

North Rose – Wolcott Central School District
School Business Administrator's Monthly Dash Board Report
December 2015

1. 2015 – 2016 District Data
 - Approved Budget - \$26,593,836
 - Tax Levy - \$9,037,155
 - True Value Tax Rate - \$14.84 per thousand
 - Current student enrollment (as of 12/1/15)
 - K-12: 1218 (decrease of 20)
 - In house UPK: 40 (no change)
 - Head Start UPK: 27 (decrease of 1)
2. Transportation
 - Nothing new to report.
3. School Lunch
 - The Cafeteria Fund continues to be self-sustaining at this point.
4. Facilities Department
 - The facilities department has taken a thorough inventory of items stored in Florentine Hendrick Elementary. There will be an opportunity for staff members to go over to the building and mark items that would be useful in their classrooms. A list of remaining items will then be brought to the Board of Education to declare as surplus items. We will then dispose of them via scrap and/or auction.
 - BOCES was supposed to have heating in place for us in FHE by Thanksgiving. This still has not been completed. Due to their slow implementation, we also obtained a quote from HMI to do this work. After evaluating both proposals, the BOCES option is a more feasible choice for us and I will be looking to accelerate the completion of this project.
5. Technology
 - Our tech survey has been resubmitted to the state.
6. Capital Projects/Building Improvements/Ongoing Maintenance
 - With the coming of winter, the swings have been removed from the playground at Florentine Hendrick Elementary. If we choose to keep the playground fully functional at that site, we need to invest in more pea gravel and about \$1350 for new swings. Our insurance carrier would prefer that the playground be removed. The BCS estimated the cost for removal to be around \$19,000. We need some direction from the BOE as to whether they would like us to invest and maintain this playground or not.

- We have located the FHE appraisal that was completed a few years ago. I will be contacting the appraiser to see if an updated report can be issued. After questions from the community at our Organizational Study session on Wednesday night, I am also going to investigate gaining appraisals on NRWE and the Middle School.
- We have been able to agree on a contract with SWBR to provide architectural services for the District. This contract has been approved by the school attorney. The BOE will be formally designating SWBR as the District's architect going forward.

7. Budgeting/Reserves

- The sale of our bond that we refinanced in November went very well. Our initial estimates projected annual savings of \$35,000 - \$40,000. Although we will only save around \$9,000 this year, we will save between \$50,000 and \$59,000 in all other years. I have attached the details of these savings.
- Steve and I met with Dr. Timbs last Tuesday to continue work on our long range fiscal plan. I will be meeting with our auditor to get another perspective on our reserves. We will be bringing you a plan to redistribute our reserves to best serve our current and future needs. I anticipate the first piece of this being shared and acted on by the BOE in January. This will be a plan that we will need to revisit annually and adjust as resources, needs, and priorities change.
- The budget committee will be having its first meeting on Tuesday, prior to the BOE meeting. We will be reviewing the overall financial status of the district and give some preliminary information. Beginning in January, the committee will meet weekly with various departments.

8. Other Notes

- Auditors from the comptroller's office are still on site.
- We will be looking to have the Board of Education approve a new contract with the North Rose – Wolcott Central School District Service Employees' Association. With your approval, this contract will become effective July 1, 2016. Steve and I will go over the details in an executive session on Tuesday night.
- I am in the process of sending out a Request for Proposal (RFP) for school attorney services.
- I have attached the monthly graph of incidences that Deputy Halvorsen has dealt with in the last month. He is beginning to increase his time at NRWE and the Middle School. He is also expanding the time that he spends in classes with students.
- Our first lockdown drill of the year took place at NRWE on Thursday afternoon. We review each of these drills to look for gaps and ways to improve.

FINAL

**NORTH ROSE-WOLCOTT CSD, NEW YORK
SUMMARY OF REFUNDING RESULTS
(INSURED 2019 - 2024) ; (A+ UNDERLYING)
(BQ) ; (NON-CALLABLE)**

REFUNDING OF 12/15/2009 BONDS (06/15/2018 - 2024)

<u>Dated/Delivery:</u>	11/24/2015
Refunding Par Amount	7,735,000
Bond Arbitrage Yield	1.589580%
Escrow Yield	0.595744%
Refunded Bonds Par Amount	7,880,000
Average Coupon of Refunded Bonds	3.626677%

Net PV Savings	424,732.22
Percentage of PV Savings	5.390003%

Aggregate Budgetary Savings 457,688.33

Annual Budgetary Savings (June 30)

