

Buchanan Community Schools
REQUEST FOR PROPOSALS
FOR
DISTRICT BOND PROGRAM
ON A
PERFORMANCE CONTRACTING BASIS

Buchanan Community Schools is a public-school located in Buchanan, MI with four active school sites. The School proposes to address as many critical facility upgrades as possible ensuring those upgrades are the best value to the school. The school wishes to ensure that all energy efficient, renewable energy opportunities and critical infrastructure upgrades as practical in its facilities are addressed through the implementation of various eligible projects (“the Projects”) as part of a Guaranteed Energy Savings Performance Contract (“ESPC”).

Buchanan Community Schools (The School) is requesting contractors to propose innovative solutions and Energy Conservation Measures and school additions through a guaranteed energy savings contract.

The School’s objectives in issuing this Request for Proposal (RFP) are to provide a competitive means in which to select a contractor as a single Qualified Provider with whom to provide design, analysis, construction management services, installation services and provide a no change order guarantee with guaranteed scope, guaranteed price and guaranteed energy savings.

The School reserves the right to change any component of the proposal after the Qualified Provider has been selected. The cost of preparing a response to this request, including site visits and engineering analysis will not be reimbursed by the School.

Proposals will be received until 12:00 PM. on April 18, 2022, at the school Administration Office. Proposals will be opened on April 18, 2022, at this same location. Extensions will not be granted. Proposals are to be sealed and five (5) bound copies and one electronic copy are to be provided.

Any inquiries and/or questions regarding this proposal must be submitted only by email to brian.brown@berrienresa.org, Contacting any school personnel by any other means may result in disqualification.

A scheduled walk through for all Contractors has been scheduled for 10:00 a.m. on April 11, 2022, beginning at the Administration Office, 401 West Chicago St. Buchanan Michigan, 49107.

For the Project, the selected Qualified Provider will be responsible for ensuring compliance with the revised school code of the State of Michigan. An implementation contract will be negotiated with the selected Qualified Provider of the RFP process for performance of the scope of the Projects. The firm whose proposal represents the best value to the School will be selected for the implementation of the scope of work for this project. The Board of Education will ultimately approve the award of the contract to the selected Qualified Provider for this project.

Buchanan Community Schools reserves the right at its sole discretion to not move forward with the Projects at any time during this process. The lists of schools are included in the attached Exhibit “A” of this RFP. The final Scope of Work will be negotiated with the successful Proposer and will be determined before a contract is signed.

I. Table of Contents

- I. Table of Contents
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 - Exhibit B Acknowledgement of RFP Requirements
 - Exhibit C Affidavit of Bidder-Familial Disclosure
 - Exhibit D Affidavit of Compliance - Iran Economic Sanctions Act

II. PROJECT DESCRIPTION

1. Buchanan Community Schools (the “School”) requests detailed Proposals for the implementation of critical infrastructure upgrades as energy conservation measures (“ECMs”) School-wide (the “Project”), on a performance-contracting basis. This Request for Proposals (the “RFP”) is being utilized to provide a competitive means in which the School may select a single performance contracting/design-build contractor to implement the ECMs in accordance with Section 1274a of the Michigan Revised School Code. MCL 380.1274a.

2. In general, the Program/Proposal shall:
 - a) Provide comprehensive energy services for buildings listed in attached **Exhibit A**, which may include the installation of energy saving equipment and materials. The specific nature of the improvements is left up to the Bidder’s judgment but must be clearly identified in the Bidder’s Proposal. Equipment manufacturers must be identified within the Bidder’s Proposal.
 - b) Provide a more comfortable environment for building occupants. This may include renovation or replacement of existing roofs, heating, ventilation, air conditioning, or temperature control systems. The specific nature of improvements will be left up to the Bidder’s judgment and must be clearly identified in the Bidder’s Proposal.
 - c) Provide a minimum one-year warranty on all equipment, materials, design and workmanship from the date of final acceptance by the School. A longer warranty is encouraged even to the extent it can be included on individual ECMs or pieces of equipment or a system.
 - d) Have one (1) contract between the School and the Selected Contractor. The School will not have separate contracts with a subcontractor as part of the overall performance contract scope of the Project, other than for any required asbestos removal and that only if necessary.
 - e) Provide a written detailed breakdown showing:
 - 1) Breakdown of the energy performance savings for each year of the contract
 - 2) The projected energy savings and operating and maintenance costs savings resulting from the Project for the duration of the contract
 - 3) The combined total net cost of all energy conservation measures in the Project
 - 4) The useful life of each ECM
 - 5) The simple payback period
 - f) A description of the guaranteed energy savings and tasks to be performed under the energy savings performance contract.
 - g) Provide as part of the Project a minimum written guarantee of energy savings for a period of two years.

