

General Notes to ISSUER:

- This document constitutes a draft template Schedules and Exhibits as a starting point for use by local governments who wish to enter into a Guaranteed Energy Savings Performance Contract. This document is created during the Investment Grade Audit (IGA) and become part of the Energy Services Agreement (ESA). The Department of Environmental Quality makes no representations as to the sufficiency of this document to achieve the purposes sought by a particular local government. For example, this document does not take into account any local procurement requirements that may be applicable to a particular local government. Local governments using this draft template should consult with their own legal counsel or contracting officer prior to signing the IGA or ESA for such a contract and make their own independent determination as to its sufficiency.
- If during negotiations the ESCO requests edits to this document that attempt to limit or remove their responsibilities for the performance of or guaranteed, actual, measured savings for the ECMs to be implemented by this agreement such edits should be rejected.
- Per N.C.G.S. § 143-64.17B(b), before entering into a Guaranteed Energy Savings Contract, the governmental unit shall provide published notice of the time and place or of the meeting at which it proposes to award the contract, the names of the parties to the proposed contract, and the contract's purpose. The notice must be published at least 15 days before the date of the proposed award or meeting.
- Per N.C.G.S. § 143-64.17B(a)(3), the energy conservation measures to be installed under the contract must be for an existing building or utility system.
- **Please delete this page from the completed document. Page numbers should auto-correct.**

IGA / ESA Schedules and Exhibits

Project Documents include the following Schedules which are incorporated herein and made a part of the IGA and ESA when approved by the **ISSUER** and **ESCO**:

Schedule A	Existing known conditions, systems and hazardous materials inventory
Schedule B	Current and Known Future Capital Projects at the Premises
Schedule C	Baseline Energy Consumption
Schedule D	Standards of Comfort
Schedule E	ECM Cost and Savings estimates, and Equipment to be installed by the ESCO
Schedule F	Guarantee Period Savings Measurement & Verification Calculation Formulae
Schedule G	Energy Use Adjustment Methods During Guarantee Period for Material Changes
Schedule H	Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment
Schedule I	Construction and Installation Including Schedule
Schedule J	ESCO and ISSUER Training Responsibilities
Schedule K	Warranties (including Equipment)
Schedule L	Maintenance Checklist and ISSUER & ESCO responsibilities
Schedule M	Proposed Final Project Cost & Final Project Cash Flow Analysis
Schedule N	Energy Savings Guarantee including form of Security
Schedule O	Compensation to the ESCO
Schedule P	Insurance and Bonds
Schedule Q	Financing Agreement
Schedule R	Loan Amortization

Exhibits:

Exhibit 1	Certificate of Acceptance – Investment Grade Audit Report
Exhibit 2	Individual ECM Acceptance
Exhibit 3	Certificate of Beneficial Use and Acceptance / Certificate of Occupancy (issued by Authority Having Jurisdiction)
Exhibit 4	Certificate of Final Project Acceptance (issued by Issuer after Certificate of Beneficial Use and Acceptance / Certificate of Occupancy is issued by AHJ)
Exhibit 5	Certificate of ISSUER accepting responsibility for Maintenance Costs

All text in Red Italics is sample verbiage or instructions and should be removed from the final document.

SCHEDULE A

EXISTING KNOWN CONDITIONS, SYSTEMS AND HAZARDOUS MATERIALS INVENTORY

Include items required in IGA Article 1 Sections A, B and C.

ESCO shall identify and report to ISSUER all nonconforming equipment and or operations where ECMs are contemplated. This shall include but not be limited to dampers that are sealed shut or not operating.

ESCO describe your firm's plans for the disposal and recycling of any equipment or materials removed from the premises as part of an ECM. Be sure to include proper tracking of hazardous materials such as refrigerant, lamps and ballasts.

Using any information provided by the ISSUER concerning the hazardous material the ESCO shall determine and report in this Schedule whether such reported material will impact their ability to implement any ECM. Should ESCO discover any materials they believe may be of a hazardous nature that were not previously reported, the ESCO shall immediately request the ISSUER test the material so that any impact on the scope of work may be determined.

Drawings, Specifications and Surveys. The ISSUER shall provide the ESCO with any existing surveys in the ISSUER's possession that describe the physical characteristics, legal limitations and utility locations for the Premises. All such information furnished by the ISSUER is furnished without any representation as to the accuracy of such information. The ISSUER will make available to the ESCO any working drawings, specifications, surveys and "As-Built" drawings concerning the Premises that are in the possession of the ISSUER and which relate to work being performed on the Premises by other companies, if any. The ISSUER shall provide the ESCO the results of any tests conducted to determine the presence of any hazardous materials including but not limited to lead paint, asbestos and mold. The ISSUER shall make available any Asbestos or Hazardous Material Management Plan that has been developed. All such information furnished by the ISSUER is furnished without any representation as to the accuracy of such information. All documents, drawings, specifications, surveys and copies thereof furnished by the ISSUER are and shall remain ISSUER's property.

Hazardous Materials. The ESCO acknowledges that compliance with the National Emission Standard for Hazardous Air Pollutants as promulgated by the United States Environmental Protection Agency pursuant to Section 112 of the Clean Air Act is a continuing obligation requiring all demolition or renovation activity completed by or on behalf of the ISSUER to conform to the standards for such activity as set forth in 40 C.F.R § 61.145 (Standard for Demolition and Renovation). The ESCO shall observe all notification procedures established by the United States and North Carolina environmental protection agencies in the execution of the Project. In addition, the ESCO shall comply with any Asbestos or Hazardous Material Management Plan that has been developed for the Premises and provided to ESCO.

Investment Grade Audit: While conducting the Investment Grade Energy Audit (Audit), the ESCO, with assistance from the ISSUER, shall document on a building by building basis all findings concerning hazardous materials. Should the ESCO, or any of its subcontractors, encounter any substance it believes may be hazardous or material covered by the Act in the performance of the Audit, the existence of which has not previously been disclosed to the ESCO by the ISSUER the ESCO shall, before disturbing such materials,

immediately notify the ISSUER of the location thereof. ISSUER shall have material tested to determine if it is hazardous. Should test come back positive, the ESCO shall advise the ISSUER as to whether it is feasible to alter the intended scope of work as to avoid such materials. If such avoidance is not reasonably feasible in the judgment of the ESCO and ISSUER and the ISSUER wishes to implement the affected ECM the following options are available to the ISSUER:

1. The ISSUER, with assistance from the ESCO, shall determine the cost to remediate the hazardous material. The ESCO shall determine if the Guaranteed Energy Savings can cover the cost of the remediation in which case the ESCO shall include the cost of the remediation as part of the project cost. The ESCO will only be responsible for making sure the project still cash flows with the expense of the remediation included. The ESCO will not be expected to determine the actual costs including disposal, scope of work or implement any portion of the remediation.
2. If the cost of remediation cannot be covered by the Guaranteed Energy Savings the ISSUER may under separate contract pay for the remediation and not include the costs as part of the project.
3. The ISSUER may elect to remove the ECM from consideration for the project.

