE SCHOOL DISTRICT ("CUSTOMER" or "DISTRICT")
4925 MERRICK ROAD
MASSAPEQUA, NY 11758

PROJECT: MASSAPEQUA UNION FREE SCHOOL DISTRICT ; Performance Contract dated
_____, 20__ between JCI and Customer

By executing this Certificate of Final Completion, Customer acknowledges the following:

- a. The work set forth in the Performance Contract has been reviewed and determined by Customer to be fully complete.
b. Customer accepts the work as complete and hereby releases JCI's obligations under any performance and payment bonds posted for the project as of the date set forth below.

The Work performed under this performance contract has been reviewed and found to be complete. The date of final completion of the Project designated above is hereby established as _____. In accordance with the Agreement documents, based upon on-site observations and all data submitted in connection with the Project, the Architect certifies to Customer that to the best of the Architect's knowledge, information and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Agreement documents, and JCI is entitled to payment in accordance with the Agreement documents.

Amount Certified: _____

H2M Engineering LLC.

By: _____ Date: _____

Printed Name: _____

Dated _____, 20__

MASSAPEQUA UNION FREE SCHOOL DISTRICT

JOHNSON CONTROLS, INC.

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachment 4 – Lighting Line x Line (Massapequa - Rev-E (Flat Panels, Troffer Kits & Type-B TLEDS) 11-3-23)

ATTACHMENT 5 – INSURANCE REQUIREMENTS

1. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, JCI hereby agrees to effectuate the naming of the Massapequa Union Free School District ("District") as an Additional Insured on JCI's insurance policies, except for workers' compensation and N.Y. State Disability insurance.
2. The policy naming the District as an Additional Insured shall:
 - a. Be an insurance policy from an A.M. Best A- rated or better insurer, licensed to conduct business in New York State. A New York licensed and admitted insurer is strongly preferred. The decision to accept non-licensed and non-admitted carriers lies exclusively with the District and may create significant vulnerability and costs for the District.
 - b. State that the organization's coverage shall be primary and non-contributory coverage for the District, its Board, employees and volunteers including a waiver of subrogation in favor of the District for all coverages including Workers Compensation.
 - c. Additional insured status for General Liability coverage shall be provided by standard or other endorsements that extend coverage to the District for on-going operations (CG 20 38 or equivalent) and products and completed operations (CG 20 37 or equivalent). The decision to accept an endorsement rests solely with the District. A completed copy of the endorsements must be attached to the Certificate of Insurance to include General Liability, Auto Liability and Umbrella/Excess coverages.
3.
 - a. The certificate of insurance must describe the services provided by JCI (e.g., roofing, carpentry or plumbing) that are covered by the liability policies.
 - b. At the District's request, JCI shall provide a copy of the declaration page of the liability and umbrella/excess policies with a list of endorsements and forms. If requested, JCI will provide a copy of the policy endorsements and forms.
 - c. There will be no coverage restrictions and/or exclusions involving New York State Labor Law statutes or gravity related injuries.
 - d. No policies containing escape clauses or exclusions contrary to the District's interests will be accepted.
 - e. A fully completed New York Construction Certificate of Liability Insurance Addendum (ACORD 855 2014/15) must be included with the certificates of insurance. For any "Yes" answers on Items G through L on this Form– additional details must be provided in writing. Policy exclusions may not be accepted.
4. JCI agrees to indemnify the District for applicable deductibles and self-insured retentions.
5. Minimum Required Insurance:
 - a. **Commercial General Liability Insurance**
 \$1,000,000 per Occurrence/\$2,000,000 Aggregate
 \$2,000,000 Products and Completed Operations
 \$1,000,000 Personal and Advertising Injury
 \$100,000 Fire Damage
 \$10,000 Medical Expense
 The general aggregate shall apply on a per-project basis.
 - b. **Districts Contractors Protective (OCP) Insurance**
 For projects less than or equal to \$1,000,000 and/or work on 1 story (10 feet) only;
 \$1,000,000 per occurrence, \$2,000,000 aggregate with the District as the Named Insured.

For projects greater than \$1,000,000 and/or work over 1 story (10 feet); \$2,000,000 per occurrence, \$4,000,000 aggregate with the District as the Named Insured.

If the District chooses to accept a non-admitted or non-licensed carrier in NYS for General Liability, Auto or Umbrella/Excess Coverages, the minimum required limits of coverage for the OCP is \$2,000,000 per occurrence, \$4,000,000 aggregate.

The District will be the Named Insured on OCP Policies. There will be no Additional Insureds on any OCP Policies.

c. **Automobile Liability**
\$1,000,000 combined single limit for owned, hired, borrowed and non-owned motor vehicles.

d. **Workers' Compensation and NYS Disability Insurance**
Statutory Workers' Compensation (C-105.2 or U-26.3); and NYS Disability Insurance (DB-120.1) for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable. A person seeking an exemption must file a CE-200 Form with the state. The form can be completed and submitted directly to the WC Board online.

e. **Builder's Risk**
Must be purchased and maintained by the District to include interest of the District, JCI, Subcontractors and Sub subcontractors jointly. The limit must reflect the total completed value (all material and labor costs) and provide coverage for fire, lightning, explosion, extended coverage, vandalism, malicious mischief, windstorm, hail and/or flood. Coverage will remain in effect until the District is the only entity that has an insurable interest in the property.

f. **Umbrella/Excess Insurance**
\$5,000,000 each Occurrence and Aggregate for general construction and no work at elevation (1 story or 10 feet) and project values less than or equal to \$1,000,000.
\$10,000,000 each Occurrence and Aggregate for high-risk construction, work at elevation (>1 story or 10 feet) and project values greater than \$1,000,000.

Umbrella/Excess coverage shall be on a follow-form basis or provide broader coverage over the General Liability and Auto Liability coverages.

g. **Asbestos/Lead Abatement/Pollution Liability Insurance**
\$2,000,000 per occurrence/\$2,000,000 aggregate, including products and completed operations. Such insurance shall include coverage for JCI's operations including, but not limited to, removal, replacement, enclosure, encapsulation and/or disposal of asbestos, or any other hazardous material, along with any related pollution events, including coverage for third-party liability claims for bodily injury, property damage and clean-up costs. If a retroactive date is used, it shall pre-date the inception of the Contract.

If JCI is using motor vehicles for transporting hazardous materials, JCI shall maintain pollution liability broadened coverage (ISO Endorsement CA 9948 or CA 01 12), as well as proof of MCS 90. Coverage shall fulfill all requirements of these specifications and shall extend for a period of three (3) years following acceptance by the District of the Certificate of Completion.

h. **Testing Company Errors and Omission Insurance**
\$1,000,000 per occurrence/\$2,000,000 aggregate for the testing and other professional acts of JCI performed under the Contract with the District.

6. JCI acknowledges that failure to obtain such insurance on behalf of the District constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the

Attachment 5

District. JCI is to provide the District with a certificate of insurance, evidencing the above requirements have been met, prior to the commencement of work. The failure of the District to object to the contents of the certificate or the absence of same shall not be deemed a waiver of any rights held by the District.

7. **Subcontractors are subject to the same terms and conditions as stated above and must submit same to the District for approval prior to the start of any work.**
8. In the event the JCI fails to obtain the required certificates of insurance from its subcontractors and a claim is made or suffered, JCI shall indemnify, defend, and hold harmless the District, its Board, employees and volunteers from any and all claims for which the required insurance would have provided coverage. **This indemnity obligation is in addition to any other indemnity obligation provided in the Agreement.**