- h) The Bidder shall provide a detailed Measurement and Verification plan (the "M&V Plan"). All Measurement and Verification Plans must meet the International Performance Measurement and Verification Protocol, Inc. (IPMVP) or as it is now known, the Efficiency Valuation Organization (EVO). The M&V Plan shall measure all utility savings and shall include the following elements:
 - i) Pursuant to 1937 PA 306, as amended and 1980 PA 299, as amended, the Selected Contractor shall provide all services identified in those acts that may be performed by an architect and/or engineer, including supervisory services. Specifications for the Project shall be generic in character and, to the extent possible, shall not include proprietary equipment or technology developed by the Selected Contractor or in which the Selected Contractor has an interest. Further, the Selected Contractor shall satisfy all requirements relative to filing plans with and obtaining approval of the State of Michigan for the Project.
 - j) Energy or operating savings in a Proposal shall not be based upon the partial reduction in the School's staff or the purchase of deregulated electricity and/or natural gas, though Bidder may offer recommendations on deregulated energy supplies for the benefit of the School. Such recommendations shall be separate from any statement of energy savings.
 - k) Provide training programs for School personnel that enhance the overall efficiency of energy consuming operations within the School's facilities.

III.COMPONENTS OF PROPOSAL / FORMAT

Proposals should contain the following information. Voluntary Alternates should be clearly identified.

Section #	Section Title	Contents
1	Executive Summary	<ul style="list-style-type: none"> • Executive summary and contact information
2	Company Background/Team	<ul style="list-style-type: none"> • Company Background • Team members assigned to this project • Resumes of team members
3	Baselines	<ul style="list-style-type: none"> • Identify Baseline energy consumption, rates, and costs.
4	ECM's	For Each ECM (in its appropriate section): <ul style="list-style-type: none"> • Evaluation of existing conditions • Detailed energy conservation recommendations to be performed • Benefits of individual recommendations
	A. Lighting	Detailed Description improvements

	B. HVAC	Detailed Description improvements
	C. EMS	Detailed Description improvements
	D. Building Envelope	Detailed Description improvements
	E. Water	Detailed Description improvements
	F. Other	Detailed Description improvements
5	Summary of Costs & Savings	<ul style="list-style-type: none"> • Detail of, energy savings (in energy units), savings (\$). • Combined net cost of all the energy conservation measures in the project • Detail of Operational savings • Simple payback period • Forecasted rebates and incentives • ASHRAE rated life for equipment
6	Cash Flow	<p>See table 2.</p> <p>Separately identify rebates, other applicable costs, energy and operational savings, inflation rates.</p> <p>Include the base project and if applicable any voluntary alternates you recommend. Clearly identify alternates and how they vary.</p> <p>The base project cash flow should be shown on a year basis. Additional alternate cash flow terms may be shown.</p>
7	Schedule	<p>Project timeline</p> <ul style="list-style-type: none"> • Show project schedule and completion timetable • Identify if construction will be performed after normal school hours so as not to disrupt normal class schedules • Detail project construction management/project management approach

8	Training	Provide description of training included in proposed project price.
9	Required Service	Identify if there are any required service agreements. List costs. Break out costs separately from M&V.
10	Other	List other reasons the school should consider contractor specific to this project.
11	M&V	Identify how the savings from each ECM will be measured for the guarantee.
12	Guaranteed Savings	<ul style="list-style-type: none"> • Describe guaranteed savings (\$). • Describe any pertinent guarantee language.
13	Warranties	<ul style="list-style-type: none"> • Identify the total project warranty. <p>Provide a table identifying a summary of all manufacturer warranties as applicable</p>
14	References	List applicable references demonstrating experience in performance contracting for similar scope items.
15	Affidavits/ Acknowledgements	<ul style="list-style-type: none"> • Proposer Acknowledgement of RFP Requirements • Affidavit—Familial Disclosure • Affidavit—Compliance/Iran Sanctions Act
16	Signature	Signature by authorized Proposer officer.
17	Attachments:	<p>Example:</p> <ul style="list-style-type: none"> • Lighting standards • Standards of Comfort (Current/Proposed temperature levels) • Product detail sheets

Table 1. Savings and Cost Summary

Energy Conservation Measure	Price	Elect. Saved (Kwh)	Elect. Saved (KW)	Electric Saved (\$)	Gas Saved (MMBtu)	Gas Saved (\$)	Water/Sewer Saved (CCF)	Water/Sewer Saved (\$)	Total Energy Savings (\$)	Ops Savings	Utility Rebates	Simple Payback	Equipment Life (years)
Total, All ECM Types													