The ISSUER and ESCO agree that they have, during the course of the Audit, examined all areas where ECM Work is to be performed and based upon previously ISSUER provided reports, tests and observations believe all Work has been designed and may be performed without disturbing hazardous materials.

Installation and Construction: If during the performance of the Work the ESCO, or any of its subcontractors, encounters any substance it believes may be hazardous or material covered by the Act the existence of which has not previously been determined during the Audit, before disturbing such materials, the ESCO shall immediately notify the ISSUER of the location thereof. The ESCO shall advise the ISSUER as to whether it is feasible to re-route the Work as to avoid such materials. If such re-routing is reasonably feasible, the ESCO shall do so without additional compensation hereunder. If such re-routing or avoidance is not reasonably feasible in the judgment of the ESCO and ISSUER and such material must be disturbed or relocated to complete the Work, and if (i) removal or containment of the hazardous substance or material cannot be effectuated without a cessation of the Work; or (ii) applicable law, rule or regulation requires cessation of the Work, or (iii) continuation of the Work exposes any person to a risk, the ESCO may suspend its performance of the Work without penalty until the substance or material is removed or contained by the ISSUER.

The following options are available to the ISSUER in the event that undisclosed hazardous materials are encountered in the performance of the Work by the ESCO or its subcontractors:

1. At the ISSUER's expense and under separate contract the ISSUER may have the hazardous material remediated. Once complete the ESCO may be allowed to proceed with the Work. If such a delay causes an increase in the ESCO's cost or time of performance, the Parties will negotiate a mutually acceptable solution.
2. If feasible, the ISSUER may direct the ESCO to modify the scope of the Work to eliminate portions of the Work affected by the undisclosed hazardous substance or material. If such modifications cause an increase or decrease in the ESCO's cost or time of performance, the parties shall negotiate a mutually acceptable solution.
3. The ISSUER may terminate this Agreement upon payment to the ESCO of the amount due for services or materials and equipment supplied by the ESCO prior to suspension of the Work, including damages caused by the delay as prescribed by the Act.

SCHEDULE B

Current and Known Future Capital Projects at the Premises

ISSUER to provide data from Capital Improvement Plan, Master Plan, FCAP or other audits that may impact the buildings or systems included in the project.

SCHEDULE C

Baseline Energy Consumption

The baseline established for each ECM/building to be included in the project shall be based on actual measurements and shall not be adjusted for nonconforming equipment or operations.

ISSUER to provide copies of all utility bill for the previous three years. ESCO shall use this data to create consumption baselines and how they were established, and end use reconciliation with respect to the baselines including a discussion of any unusual characteristics and findings.

The ESCO shall examine the most recent 36 months of utility bills and current rate schedules and establish Base Period consumption for electricity, fossil fuels and water by averaging; or selecting the most representative contiguous 12 months. The ESCO shall consult with building staff and account for any unusual or anomalous utility bills which may skew Base Period consumption from a reasonable representation.

In collaboration with the ISSUER the ESCO may estimate loading, usage and/or hours of operation for all major systems impacted by Energy Conservation Measures to be included in the project. Data to be presented in accordance with M&V protocol selected for the specific ECM.

Where loading or usage is highly uncertain The ESCO shall employ spot measurement and/or short-term monitoring at its discretion, or at the request of ISSUER. Reasonable applications of measurement typically include variable loads that are likely candidates for conservation measures, such as cooling equipment. The annual end use estimated consumption shall be reconciled with the annual Base Period consumption to within 5% for electricity (kWh), fossil fuels and water. The contribution to electric peak demand for each end use shall also be reconciled to within 5% of the annual Base Period peak. The “miscellaneous” category shall not be more than 10% and each component shall be separately set forth. The purpose of this is to place reasonable limits on potential savings.

The appropriate rate schedules as well as actual bill data, in place at the time of establishing the baseline for each utility shall be utilized when establishing actual cost.

This Schedule will be prepared in accordance with the “Minimum M&V Guidelines” document available from DEQ/USI.

If HVAC modifications are anticipated IAQ requirements must be met.

If IPMVP option A or B is going to be used for M&V then baseline should be expressed here on an ECM type basis and data loggers used to calibrate all information..

If IPMVP option C or D is to be used the baseline should be expressed here using building level meters.

*Include ECM and/or Building identifier:
 Baseline energy use in units and note where this ECM is located
 Baseline energy use in dollars*

<i>ECM Description</i>	<i>Building 1</i>		<i>Building 2</i>	
	<i>Baseline Units</i>	<i>Baseline Dollars</i>	<i>Baseline Units</i>	<i>Baseline Dollars</i>
<i>Lighting</i>				

SCHEDULE D

Standards of Comfort

The North Carolina state building code: Energy Conservation Code 2012 section 302.1 **Interior Design Conditions** states that *"the interior design temperatures used for heating and cooling load calculations shall be a maximum of 72°F (22°C) for heating and a minimum of 75°F (24°C) for cooling."*

Standards of comfort shall be established for each building where Work is to be performed and the ESCO is claiming HVAC savings based on new or changed operating parameters or equipment. Where the ECM/Work does not impact the operation of the HVAC system the ESCO may indicate that existing conditions for that building will not be impacted. All work performed on controls or components of the HVAC system shall conform to all ANSI/ASHRAE standards including but not limited to indoor air quality (CO2 levels)

Example settings:

Offices and Similar Spaces	Week Day			Weekends			Holidays		
	Space Temp	Relative Humidity	Number or Hours	Space Temp	Relative Humidity	Number of Hours	Space Temp	Relative Humidity	Number of Hours
Summer Occupied	75°F ± 1°F	50% ± 5%		80°F ± 1°F	60% ± 5%		80°F ± 1°F	60% ± 5%	
Summer Unoccupied	80°F ± 1°F	60% ± 5%		82°F ± 1°F	60% ± 5%		82°F ± 1°F	60% ± 5%	
Winter Occupied	70°F ± 1°F	n/a		68°F ± 1°F	n/a		68°F ± 1°F	n/a	
Winter Unoccupied	65°F ± 1°F	n/a		65°F ± 1°F	n/a		65°F ± 1°F	n/a	

If actual space conditions cannot be maintained in accordance with the standards of comfort set out above and the deviations are not caused by the activities of the occupants, the ISSUER may alter the operation of the ECM to bring actual space conditions into compliance. The ISSUER shall immediately notify the ESCO of the actions taken and why. If such operation creates energy use greater than estimated, such use shall be deemed a shortfall and the ESCO will need to compensate the owner if savings from other measures do not offset the overage.

SCHEDULE E

ECM Cost and Savings Estimates and EQUIPMENT to be INSTALLED by ESCO

ECMs should only be included that have utility savings. The only exception are modifications that bring a system or building into code or standards compliance, i.e. ECM to upgrade AHU that will open dampers that were closed so long as the total project cost is covered by actual guaranteed, not stipulated savings.

ECM Cost \$ / Savings Matrix

ECM Description	Bldg 1 ID		Bldg 2 ID		Bldg 3 ID		TOTALS	
	*Cost	1 st Year Savings	*Cost	Savings	*Cost	1 st Year Savings	*Cost	1 st Year Savings
Lighting	25,000	5,000	55,000	12,000	15,000	3,500	SUM	SUM
Lighting controls	49,000	7,000			22,000	6,000	SUM	SUM
AHU VFDs								
TOTALS	SUM	SUM						

Values in dollars = ECM included in project

Cell Blank = ECM not included for that building

Total sum of \$ Cost must be traceable back to schedule M.

Total sum of 1st year Savings must be traceable back to schedule M cash flow.

Ownership, Dissemination and Publication of Documents. The drawings, specifications, reports, renderings, models, electronic media and all such other documents to be prepared and furnished by the ESCO pursuant to this Agreement, shall be and remain the property of the ISSUER.

Note:

This matrix is to be the first page in Schedule E

The purpose of this Matrix is to summarize the project by ECM by building. This is the same matrix that was submitted with the RFP as Attachment A.

The above is a sample. Please add columns and rows as necessary to include all buildings and measures. List the ECMs that are in common with the RFP response first, in the same order they appeared in that document. All additional ECMs should follow.

The “8½ X 11” sheet size does not apply to this page.

**Cost \$ = The Cost in dollars includes: Labor Costs, Subcontractor Costs, Cost of Materials and Equipment and Related Items. It does NOT contain any of the financed service fees listed in*

Attachment B and C from the RFP response including overhead, mark-up, or profit. When all ECM costs are added together the sum will equal the ESCO's cost proposal. Savings \$ = annual savings expected from measure.

This Schedule will be prepared in accordance with the "Minimum M&V Guidelines" document

For Each ECM to be Included in the Project Provide the Following Information

Provide detailed descriptions, costs and savings for each ECM including analysis method, supporting calculations, results, proposed equipment (equipment cut sheets may be included in Volume 2) and implementation issues. Provide a financial analysis for each proposed ECM

ECM ID _____

Building _____

Estimated ECM cost _____

Estimated post installation use cost _____

Estimated ECM savings _____

Show the following formula:

Baseline (pre-installation) use cost (from Schedule E) minus Estimated post-installation use cost = ECM savings

Narrative including product recommendations _____

ECM ID = Issuer and ESCO agreed upon identifier for ECMs

Building = building ID as provided by Issuer.

Narrative = description of ECM, product specific information and any other relevant information.

Provide summary information requested in chart and then follow with supporting documentation and calculations. Supporting documentation may be provided in the Volume 1 appendices.

The statement below will be ECM specific:

Ownership of Certain Proprietary Property Rights. The ISSUER shall acquire no ownership interest in any software, formulas, patterns devices, secret inventions or processes, or copyrights, patents, and other intellectual and proprietary rights or similar items of property which are or may become used in connection with the ECMs. The ESCO shall grant, or otherwise lawfully furnish, to the ISSUER a perpetual, irrevocable royalty-free license for any and all software or other intellectual property rights necessary for the ISSUER to continue to operate, maintain, and repair the ECMs in a manner that will maximize energy consumption reductions through the expiration of this Agreement. The license granted above is subject to ESCO's standard software license terms specific to, and which are included in the delivery of, such software.

Equipment Repair and Replacement

ECM	Major Equipment	Responsibility for Failed Components	Median Service Life* (Years)	Warranties
Lighting Retrofit	Lamps	ISSUER	12	10 years LED lamps and most fixtures
HVAC & Controls Upgrades	Boiler	ESCO	20+	1 year parts and labor
Water Fixture Modification and Retrofit	Water fixtures	ESCO	20	1 year parts and labor
Electric Motors	Transformers	ISSUER	15	1 year parts and labor

*ASHRAE Handbook – HVAC Applications, Chapter 37 where applicable

SCHEDULE F

Guarantee Period Savings Measurement & Verification Calculation Formulae

All M&V will be based on the IPMVP Volume 1 version 9/2012 document as amended

Protocol to be used for each ECM will be stated in Schedule E. Schedule F shall contain the details of execution of the plan during Guarantee Period.

The energy savings shall be monitored continuously if using a building automation system, or monthly if using utility bills, reported quarterly, and reconciled on an annual basis, commencing with the date of the Certification of Final Acceptance (Exhibit 4) to be signed by the ISSUER.

This Schedule shall be prepared in accordance with the "Minimum M&V Guidelines" document

This formula shall be shown on the first page of the reconciliation report:

Adjusted current year actual savings minus Guaranteed savings (from Schedule N table) = \$XXXX

If result is equal to or greater than 0 there is no shortfall

If result is less than 0 a shortfall exists and shall be paid

Neither party shall be responsible to the other party for loss of equipment resulting from any act prescribed in Article 1o) (Force Majeure) of this Agreement. The affected ECM(s) shall be treated as generating the prorated monetary savings as projected in Schedule E.

When calculating savings for the Guarantee Year the actual utility rates for that period or the baseline utility rates, whichever are greater, may be used. These actual savings may then be adjusted in accordance with Schedule G. Should escalated rates for utilities be used to determine Guaranteed Savings, Schedule N, and the actual savings as calculated above are less than the Guaranteed Savings, the ESCO is responsible for paying the ISSUER any shortfall.

SCHEDULE G

Energy use Adjustment Methods During Guarantee Period Material Changes

Current use or baseline consumption may be adjusted during the guarantee period for the following; weather, change in use, change in occupancy, change in operating hours or other material changes identified in this Schedule G that will impact the ECMs implemented under this contract please detail the methodology and formulas to be used to adjust the current savings calculations utilized in Schedule F.

Post Construction Guarantee Period:

Material Change Defined. A "Material Change" shall include any change in or to the Premises, not covered by Schedule A, whether structural, operational or otherwise in nature which reasonably could be expected, in the judgment of the ESCO to increase or decrease annual costs of energy usage. Actions by the ISSUER which constitute a Material Change include, but are not limited to, the following:

- i. Changes in the manner of use of the Premises by the ISSUER; or
- ii. Changes in the hours of operation for the Premises or for any equipment or energy using systems operating at the Premises; or
- iii. Permanent changes in the comfort and service conditions set forth in Schedule D; or
- iv. Changes in the occupancy of the Premises; or
- v. Changes in the structure of the Premises; or
- vi. Changes in the types and quantities of equipment used at the Premises; or
- vii. Modification, renovation or construction at the Premises; or
- viii. ISSUER's failure to provide maintenance of the ECMs pursuant to Schedule L hereof; or
- ix. Any significant damage to the Premises or the ECMs caused by fire, flood, or other casualty or any condemnation affecting a significant portion of the Premises; or
- x. The permanent or temporary closing of a building at the Premises.