Table: 2 (Sample)
Financial Projections
Sample Cash Flow Analysis

Table 2-Cash Flow									
COMPANY NAME									
CASH FLOW DESCRIPTION (IF MORE THAN 1)									
Capital Costs									
ESCO Project Sale Price	\$	-							
Total Project Cost	\$	-							
District Bond Issuance/Legal Costs	\$	-							
Total Financed	\$	-							
Meas. & Verification Costs									
	\$	-							
Savings									
Annual Guaranteed Energy Savings	\$	-							
Annual Operational Savings	\$	-							
Utility Rebates (Estd)	\$	-							
Guarantee Term		15	Years						
Finance Term		15	Years						
Interest Rate		0.0%	/Year						
Energy Cost Escalation Factor		0.0%	/Year						
Operational Cost Escalation Factor		0.0%	/Year						
Year	Costs			ANNUAL SAVINGS/FUNDING			CASH FLOW		
	Principle & Interest	Meas. & Verification Costs	Total Annual Costs	Guaranteed Energy Savings (ECM's)	Annual Operational Savings	Utility Rebate	Total Annual Funding	Net Annual Savings	Cumulative Cash Flow
1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
3	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
4	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
7	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
8	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
11	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
12	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
13	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
14	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
15	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

IV. THE SELECTION PROCESS**1. TIMETABLE**

The School expects to follow the schedule noted below. However, the School reserves the right, in its sole and absolute discretion, to make modifications to or alter the following schedule as it determines to be in its best interests.

	Action	Date
1.	Post Notices (Local newspaper and State Website)	April 4, 2022
2.	Pre-bid Meeting (Mandatory)	April 11, 2022
3.	Proposal Due Date	April 18, 2022
4.	Public Bid Opening	April 18, 2022
5.	Review	April 18, 2022
6.	Selection Recommendation	April 18, 2022
7.	Final Scope Selection	May 1, 2022
8.	Energy Service Contract Submitted to the school	TBD
9.	Legal Review & Contract Negotiation	TBD
10.	Final Project Board Award	TBD
11.	Financing	TBD
12.	Contract Execution	TBD

2. PRE-PROPOSAL MEETING

The School will conduct a **Pre-Proposal Meeting for all interested Bidders on April 11, 2022** at 10 AM local time at **401 West Chicago Street, Buchanan Community Schools MI 49107.**

3. SITE VISITS

If Bidder's who attended the mandatory Pre-Proposal Meeting desire site visits to School buildings, those can be scheduled as necessary by contacting Brian Brown only by email at: brian.brown@berrienresa.org.

4. SUBMISSION OF PROPOSALS

Bidders shall submit Proposals as described in Sections II, III, IV, V, VI and VII.

5. PROPOSAL EVALUATION

A committee composed of School representatives will evaluate all Proposals. The evaluation committee may conduct interviews with the finalists to clarify information provided in their respective Proposals. Providing there is at least one qualified response, the evaluation committee will recommend a Contractor to the School School's Board of Education. The School's Board of Education will make the final selection based upon the School's evaluations and such other factors as the Board of Education deems to be in its best interest. The School reserves the right, in its sole and absolute discretion, to reject any and all Proposals, in whole or in part, to waive any irregularities in any Proposal or the RFP process, and to award the contract to other than the lowest Bidder.

V. INSTRUCTIONS FOR SUBMITTING PROPOSALS

1. REQUESTS FOR FURTHER INFORMATION

Questions concerning this RFP and the procedures for responding to the RFP should be directed to Brian Brown in writing only at the following email address: brian.brown@berrienresa.org

Written responses to questions shall be distributed to all potential Bidders that provided contact information as an intention to bid. Contacting school personnel by other means could lead to disqualification.

2. SUBMISSION OF PROPOSALS

Each Proposal must be an original signed by an authorized member of the Bidder's firm. This member should be the highest-ranking officer at the local level. **NO ORAL, FAX or E-MAILED Proposals will be accepted.** Bidders shall submit sealed, written proposals by April 18, 2022 at 12pm (EST) at **401 West Chicago Street, MI 49107.**

An original, five copies and electronic version of the proposal shall be submitted. Late bids will not be considered or accepted. At the specified location and date and time set forth above, all timely submitted Proposals shall be publicly opened, dated and read aloud. Based upon Proposals reviewed by the School, the School may select Bidders, in its sole discretion, to be interviewed. Once interviews are completed and any additional information required by the School is provided, the School shall select a Bidder to negotiate a final agreement with (the "Selected Contractor" as defined above). Such selection shall be for the purpose of negotiation of a

final agreement and shall not be binding upon the School until such time as the Board of Education approves the agreement in accordance with Michigan law and the Reservation of Rights under Section 6 below.

The School reserves the rights to disqualify from consideration Proposals which do not substantially provide all of the information requested in this RFP.

3. BID SECURITY

Required. Refer to the Terms and Conditions Section.

4. PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

Required. Refer to the Terms and Conditions Section.

5. PROPRIETARY INFORMATION

After a Selected Contractor has been identified, all proposals shall be subject to the Michigan Freedom of Information Act (442 PA 1976) unless the information thereof falls under an exemption.

6. RESERVATION OF RIGHTS

The School reserves the right, in its sole and absolute discretion, to accept or reject, in whole or in part, any or all Proposals with or without cause. The School further reserves the right to waive any irregularity or informality in the RFP process or any Proposal, and the right to award the contract to and to accept the Proposal or Proposals which the Board of Education determines will perform in the School's best interests and will be the lowest responsible bidder as required by law. The School reserves the right to request additional information from any or all Bidders. The School reserves the right to select one or more Bidders to perform the Project on behalf of the School. Upon evaluation of proposals and interviews with Bidders the School shall negotiate a final agreement with lowest responsible bidder identified by the School. Such agreement shall not be binding upon the School until the agreement is approved by the Board of Education in accordance with Michigan law. In the event the School and the Selected Contractor are unable to agree to acceptable terms and conditions, the School, in its sole discretion, may elect to terminate such negotiations, reject the Selected Contractor's proposal and negotiate with another Bidder deemed to be the next lowest responsible bidder.

7. COST OF PROPOSAL PREPARATION

The cost of preparing a response to this RFP, including site visits and preliminary engineering analyses, will not be reimbursed by the School.

8. RESTRICTIONS ON COMMUNICATION

From the issue date of this RFP until the Selected Contractor is selected and the selection announced, a Bidder shall not communicate about the subject of this RFP or a Bidder's Proposal with the School, its Board of Education, or any individual member, administrators, faculty, staff, students or employees, or third-party agent of the School, except as permitted in this RFP or as otherwise required by applicable law.

9. RFP INFORMATION CONTROLLING

The School intends that all Companies shall have equal access to information relative to the School's requirements under this RFP, and that this RFP contains adequate information. No information communicated, either verbally or in writing, to or from a Bidder shall be effective unless confirmed by written communication contained in an addendum to this RFP, a Request for Clarification or other written response thereto, or in the Proposal.

10. RELEASE OF CLAIMS

Each Contractor by submitting its Proposal releases the School from any and all claims arising out of, and related to, this RFP process and selection of a Contractor.

11. FINALITY OF DECISION

Any decision made by the School, including the Contractor selection, shall be final. However, any initial selections made by the School and made subject to the negotiation of an acceptable contract and financing may be changed at the School's discretion if an acceptable contract and financing is not reached.

12. IRREVOCABILITY OF PROPOSALS

All Proposals submitted shall not be withdrawn and shall be irrevocable for a minimum period of thirty (30) calendar days following the Due Date for receipt of Proposals set forth above.

13. COLLUSIVE BIDDING

The Contractor certifies that its Proposal is made without any previous understanding, agreement, or connection with any person, firm or corporation making a Proposal for the same Services and is in all respects fair, without outside control, collusion, fraud or otherwise illegal action.

VI. CONTRACT TERMS AND CONDITIONS

The following terms and conditions shall be incorporated into the final contract negotiated between the parties:

1. Proposals are to be submitted as outlined in the Components of Proposal Section. The Proposal must be signed with the Bidder's name and by a responsible officer or employee. Obligations assumed by such signature are binding upon the Bidder.
2. Proposals must be received by the Due Date specified in this RFP. Late Proposals will not be considered or accepted.
3. In the execution of the contract, it may be necessary for the Selected Contractor to subcontract part of the Project to others. The Selected Contractor shall inform the School as to which subcontractors will be used. Subcontractors used shall be subject to the approval of the School. The Selected Contractor shall be fully responsible to the School for the acts and omissions of its employees, its contractors, subcontractors, consultants, architects, etc., and of persons, whether directly or indirectly employed by the Selected Contractor. Nothing in this RFP or the resulting contract shall create any contractual relationship between any subcontractor and the School. The Selected Contractor shall not assign, transfer, convey, or otherwise dispose of the contract between Selected Contractor and the School, or any part thereof, or the School's right title, or interest in the same, or any part thereof, without previous written consent of the School. The Selected Contractor shall not assign any power of attorney, or otherwise any monies due or to become due and payable under the agreement without previous written consent of the School.
4. Prices for supplies, materials and equipment are to be F.O.B. job site delivered and/or installed and are to be firm for 90 days from the Due Date for Proposals. No charges for shipping, packing, drayage, or for any other purpose will be allowed over the price quoted herein.
5. Each Proposal submitted shall include and the successful Selected Contractor will be required to pay all taxes which are levied by Federal, State or Municipal Governments upon labor, and for material entering the Work. The School reserves the right to require evidence of payment of such taxes prior to final payment.
6. The Bidder must provide a detailed Project Schedule. The Project shall be completed without interference with the School's educational, extra-curricular or athletic programs. The Selected Contractor shall maintain a rate of work progress to ensure completion of the Project within the timeframes set forth in the agreed upon Project Schedule.
7. Prior to commencement of the Project, of which these conditions shall be part, for any construction in excess of \$50,000, the Selected Contractor shall furnish performance bonds and labor and material payment bonds as required by MCL 129.201, *et seq.* in such form as the School may require, securing the faithful performance of such contracts and payment of all obligations arising thereunder. Such bonds must be for the full amount of the contract with a surety company in good standing and licensed to do business in the State of Michigan. The