Reporting of Material Changes; Notice by ISSUER. The ISSUER shall use its best efforts to deliver to the ESCO a written notice describing all actual or proposed Material Changes in the Premises or in the operations of the Premises no fewer than thirty (30) days before any actual or proposed Material Change is implemented. Where Material Changes result because of a bona fide emergency or other situation which precludes advance notification, the ISSUER shall give notice as soon as reasonably possible after the event constituting the Material Change has occurred or was discovered by the ISSUER to have occurred.

Reported Material Changes; Adjustments to guarantee year. Any changes in energy usage which occur as the result of a Material Change shall be timely reviewed by the ESCO and the ISSUER to determine what, if any, adjustments to the current savings value as utilized in Schedule F are necessitated by such changes. The ESCO and the ISSUER agree that any adjustments made to the current savings shall be in accordance with generally accepted engineering principles.

Unreported Material Changes. Upon and after the date the Certificate of Final Project Acceptance is issued and in the absence of any reported Material Change(s) in the Premises or in their operations, if energy savings deviates more than () percent during any month from projected energy savings for that month, after adjustment for normal deviations due to climatic conditions, the ESCO shall timely review such changes to ascertain the cause of such deviation. Upon determination of the cause of any deviation the ESCO and ISSUER shall immediately take appropriate action to remedy cause. The ESCO shall report its findings to the ISSUER in a timely manner. The ESCO and the ISSUER may determine what, if any, adjustments to the current savings as utilized in Schedule F are necessary.

Malfunction and Emergencies. The ISSUER shall use its best efforts to notify the ESCO or its designee within forty-eight (48) hours after the ISSUER's actual knowledge of the occurrence of:

- i. Any material malfunction in the operation of the ECMs or any other energy related equipment or system;
- ii. Any material interruption or alteration of the energy supply to the Premises;
- iii. Any material alteration or modification in the ECMs or their operation; and
- iv. Any material alteration, modification or change in the Premises or the use of the Premises.

SCHEDULE H

Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment

This section is ECM dependent. At a minimum it should encompass all manufacturer requirements showing manufacturer support if required.

Detail the role you wish ISSUER personnel to play in startup and commissioning

Systems Startup/Commissioning. The ESCO shall conduct a thorough and systematic performance test of each element and total system of the installed ECMs, not just a functional test, in accordance with this Schedule H. The ESCO shall provide advance written notice of at least ten (10) business days to the ISSUER of the scheduled test(s). The ISSUER shall have the right to designate representatives to be present at any or all such tests including representatives of the manufacturers of the ECM equipment. The ESCO shall demonstrate that all ECMs installed comply with the requirements of the Project Documents **including maintaining Standards of Comfort when applicable (See Schedule D)**. The ESCO, or its subcontractor(s), shall correct or adjust all deficiencies in the operation of the ECMs.

Commissioning Report. A commissioning report shall be generated for each ECM and/or Building and the total project. These reports shall be presented when the ESCO notifies the ISSUER that an Exhibit 2 or when Exhibit 4 are ready for signature. These Exhibits shall not be signed nor invoices paid until the appropriate report is submitted and approved by ISSUER. At a minimum the report shall demonstrate through measurement that the ECM/Project is operating and performing in accordance with the terms of this agreement and that measured post installation savings are being achieved.

SCHEDULE I

Construction and Installation Schedule

Please show details of construction schedule. The 8 ½ X 11 page size does not apply to this Schedule. Schedule should include:

- *Design submission deadlines*
- *Design approval deadlines*
- *Equipment ordering and delivery*
- *Installation*
- *Startup and commissioning*
- *Final acceptance*

ESCO's Personnel. The ESCO shall furnish a competent and adequate staff as necessary for the proper administration, coordination and supervision of the Work; organize the procurement of all materials and equipment so that they will be available at the time they are needed for the Work; and ensure that an adequate force of skilled workers is available to complete the Work in accordance with all requirements of this Agreement. The ESCO shall also employ a competent project manager who shall be responsible for the coordination of the Work, and who shall be authorized to commit the ESCO with regard to personnel, schedule, coordination and cooperation. The project manager shall not have less than two years of documented experience in responsible field supervision for projects of comparable size and complexity. The ESCO shall give the ISSUER advance written notice if it intends to remove or replace the project manager. In the event the project manager fails to perform their duties under this Agreement the ESCO shall provide a competent replacement. ESCO or subcontractor employees who enter properties of ISSUER to perform work related to a guaranteed energy savings contract must provide documentation that criminal background checks have been conducted within the last year. Such check shall include the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program and the National Sex Offender Registry. Contractor shall not assign any employee or agent to provide services on the ISSUER's properties if said worker appears on any of the listed registries.

Changed Conditions. Should the ESCO encounter subsurface or latent physical conditions at the Premises which differ materially from those indicated in the Project Documents or from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, the ESCO shall give written notice to the ISSUER before any such condition is disturbed or further disturbed. The ISSUER will promptly investigate and, if it is determined that the conditions materially differ from those which the ESCO should reasonably have been expected to discover or anticipate, the ISSUER may approve such changes in the Project Documents as the ESCO deems necessary. If such changed conditions cause an increase or decrease in the ESCO's cost or time of performance, the Parties may negotiate a mutually acceptable solution.

Review of Project Documents; Notification to the ISSUER; Corrections. The ESCO shall review all Project Documents, including all addenda, whether prepared by the ESCO, its subcontractors or furnished by the ISSUER, for errors, inconsistencies or omissions relative to the performance of the Project. Upon review of the Project Documents, and prior to commencement of the Project, the ESCO shall provide written notice to the ISSUER that (i) there are no inconsistencies in the Project Documents pertaining to the performance of the Work at the Premises or conflicts with existing conditions on the Project; or (ii) specifying the nature of any conflicts or inconsistencies noted from the ESCO's review of the Project Documents. The ESCO shall notify the ISSUER of any error, inconsistency or omission that the ESCO discovers in the Project Documents before the ESCO commences the Work. Should the ESCO fail to properly prepare or review Project

Documents or commences the Work without providing notice to the ISSUER of any error or inconsistency that it discovers in the Project Documents, the ESCO shall, upon written direction from the ISSUER, correct the deficient work, including removal and re-installation of the ECM if required, pursuant to the Project Documents at no additional cost to the ISSUER.

Coordination of the Work. The ESCO shall consult with the personnel designated by the ISSUER to coordinate the Work, including installation of any ECM. The ESCO shall not perform nor shall it permit its subsidiaries to perform, any act that will interfere with the performance of the ISSUER's business activities at the Premises without the prior written approval of the ISSUER. The ESCO shall consult with the ISSUER regarding the coordination of the Work with any other work being performed by other Companies at the Premises.

Project Meetings. The ESCO shall provide for regularly scheduled project meetings in the Project Installation Schedule, and shall give timely advance written notice and agenda of such meetings to the ISSUER. The ESCO shall record minutes and distribute copies of minutes of meetings to the ISSUER within five (5) business days after each meeting. The ESCO shall schedule additional project meetings if requested by the ISSUER.

The ESCO shall ensure that all materials used by the ESCO and its subcontractors and workmanship performed or caused to be performed by the ESCO in connection with the Work meets or exceeds all applicable codes and is performed in a workmanlike manner. Where conflicts exist between applicable codes, the more stringent provision shall apply;

- I. The ESCO shall ensure that all equipment and materials to be used in the Work for which Underwriters Laboratory labeling services is provided shall be UL labeled;
- II. All work performed by the ESCO shall conform to the following list of the most recent revision of codes where applicable:
 - a. Any applicable construction and electrical code;
 - b. Underwriters Laboratories (UL);
 - c. Insulated Power Cable Engineers Association (IPCEA);
 - d. National Electrical Code (NEC);
 - e. National Electrical Manufacturers Association (NEMA);
 - f. American National Standards Institute (ANSI); and
 - g. Institute of Electrical and Electronic Engineers (IEEE).
 - h. NC Energy Code
 - i. Current ASHRAE standards

Permits and Approvals. The ESCO shall obtain and pay for all necessary permits and approvals for the design, installation and operation of the ECMs. The ISSUER shall exercise its best efforts to assist the ESCO in securing applicable permits and approvals. The ECMs and the operation of the ECMs by the Parties shall conform to all applicable laws, regulations, and codes. The ESCO shall furnish to the ISSUER copies of each permit or license required for performance under this Agreement before the ESCO commences that portion of Work. If the ESCO observes that any of the Project Documents are at variance with permits or licenses granted, or laws, ordinances, codes, rules or regulations of governmental authorities, the ESCO shall promptly notify the ISSUER in writing and shall make any necessary changes, subject to the approval thereof by the ISSUER in accordance with the terms of this Agreement. If the ESCO performs any Work that is contrary to any permit or license granted, or any applicable laws, ordinances, codes, rules or regulations, the ESCO shall make changes as required to comply therewith and shall bear all costs arising there from.

Location and Access. The ISSUER shall provide sufficient space at the Premises for performance of Work, including access to office space with a telephone line, if necessary. The ISSUER shall provide access to the Premises for the ESCO and its employees or subcontractors to install, adjust, inspect, maintain and repair the ECMs in accordance with the terms of this Agreement or as required by the manufacturer during regular business hours, or such other reasonable hours as may be requested by the ESCO and acceptable to the

ISSUER. The ESCO's access to correct any emergency condition shall not be unreasonably restricted by the ISSUER.

Royalties and Patents. The ESCO shall pay all royalties and license fees due to third parties in connection with the Work.

SCHEDULE J

ESCO and ISSUER Training Responsibility

Indicate topics, number to be trained, location and costs for both construction/interim period and post acceptance (ongoing) training of ISSUER personnel. Stipulate who will conduct the training sessions.

Specify how the ISSUER and ESCO will address turn-over in personnel. Indicate cost(s) to ISSUER such as hourly rate or annual fees.

SCHEDULE K

Warranties

Identify and describe all warranties provided by ESCO

Include copies of warranties offered by equipment manufacturers (Full warranty details may be included in Volume 2 with manufacturer cut sheets)

Warranties. The ESCO shall warrant the Work for a period of one (1) year from the date of final Project Acceptance. No manufacturer warranty shall begin until the equipment is properly installed, commissioned, operating, and delivering the expected measurable savings as detailed in this Agreement and evidenced by the ISSUER signing an Exhibit 2.

During the term of the Agreement should an ECM/equipment or system failure be due to the ESCO's failure to properly design, procure, install or commission the ECM/equipment or system the ESCO may not claim any savings associated with the ECM until the failure is remedied.

Neither party shall be responsible to the other party for loss of equipment resulting from any act prescribed in Article 1o) (Force Majeure) of this Agreement. The affected ECM(s) shall be treated as generating the prorated monetary savings as projected in Schedule E.

All third-party equipment warranties shall be transferable and extend to the ISSUER. All such warranties shall be included in this Schedule K. Upon ISSUER request the ESCO shall be responsible for managing all warranty activity during the warranty periods set forth in in this Schedule K. Each party shall notify the other whenever defects in equipment, parts or performance occur.

Correction of the Work. Prior to Final Acceptance and during the ESCO warranty period, if the ISSUER requests, the ESCO shall remove or uncover such portions of finished Work as the ISSUER may direct. After the examination, the ESCO shall restore said portion of the Work to the standard required by this Agreement. If the Work thus exposed or examined proves acceptable, the expenses of uncovering or removing, restoring and the replacing of the parts removed shall be the responsibility of the ISSUER and such uncovering, removing and replacing shall be deemed to be an excusable event of delay, if a delay in completion is caused thereby. If the Work so exposed or examined has not been performed in accordance with this Agreement, the expense of uncovering, removing and replacing any portion of the Work necessary to comply with this Agreement and the Project Documents shall be borne by the ESCO and requests for a time extension or claims for delay may not be granted.

Responsibility for Materials. The ESCO shall be responsible for the contracted quality and standards of all materials, components and completed Work furnished by the ESCO or its subcontractors pursuant to the terms hereof. Materials, components or completed Work which fails to comply with this Agreement may be rejected by the ISSUER prior to Final Acceptance or during ESCO warranty period and shall be corrected or replaced by the ESCO at no cost to the ISSUER. The ESCO shall remove from the Premises within a reasonable time any materials or components so replaced at the entire expense of the ESCO, after written notice has been delivered by the ISSUER to the ESCO that such materials or components have been rejected. The ISSUER does not assume any responsibility for the availability of any controlled materials or other materials and equipment required for the Work. However, ISSUER reserves the right to review and approve the quality and standards for all materials.

Commencing with the date of the Individual ECM Acceptance for each ECM and continuing for the warranty periods set forth in this Schedule K and Exhibit 2 for each ECM, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Project Documents, the ESCO shall correct or replace or have corrected or replaced all faulty, defective or nonconforming Work

related to any ECM, or malfunctioning portions thereof. If the ISSUER has reason to believe that any portion of the Work is faulty, defective, or nonconforming with this Agreement, the ISSUER shall give the ESCO written notice as soon as reasonably practicable after the ISSUER's discovery. Within [REDACTED] days of receipt of written notice from the ISSUER to correct such fault or defect, the ESCO shall correct the Work, unless the ISSUER has given the ESCO a written waiver of the ESCO's responsibility for the specific fault or defect. Notice may be given by telephone only in the event of an emergency. The ESCO shall bear all costs of replacing or correcting such faulty, defective or nonconforming Work.