Selected Contractor shall include in the base Proposal the cost of furnishing such bonds/securities.

8. The most current Michigan laws and regulations regarding sales and use tax shall apply and the cost of same shall be included in the Proposals.
9. The School will continue to occupy the buildings and site during the normal school year. Any installation work not completed during the summer recess shall be performed around instructional periods including after regular school hours, on weekends, on scheduled holidays, or as arranged and approved by the School during regular school hours.
10. The Selected Contractor will, at all times, keep the job clean of all debris and rubbish resulting from its operations, and upon completion of its work, will promptly remove all tools, equipment and excess material and any rubbish caused by its work and personnel. Selected Contractor will protect all its material and work from hazards and be fully responsible for their condition until accepted by the School and shall also be responsible for any damage caused by it to the work or property of others, including but not limited to, the property of the School. Selected Contractor will reimburse School for any expenses incurred to keep the job clean and clear of all debris and rubbish resulting from Selected Contractor's failure to comply with this paragraph.
11. The Selected Contractor shall not use or permit any of its employees, contractors, subcontractors or consultants to use any equipment, hoists, staging, scaffolds, or any other material belonging to the School without prior written consent.
12. Each Proposal shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or any employee of the Bidder and any member of the School's Board of Education or Superintendent. Proposals not accompanied by a sworn and notarized statement will not be accepted by the board.
13. Each Proposal must be accompanied by a sworn and notarized statement certifying that the Bidder is not an "Iran Linked Business" within the meaning of the Iran Economic Sanctions Act.
14. The Selected Contractor shall procure and maintain during the life of the contract the following insurance coverages

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1. **CONTRACTOR INSURANCE.** Prior to commencing the Work, Contractor shall provide a certificate of insurance to the Owner showing its insurance coverage, and Contractor shall maintain such insurance in full force and effect at all times until the Work has been completed, in the following minimum amounts:

<u>COVERAGES</u>	<u>LIMITS OF</u>
<u>LIABILITY</u>	
Commercial General Liability	
> General Aggregate	\$ 2,000,000
> Product & Completed Operations Aggregate	\$ 2,000,000

April 4, 2022

> Personal & Advertising Injury	\$ 1,000,000
> Each Occurrence	\$ 1,000,000
> Automobile Liability- Each Occurrence	\$ 1,000,000
> Workers Compensation	\$500,000/\$500,000/\$500,000
> Umbrella Policy in addition to individual coverage	\$10,000,000.

The Owner and its consultants shall be additional insureds on the Contractor's primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory as to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or policy limits not more than the amounts required under this Contract.

The insurance carriers shall have no right of subrogation against Owner and its consultants and their respective officers, directors, consultants, agents, and employees, and Contractor shall obtain from each of its subcontractors a waiver of subrogation on all insurance coverages required, including Commercial General Liability, Workers Compensation, Employers Liability and Automobile Liability, in favor of the parties identified herein with respect to losses arising out of or in connection with the Work on the Project.

All certificates of insurance must be forwarded to the School prior to commencement of any work. Required insurance policies shall not be changed or canceled without ninety (90) days prior written notice to the School.

15. The Selected Contractor shall indemnify, hold harmless and defend the School, its Board Members (in the official and individual capacities), officers, employees, students, volunteers and agents against all suits, actions, legal proceedings, claims of any nature and kind, demands, and all damages, loss, costs, expense, taxes, penalties, fines, liens and actual attorney's fees and expert witness fees incurred, caused by or arising from or attributable, whether in whole in part, directly or indirectly, to:
- a) Any negligent or willful or intentional or criminal acts or omissions of, or a breach of contract by, the Selected Contractor or its principals, shareholders, employees, agents, attorneys, accountants, contractors, or subcontractors.
 - b) Any claims by any employees or former employees of the Selected Contractor or its agents or subcontractors, regarding any matter relating to their employment.
 - c) Any matter for which the School may be held strictly liable, but which is the result of, in whole or in part, the negligent or willful or sole acts or omissions of the Selected Contractor or its principals, shareholders, employees, agents, attorneys, accountants and/or subcontractors;
 - d) Any tax or levy imposed upon or charged to the School as a result of compensation or any other amount paid to the Selected Contractor under or pursuant to the contract; and
 - e) Any breach of any representation or warranty by the Selected Contractor under the contract or its subcontractors, agents or consultants.