Nothing contained in this Paragraph shall be construed to establish a period of limitation with respect to any other obligation which the ESCO might have under the Agreement. The establishment of the time in which Work must be corrected, relates only to the specific obligation(s) of the ESCO to correct the Work and has no relationship to the time in which its obligation to comply with the Agreement may be enforced, nor to the time in which proceedings may be commenced to establish the ESCO's liability with respect to its obligations, other than to specifically correct the Work.

Harm to Structure of the Premises. The ESCO shall perform the Work under this Agreement and install the ECMs in such a manner so as not to harm the structural integrity of the Premises or their operating systems, except as specifically described in the Project Documents which have been approved by the ISSUER. The ESCO shall repair and restore, to its condition immediately preceding the performance of the Work, any area of damage caused by its performance under this Agreement which has not been so described in the Project Documents and approved by the ISSUER.

SCHEDULE L

MAINTENANCE CHECKLIST AND ISSUER & ESCO RESPONSIBILITIES

Facility Maintenance Checklists / Logs

ESCO shall create or use equipment manufacturer maintenance checklists or logs for the ISSUER to use to demonstrate equipment is being properly maintained in accordance with equipment manufacturer's recommendations. All documents shall be available for inspection by ESCO.

Each Party shall operate and maintain all equipment used within this Agreement in accordance with manufacturer's specifications throughout the entire term of this Agreement. Either party shall be liable to the other for any loss of equipment resulting from the Party's failure to operate or maintain equipment in accordance with the manufacturer's specifications.

Issuer Maintenance Responsibilities

ISSUER shall not be required to provide maintenance on any piece of equipment that exceeds the manufacturer's recommended maintenance. Vendor specific maintenance schedules and estimated costs associated with ISSUER maintenance shall be included with cut sheets in Volume 2. These costs shall include ECM equipment replacement post manufacturer's warranty through the term of the Guaranty Period.

The ISSUER shall be responsible for providing the maintenance, monitoring, service, repairs and adjustments to the ECMs as set forth in this Schedule L. The ISSUER shall receive an estimate from the ESCO for the annual cost to maintain any new or modified equipment in the ECMs. The ISSUER shall need to decide whether to pay for this additional maintenance cost with the energy savings from the GESC, obtain a separate contract apart from the GESC, or use current staff to maintain the equipment. If the ISSUER decides not to include the maintenance cost in this Agreement the Parties complete and sign Exhibit 5 and include it with this Schedule L. Except as set forth in this Schedule L, the ISSUER shall not move, modify, remove, adjust, alter or change in any material way the ECMs, or any part thereof, during the term of this Agreement, without prior written approval of the ESCO, except in the event of any occurrence reasonably deemed by the ISSUER to constitute a bona fide emergency affecting the health, safety, or standards of comfort of the facility. The ISSUER acknowledges that substantial and long-term deviations from the operating conditions set forth in this Agreement may constitute a Material Change in accordance with Schedule G hereof. In addition to the responsibilities set forth in Schedule L, the ISSUER shall use its best efforts to maintain the Premises in good repair and to protect and preserve the ECMs in good repair and condition in accordance with applicable manufacturers' recommendations which shall be provided to the ISSUER by the ESCO and to maintain the operating conditions of all non-ECM mechanical systems and energy related systems located at the Premises. The ESCO shall notify the ISSUER of any improper maintenance or repair as soon as ESCO has notice thereof. The ISSUER acknowledges that improper repairs or maintenance of the ECMs not reasonably corrected after notice may constitute a Material Change in accordance with Schedule G.

ESCO Maintenance Responsibilities

Periodic inspection of Issuer's maintenance logs.

Should an ECM/equipment or system failure be due to the ESCO's failure to properly design, procure, install or commission the ECM/equipment or system the ESCO may not claim any savings associated with the ECM until the failure is remedied.

The ESCO shall remain the primary point of contact to address ECM performance issues and provide assistance at no cost as necessary throughout the Agreement Term to remedy these issues. Should the ESCO fail to provide said assistance the ESCO shall not be permitted to claim any savings for the affected ECM/equipment or system until the issue is remedied. The ESCO shall be responsible for providing the Annual Services as set forth in Schedule L. All replacements of and alterations or additions to the ECMs by the ESCO shall become part of the ECMs and shall become the property of the ISSUER. Any replacements, alterations or additions made by the ESCO to the ISSUER's pre-existing equipment, or equipment acquired by the ISSUER during the term of this Agreement shall become part of said equipment and be owned by the ISSUER.

The ESCO shall provide an estimated annual cost to the ISSUER for the cost to maintain installed or modified equipment in the ECMs. This cost will be based on the ESCO's information received directly from the manufacturer of the equipment or previous experience in maintaining similar systems at other sites. Should the ISSUER elect to have the ESCO perform maintenance and monitoring services the ESCO shall be compensated for such services pursuant to Schedule O hereof. In the event of the ESCO's failure to provide required maintenance, service, repairs and adjustments to the ECMs, as provided in this Schedule L, the ISSUER may withhold fees due to the ESCO for such services until such repairs or adjustments are completed. The ISSUER shall notify the ESCO in writing when any payments are so withheld. The withholding of fees by the ISSUER shall not release the ESCO from its obligation to provide the Energy Savings Guaranty pursuant to Schedule N hereof.

SCHEDULE M

Proposed Final Project Cost & Final Project Cash Flow Analysis

Provide the information requested on the forms included.

Form is available in Excel format on request from DEQ USI

Schedules M & N shall be sent to DEQ USI as soon as completed as stated in the IGA.

Utility Incentives. Utility incentives secured or obtained due to the installation of the ECMs at the Premises shall belong to the ISSUER. The ISSUER may assign the incentive to the ESCO in which case the incentive may reduce the project cost and amount financed as shown in the ESCO's Cost Proposal below.