16. The Selected Contractor shall provide the School constant access to any computer system hardware and software used to develop and/or store Project data, no matter where or by whom produced or operated and Selected Contractor shall facilitate placing the School on line with same by modem, station or other method of connection, if such connection is possible. The drawings, specifications and all other documents, electronic or otherwise, prepared by the Selected Contractor and/or its employees, contractors, subcontractors or consultants for this Project (collectively referred to as the "Documents") are instruments of the Selected Contractor's service for use solely with respect to this Project and, unless otherwise provided, the Selected Contractor shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Selected Contractor shall be permitted to retain copies, including reproducible copies, of the Documents for information and reference in connection with the School's use and occupancy of the Project. The Documents may be used by the School or others on other projects, for additions to this Project or for completion of this Project by others, in which case the Selected Contractor is relieved of any liability as a result of such future use. The Selected Contractor agrees to immediately provide the Documents to the School at the end of the Project, or, in the event of early termination of the contract. The Selected Contractor also shall secure on behalf of the School an irrevocable license to use any and all software necessary to operate the improvements provided through the Project as designed and intended.
17. All Selected Contractor overhead necessary for its performance of the Project is included in the Proposal price, unless otherwise specified herein.
18. The Selected Contractor shall warrant and represent that it is an equal opportunity employer and that it does not unlawfully discriminate or discriminate against anyone due to race, creed, color, age, sex, national origin, disability or handicap.
19. If the Selected Contractor shall neglect to execute the work properly, or should refuse to remedy any defects in the work due to inferior quality of workmanship or material, or should in any manner fail to perform any provision of this contract, the School after seventy-two (72) hours written notice to the Selected Contractor, may terminate the contract, may correct such deficiencies and may deduct the cost thereof from payment due the Selected Contractor. Additionally, the contract may be terminated for any reason by the School upon not less than seven (30) calendar days' written notice to the Selected Contractor. In the event of termination not the fault of the Selected Contractor, the Selected Contractor shall be compensated for services performed prior to termination.
20. The Selected Contractor shall not recommend that School reduce or eliminate any employees or positions as a result of any changes implemented under the contract. Reduction, elimination or absorption of employees or positions by the School will not be considered nor shall it be included as part of any savings projected by the Selected Contractor.
21. The Selected Contractor shall perform its obligations hereunder in compliance with each and every Federal, State and Local law, statute, act, rule, regulation and ordinances, orders and codes, including applicable licensing requirements. The Selected Contractor shall comply with sound engineering and safety practices and any and all School and/or School Board of Education policies, practices, procedures and rules, past, present and future. The Selected

Contractor shall be responsible for obtaining all governmental permits, consents and authorizations as may be required to perform its obligations.

22. The Selected Contractor shall perform its work, particularly its professional design work, consistent with the highest professional standard applicable to the profession and/or trade associated with the portion of the work of Selected Contractor at issue in a given circumstance.
23. The Selected Contractor shall provide a composite floor plan of each building reflecting each and every change resulting from the Project. The final composite plan shall show the School's room number and/or text label for all rooms and spaces. The Selected Contractor shall prepare and provide a set of "As-Built" drawings showing changes in the Work made during the Project. The Selected Contractor shall certify these drawings as accurate; provided the Selected Contractor's certification shall be made to the best of the Selected Contractor's knowledge. These drawings shall be provided in the form of reproducible drawings and digital documents as specified by the School. Digital format shall include all the following:
 - .1 Copies of all drawing files in AutoCAD.
 - .2 A "TIFF File" version of each printed sheet in the reproducible drawing set.
 - .3 All digital files shall be presented on Compact Disk media.
24. Assignment and Subcontracting. The Selected Contractor may not, without the School's prior written consent, modify or change subcontractors or otherwise assign the contract, or part thereof, or any obligations thereunder, or arising from or relating to this RFP.
25. Independent Contractor. The Selected Contractor shall at all times be deemed an a third party, independent contractor. Subject to the parties' independent contractor relationship, the School shall have the right to reasonably approve the identity of representatives and employees of the Contractor, or any related contractor or subcontractors. The School shall retain the right to request that any employee of the Contractor, contractor or subcontractor removed from, or transferred within, the project
26. Governing Law. This RFP, and any contract arising from this RFP, shall be governed by the laws of the State of Michigan. The applicable law for any legal disputes arising out of this RFP or any contract shall be the law of (and all actions hereunder shall be brought in) the State of Michigan, and the venue for such disputes shall be the Newaygo County Circuit Court. The Contractor shall comply with all applicable sound engineering and safety practices and any and all School and /or School Board of Education policies, practices, procedures and rules. The Contractor shall be responsible for obtaining all governmental permits, consents, and authorizations, as may be required, to perform its obligations.