SCHEDULE M Part 1

ESCO'S COST PROPOSAL				
AGENCY NAME:		Department XYZ		
BANK QUOTED INTEREST RATE:		2.400%		
ESCO NAME:		ESCO ABC		
TOTAL PROJECT COST:		\$43		
TOTAL FINANCED COST:		\$48		
TOTAL GUARANTEED FIRST YEAR SAVINGS:		\$8		
	% of Total Project Costs	Financed Costs	Other Costs Paid from Savings (not financed)	Other Benefits to Owner and Notes
Project Cost Breakdown				
Total ECM material & labor and subcontracts	46.51%	\$20		
Investment Grade Audit	4.65%	\$2		
Engineering and Design	4.65%	\$2		
General Conditions	4.65%	\$2		
Contractor's Insurance (i.e. performance bond)	4.65%	\$2		
Project Management	4.65%	\$2		
Commissioning	4.65%	\$2		
First Year Training Fees	4.65%	\$2		
M&V set-up	4.65%	\$2		
Cost of Guarantee Security Instrument	4.65%	\$2		
Overhead (cost of running the business)	4.65%	\$2		
ESCO net profit	4.65%	\$2		
[Other Contractor Costs - list specifics]	2.33%	\$1		
Subtotal A (equals Schedule A Total)		\$43		
Other costs				
Bond Council Fees		\$3		
Loan Issuance Fees		\$3		
Third Party Engineering Fees			\$3	Paid by XYZ
Subtotal B (financed)		\$6		
Subtotal C (not financed)			\$3	
Adjustments to Project Costs				
Rebates, incentives, grants) (Will be negative number)		\$ (3)		
Other				
Subtotal D		-\$3		
Construction Period Interest		\$2		
	% of First Year's Savings	Dollar (\$) Value of 1st Year Service Fees		
Annual Service Fees				
Measurement and Verification (ESCO)	0.20%		\$1	
Third Party review of reconciliation report	0.20%		\$1	
Maintenance	0.20%		\$1	
Equipment Performance Monitoring	0.20%		\$1	
Yearly Training Services	0.20%		\$1	
Subtotal E			\$5	
Summaries				
Project Cost = Subtotal A			\$43	
Total Financed Costs = Subtotals A+B+D+ possibly Const. Period Int.			\$48	
Costs Covered by Energy Savings = Subtotals A+B+C+D+E+ possibly Const Period Interest. If construction period interest is capitalized in loan, this will be zero.			\$56	
Owners payments made to ESCO = Subtotals A+D			\$40	
¹ Other fees must be explained				
² Source of incentives must be explained				

SCHEDULE M
Part 2
ESCO's ANNUAL CASH FLOW ANALYSIS USING
BANK'S PROPOSED INTEREST RATE

Financed Amount: _____ Total Interest _____
 Finance Term: _____
 Annual Interest Rate: _____
 Construction Months _____
 1st Annual Payment _____
 Principal _____
 Interest _____

Escalation Rate by Utility/Fuel
 Electric: _____ 0%
 Natural Gas: _____ 0%
 Steam: _____ 0%
 Water: _____ 0%
 Other (specify): _____ 0%
 Escalation Rate for Annual Fees: _____ 0%

Yr.	Calculated Electric Dollar Savings	Calculated Natural Gas Dollar Savings	Other Calculated purchased fuel Dollar Savings	Calculated Water Dollar Savings	Other Please Specify	Calculated Operational Dollar Savings	Total Calculated Dollar Savings (a)	Annual Service Fees (b)	Financing Cost (P&I) (c)	Net Savings = a-b-c
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
Total										

NOTES: Net savings must never be negative.
 A surplus in one year cannot be carried forward to create positive cash flow in a subsequent year.

SCHEDULE N

ENERGY SAVINGS GUARANTEE INCLUDING FORM OF SECURITY

ESCO shall guarantee the energy savings in accordance with the terms of this Agreement. Energy savings are based on the performance of the Work and were calculated based on ECMs, or combination of ECMs', potential to reduce energy consumption as detailed in table below.

Schedules C, E, F and G contain the methodology and calculations used to determine energy reductions and energy savings achieved as a result of performing the Work, as well as the methodology that ESCO will use to measure, verify, and report on energy savings achieved annually during the term of this Agreement. Reimbursement of guaranteed energy savings not achieved by ESCO shall be made in accordance with Article 3c of this Agreement

If actual units of energy saved do not equal or exceed the energy units that form the basis of the Energy Savings Guarantee, but the monetary value of the measured and verified actual savings, equals or exceeds the monetary value of the Guaranteed Energy Savings, no payment will be due from the ESCO to the ISSUER. **The ESCO and ISSUER shall investigate and determine the cause of a shortfall, in either units or dollars, and recommend corrections or modifications to meet performance goals.**

ECMs Upgrades and Alterations to meet savings guarantee. The ESCO shall have the right during the term of this Agreement, subject to the ISSUER's written approval, to modify or replace any of the ECMs or install additional ECMs and to revise any procedures for the operation of the ECMs or implement other procedures at the Premises provided that:

- i. such actions by the ESCO do not result in modifying the standards of comfort and service set forth in Schedule D without the express written approval of the ISSUER;
- ii. such modifications or additions to, or replacements of the ECMs, and any operational changes, or new procedures are necessary to enable the ESCO to achieve the energy savings guaranteed by the ESCO at the Premises; and
- iii. any costs incurred relative to such modifications, additions or replacements of the ECMs, or operational changes or new procedures shall be the responsibility of the ESCO.
- iv. ISSUER shall be compensated for any shortfall during a Guarantee Year.
- v. Should additional maintenance duties be required for any additional ECMs, any associated costs to the ISSUER must be added to Schedule L.

All modifications, additions or replacements of the ECMs or revisions to operating or other procedures shall be described in a supplemental schedule(s) to be provided to the ISSUER for approval, which shall not be unreasonably withheld, and incorporated into this Agreement provided any replacement ECM shall be new and have equal or better potential to reduce energy consumption at the Premises than the ECM being replaced. All replacements of and alterations or additions to the ECMs shall become part of the ECMs described in Schedule E and shall become the property of the ISSUER.

As a result of the performance of the Work and in accordance with the terms of this Agreement, annual guaranteed energy savings, beginning with the signing of the Certificate of Final Project Acceptance (Exhibit 4), are as follows:

The second security instrument shall be a written guarantee, which will be contained in the contract, which states that the annual energy or operational costs savings will meet or exceed the total annual cost savings of the contract, including financing, installed equipment costs, contract security instruments required by the Office of State Treasurer, an annual fee for a third party engineer, and measurement and verification for the entire length of the contract period (up to maximum of 20 years). This security instrument must be in a form and amount acceptable to the Office of State Treasurer and may include, but is not limited to: a performance bond, a letter of credit, an insurance policy, a corporate guarantee of the ESCO, a corporate guarantee of the ESCO's parent company, or financing of all costs for the full term of the contract.