Contractor acknowledges and agrees that this project is subject to the requirements of the Revised School Code, School Building Construction Act, Occupational Code and other laws related to the construction of school buildings, and further agrees that it will comply and ensure compliance with all applicable laws including the foregoing. Without limiting the breadth of the foregoing, Contractor shall ensure that School satisfies all filing requirements under MCL

380.1274a, either by filing the documents and information itself or by assisting the School in properly and timely filing such documents and information. Contractor shall work closely with the School with respect to the foregoing and shall keep the School fully informed of obligations and time frames.

27. Form of Contract. A Bidder may submit a suggested form of contract with its Proposal, the award of the Proposal is subject to the negotiation of a contract to the reasonable satisfaction of a representative of the School and/or the Board, incorporating the terms and conditions of this RFP, and subject to the review and approval by the School's legal counsel.
28. Payment and Performance Bonds. In compliance with Act 213, Public Acts of Michigan, 1963, as amended, the Selected Contractor shall execute performance and payment bonds acceptable to the School. One bond will be for the faithful performance and fulfillment of the contract and to include protection of the School from all liens and damages arising out of the work. The other bond will be conditioned for the payment of labor and materials used in the work and for the protection of the School from all liens and damages arising there from. Each of the bonds will be in the amount of one hundred percent (100%) of the total amount of the contract price, through satisfactory completion of installation.
29. Limitation of Liability. The School shall in no event be liable or responsible for damage or injury to any person or property related to the actions or inactions of the Contractor or the Contractor's employees and agents. The School shall not be required or permitted to indemnify the Contractor, its employees, agents or any other third party. Contractor shall not require School to waive claims prior to their accrual, including, for example, by way of limitation of liability provisions or waivers of certain types of damages.
30. Taxes. Contractor is required to pay all taxes applicable to this project, including all sales, use, employment and any other taxes levied by Federal, State or local units of governments related to the work and/or the installation thereof. The School reserves the right to require evidence of payment of such taxes prior to final payment. All applicable taxes are deemed included in the Contractor's price.
31. Price and Payment Terms. The Contract Price shall be as bid within the Proposal and shall be inclusive of all design services, labor, materials, fees, expenses, overhead and profit. No charges for shipping, packing, drayage, or for any other purpose will be allowed over the price quoted herein. Payments shall be no more than monthly and shall be based upon *percentage completion only*. Contractor shall be required to provide supporting documentation with each invoice or request for payment sufficient to permit the School to verify completion. Prior to any payment, Contractor shall prepare and present to School a schedule of values that provides a detailed breakdown of the associated cost of ECM for each facility/building/site. The Schedule of Values, unless objected to by the School, shall be considered when reviewing the Contractor's request for payment.

School shall make payment to Contractor within thirty (30) days' of receiving Contractor's invoice and supporting documentation, unless and to the extent the School reasonably disputes the invoice in good faith. School shall be entitled to withhold retainage of ten percent (10%) on all payments to Contractor until the project is finally completed. The Project will be

considered finally completed when all work and punch list items have been verified complete and all project documentation has been submitted and accepted as complete, including but not limited to maintenance manuals, operation procedures, as-built drawings, and any other record documents of the project. Final payment by the School shall not constitute a waiver of claims against the Contractor; however, the Contractor's acceptance of final payment shall constitute a waiver of claims against the School.

32. Construction Administration Generally. Contractor shall provide on-site administration and of all work, including work of subcontractors, at least in compliance with the requirements of 1937 PA 306 and 1980 PA 299. Contractor shall provide and update cost estimates, including estimates of variable costs and potential change orders, on a periodic basis and at least to the extent necessary to comply with 1980 PA 299. (It is expressly acknowledged and understood, however, that, for purposes of the preceding sentence and otherwise, the Contractor's cost for performing the scope of work shall be *fixed* and shall not be increased under any circumstances other than a formally-approved change order increasing the Contractor's scope of work.) Contractor shall comply with any and all other requirements of 1937 PA 306 and 1980 PA 299 in the performance of work hereunder. Contractor shall promptly notify the School of any discovered error or omission in the contract documents, and any means, methods, techniques or safety procedures of any subcontractor that fails to comply with industry standards.
33. Warranties. Contractor warrants that materials and equipment will be of good quality and new; that the Work will be free from defects not inherent in the quality required or permitted; that all equipment will be fit for the purpose for which it is intended; and that the Work and Services will conform to the requirements of the Contract Documents. Contractor warrants that the Work, and the materials and workmanship related thereto, shall be free from defects for a period of one year from final completion/installation. If Contractor fails to correct faulty, defective or nonconforming Work as provided in this section within twenty-four (24) hours after notice in the case of emergency conditions, or within five (5) business days after notice in other cases, the School may correct such work at Contractor's expense, including costs incurred due to the removal of faulty, defective, or nonconforming Work and removal and storage of equipment or materials left at the site.