SCHEDULE N

ENERGY SAVINGS GUARANTEE

Financed Amount: _____	Total Interest _____	Escalation Rate by Utility/Fuel
Finance Term: _____		Electric: _____ 0%
Annual Interest Rate: _____		Natural Gas: _____ 0%
Construction Months _____		Steam: _____ 0%
1 st Annual Payment _____		Water: _____ 0%
Principal _____		Other (specify): _____ 0%
Interest _____	Escalation Rate for Annual Fees: _____ 0%	

Yr.	Guaranteed Electric Dollar Savings	Guaranteed Natural Gas Dollar Savings	Other Guaranteed purchased fuel Dollar Savings	Guaranteed Water Dollar Savings	Other Dollar Savings Please Specify	Guaranteed Operational Dollar Savings	Guaranteed Dollar Savings (a)	Annual Service Fees (b)	Financing Cost (P&I) (c)	Net Savings = a-b-c
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
Total										

SCHEDULE O

Compensation to ESCO

Part One:

Please show progress payments to ESCO for duration of construction period. ESCO may only be reimbursed for work performed and materials purchased during payment period.

AIA forms:

- *G702 Application and Certificate for Payment and*
- *G703 Continuation Sheet*

May be used to request payment

Part Two:

Include annual requested compensation for Annual Services as outlined in Schedule L. Invoicing and payment shall occur after submission and approval of Annual Services provided.

SCHEDULE P

Insurance and Bonds

A payment and construction performance bond, is to be conditioned for the faithful performance and fulfillment of the installation of the Energy Conservation Measures and which shall be valid until the completion of the installation work, with construction approved by the Issuer and accepted on behalf of the State

The ISSUER is to include in this Schedule P their minimum insurance requirements for the ESCO to access the Premises and perform the Work. The ESCO is to include in this Schedule P proof the minimum insurance requirements are met and policies in place.

SCHEDULE Q

Financing Agreement

Complete this Schedule only if ESCO providing financing. Copy of final loan agreements including Issuer RFP

SCHEDULE R

Loan Amortization

Insert loan amortization table from financial contract. Table must correlate to tables in Schedules M and N

EXHIBIT 1
Certificate of Acceptance – Investment Grade Audit Report

Date _____

The Services performed pursuant to the Investment Grade Audit Agreement, dated _____, by and between _____ (ISSUER) and _____ (ESCO), has been delivered by ESCO to the undersigned in an Investment Grade Audit Report, dated _____, and has been determined to be finally complete.

The Issuer, by and through the undersigned duly authorized representative, accepts the Services and the Energy Audit Report as finally complete and assumes full possession thereof.

ISSUER

Purchasing Department
Address 1
City, state zip

By: _____

Signature: _____

Date: _____

Exhibit 2 Individual ECM Acceptance

(Issuer is to issue one of these exhibits for each ECM as each ECM is substantially complete.) Issuer may use this form to identify punch list items in which case they do not sign Exhibit 2 until the punch list items are complete.

Owner: _____

Project Name: _____

ESCO Project Number: _____

Date of Substantial Completion: _____

The following ECM(s) has reached Substantial Completion having been properly installed, commissioned, the energy reduction properly measured and verified and training is complete as detailed in this agreement by the ESCO:
ECM(s) for approval:

We, the undersigned, hereby certify that we have this date examined the foregoing and determined that such is operating in accordance with all requirements of this agreement including ECM Commissioning Report. We further agree that the manufacturer's warranty period for such ECM(s) commences as of the date of signing this Exhibit 2. The Punch List items previously identified below are completed including training

_____ **(ISSUER)**

_____ **(ESCO)**

Signature

Signature

Printed Name

Printed Name

Items For Correction or Completion ("Punch List"):

1. _____
2. _____
3. _____
4. _____
5. _____

Exhibit 3

Acknowledgement of Receipt of Certificate of Beneficial Use and Acceptance or Certificate of Occupancy

Please attach the Certificate of Beneficial Use and Acceptance or Certificate of Occupancy (whichever applies to this project) and sign below.

We, the undersigned, hereby certify that we have this date assured the aforementioned document has been received from the Authority Having Jurisdiction and is included herein.

_____ (ISSUER)

_____ (ESCO)

Signature

Signature

Printed Name

Printed Name

Date

Date

Exhibit 4 Final Project Acceptance

Date _____

Final Inspection by the ISSUER. The ESCO shall promptly notify the ISSUER following the ESCO's completion of the Work. Upon notification, the ISSUER will inspect the Work for compliance with this Agreement. Any corrective measures shall be made by the ESCO pursuant to Schedule K Correction of the Work. When the ISSUER deems the Work complete, the ISSUER shall issue a Certificate of Final Project Acceptance as set forth in this Exhibit 4.

Final Submittal. The ESCO shall submit the following documents to the ISSUER with notice described above:

- i. A completed Commissioning Report as required by Schedule H
- ii. All documents provided by ISSUER
- iii. All construction and as built documents
- iv. Operations and Maintenance manuals
- v. The ESCO shall submit lien waivers, sworn statements, guarantees, full releases or other evidence reasonably satisfactory to the ISSUER that there are no liens, claims or stop notices pending, filed or threatened against the ISSUER, the ESCO, the Work, the Premises or the ECMs whatsoever.
- vi. Certificates of compliance for all ECMs which require local government inspection;
- vii. Asbestos abatement compliance records, if applicable; and
- viii. Any other documentation reasonably required by the ISSUER.

The Work performed pursuant to the Energy Services Agreement, by and between _____ (ISSUER) and _____ (ESCO), dated _____, has been inspected by the undersigned ISSUER, has been determined to be complete, including all punch list items previously identified and ISSUER accepts the same.

The ESCO has delivered the close-out documents listed above.

ISSUER, through the undersigned duly authorized representative, accepts the Work as complete and assumes full possession thereof as of the Date of Final Acceptance. The date of this Exhibit 4 starts the ESCO's warranty period.

ISSUER

ESCO

Printed Name

Printed Name

Signature

Signature

Date

Date

Exhibit 5

Certificate of ISSUER accepting responsibility for Maintenance Costs

The ESCO has provided the following estimate to the ISSUER, for the annual maintenance cost for the equipment installed or modified in this Agreement. The estimated amount shown below is based on the ESCOs costs received directly from the manufacturer of the equipment or from their own previous experience in maintaining similar systems at other sites.

\$_____ is the budgetary estimate for the cost to maintain the installed or modified equipment per the manufactures requirements as listed in Schedule L.

The above amount does not constitute an offer of services from the ESCO. It is provided solely for informational purposes only.

By executing this Exhibit 5 the ISSUER agrees to:

- i) Not have this cost included and paid for by guaranteed savings from this Agreement and;
- ii) Pay for the additional maintenance cost with a separate contract either with the ESCO or with another third party or have existing maintenance staff maintain the equipment.
- iii) The ISSUER acknowledges that as currently budgeted there are sufficient funds to cover the above budgetary costs and contribute \$XXXXX.XX to the calculated operational savings as indicated in Schedule M cash flow.

ISSUER, through the undersigned duly authorized representative, declines maintenance costs be included in this Agreement and assumes full responsibility for maintenance as stated in Schedule L as of the Date of Final Acceptance.

ISSUER

ESCO

Printed Name

Printed Name

Signature

Signature

Date

Date