Contractor warrants that it will assign any and all applicable warranties of third party manufacturers and suppliers to School. Upon written notice from the School, Contractor shall, at its option, repair or replace the defective Work with new parts or equipment (not reconditioned materials) or re-perform defective services. During the applicable warranty periods, Contractor shall pursue rights and remedies against manufacturers under the manufacturer warranties as necessary. Contractor shall notify the School of any claims under manufacturer warranties exercised by Contractor.

VII Exhibits

**Exhibit A
SCHOOL SCHOOLFACILITIES AND ADRESSESS**

- 1. Buchanan Community Schools High School – 401 West Chicago Street, Buchanan Community Schools MI 49107**
- 2. Buchanan Community Schools Middle School - 610 W 4th St, Madison District Public, MI 49107**
- 3. Ottawa Elementary - 109 Ottawa St, Madison District Public, MI 49107**
- 4. Moccasin Elementary - 410 Moccasin St, Madison District Public, MI 49107**

Exhibit B
PROPOSER ACKNOWLEDGMENT OF RFP REQUIREMENTS

The undersigned declares that he/she has carefully examined the instructions and specifications contained in the RFP and will perform the work and services set forth in its sealed Proposal for the price set forth in its sealed Proposal.

Any exceptions to the terms and conditions contained in this RFP or any other special considerations or conditions requested or required by the Bidder MUST be specifically enumerated by the Bidder and be submitted as part of its Proposal, together with an explanation as to the reason such terms and conditions of the RFP cannot be met by, or, in the Bidder's opinion, are not applicable to, the Bidder. The Bidder shall be required and expected to meet the specifications and requirements as set forth in this RFP in their entirety, except to the extent exceptions or special considerations or conditions are expressly set forth in the Bidder's Proposal and those exceptions or special considerations or conditions are expressly accepted by the School. All Pricing factors must be clearly indicated in the Proposal Forms provided as part of the Bidder's Proposal.

Name of Bidder:

Address:

City/State/Zip:

Phone/Fax:

Representative/Title:

Signature:

Date: _____

Exhibit C

AFFIDAVIT OF BIDDER

The undersigned, the owner or authorized office of _____
_____ (the "Bidder"), pursuant to the familial disclosure requirement provided in
the advertisement for Request for Proposals for Energy Conservation Measures, hereby represent and
warrant, except as provided below, that no familial relationships exist between the owner(s) or any
employee of _____ and any member
of the Board of Education of the School or the Superintendent of the School.

List any Familial Relationships:

- 1.
- 2.
- 3.
- 4.
- 5.

BIDDER:

By: _____

Its: _____

STATE OF MICHIGAN)

COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____, 20____, by _____
_____.

_____, Notary Public
_____, County, Michigan

My Commission Expires: _____

Acting in the County of: _____

Exhibit D

AFFIDAVIT OF COMPLIANCE – IRAN ECONOMIC SANCTIONS ACT
Michigan Public Act No. 517 of 2012

The undersigned, the owner or authorized officer of _____ (the “Bidder”), pursuant to the compliance certification requirement provided in ABC Schools’ (the “School”) Request For Proposals For Energy Conservation Improvements On a Performance Contracting Basis, hereby certifies, represents and warrants that the Bidder (including its officers, directors and employees) is not an “Iran Linked Business” within the meaning of the Iran Economic Sanctions Act, Michigan Public Act No. 517 of 2012 (the “Act”), and that in the event Bidder is awarded a contract as a result of the aforementioned Request For Proposal, the Bidder will not become an “Iran Linked Business” at any time during the course of performing under the contract.

The Bidder further acknowledges that any person who is found to have submitted a false certification is responsible for a civil penalty of not more than \$250,000.00 or 2 times the amount of the contract or proposed contract for which the false certification was made, whichever is greater, the cost of the School’s investigation, and reasonable attorney fees, in addition to the fine. Moreover, any person who submitted a false certification shall be ineligible to bid on a Request For Proposal for three (3) years from the date that it is determined that the person has submitted the false certification.

BIDDER:

Name of Bidder

By: _____

Its: _____

Date: _____

STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____, 20__, by _____.

, Notary Public
_____ County, _____
My Commission Expires: _____
Acting in the County of : _____