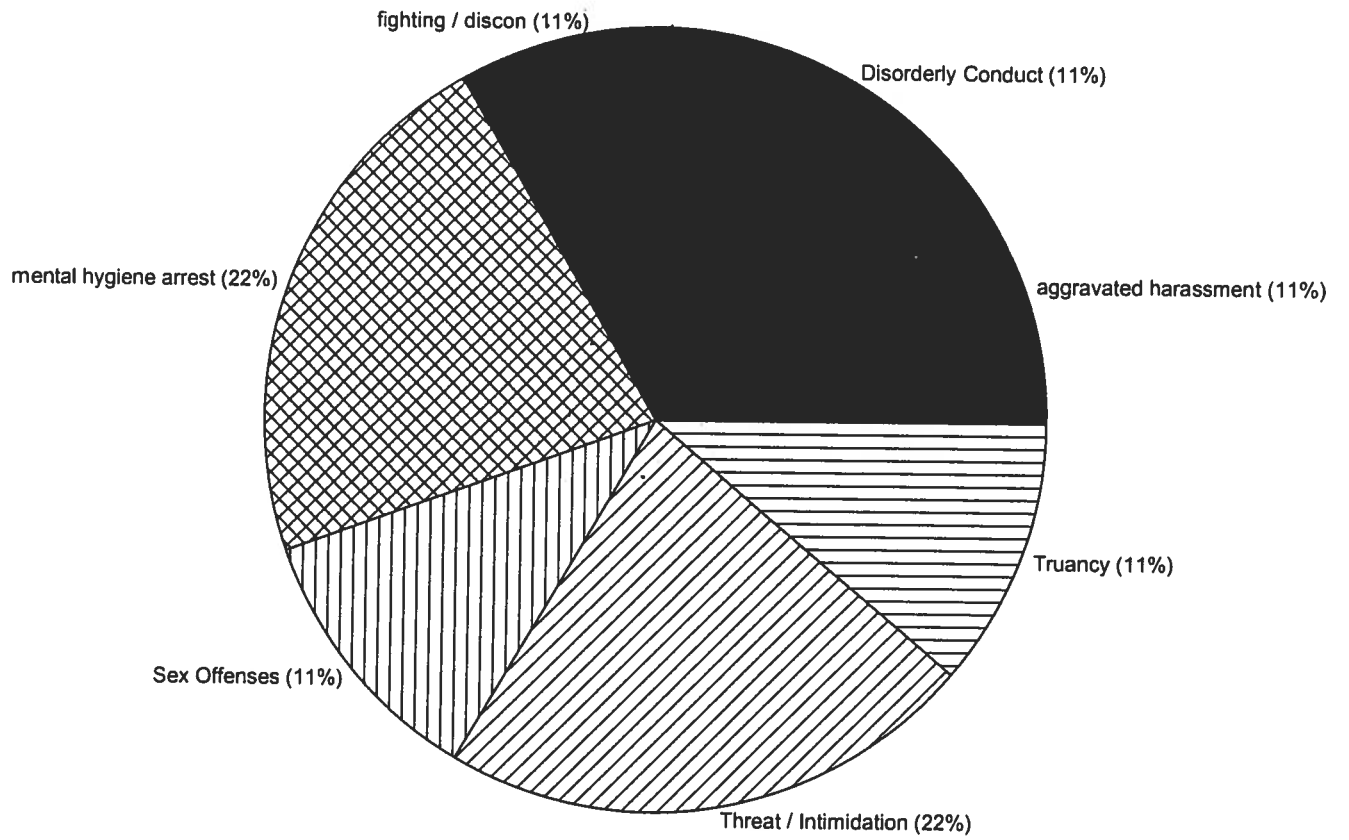
Fiscal Year 2016	9,888.33
Fiscal Year 2017	50,800.00
Fiscal Year 2018	55,900.00
Fiscal Year 2019	55,900.00
Fiscal Year 2020	55,900.00
Fiscal Year 2021	57,400.00
Fiscal Year 2022	55,300.00
Fiscal Year 2023	59,400.00
Fiscal Year 2024	57,200.00

ROOSEVELT & CROSS

Number of Incidents: 9

Incidents By Incident Type

11/01/15 - 11/30/15





AIA[®] Document B101[™] – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Eleventh day of November in the year Two Thousand Fifteen
(*In words, indicate day, month and year.*)

BETWEEN the Architect's client identified as the Owner:
(*Name, legal status, address and other information*)

North Rose-Wolcott Central School District
11631 Salter-Colvin Road
Wolcott, NY 14590
Telephone Number: 315-594-3141

and the Architect:
(*Name, legal status, address and other information*)

SWBR Architecture, Engineering & Landscape Architecture, P.C.
387 East Main Street
Rochester, NY 14604
Telephone Number: 585-232-8300

for the following Project:
(*Name, location and detailed description*)

North Rose-Wolcott Central School District
2016 Capital Improvement Project

This Agreement is based on the preliminary scope of work provided by the District on October 29, 2015 per Article 1.1.1.

SWBR Project No. 15830.00

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1, Initial Information: *(state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)*

§ 1.1.1 The Owner's program for the Project:

Leavenworth Middle School

- Flooring replacement
- Stair treads/flooring replacement, railing reconditioning
- Rated stair enclosures
- Corridor locker replacement
- First floor trench flooring infill
- Replace existing flag pole

North Rose Elementary School

- Flooring replacement
- Playground lighting
- Replace existing flag pole

North Rose High School

- Scoreboard and flagpole for softball and baseball fields
- Walkway and bridge to tennis courts

- Cracked sidewalk panel repairs at bus loop and west lot

Miscellaneous

- Security camera allowance
- Miscellaneous

§ 1.1.2 Deleted

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

Approximately \$1,100,000.00

§ 1.1.4 The Owner intends the following procurement or delivery method for the Project:

Competitive bid

§ 1.1.5 Estimates of the Cost of the Work will be provided by:

Architect

§ 1.1.6 The Owner will retain the following consultants and contractors:

None.

§ 1.1.7 The Architect will retain the following Consultants under Basic Services:

Structural Engineer

SWBR Architecture, Engineering & Landscape Architecture, P.C.
387 East Main Street
Rochester, NY 14604

Mechanical/Electrical Engineer

M/E Engineering, P.C.
150 North Chestnut Street
Rochester, NY 14604

Site/Civil Engineer

Appel Osborne Landscape Architecture
102 West Division Street, Suite 400
Syracuse, NY 13204

§ 1.1.8 Consultants retained under Additional Services:

None.

§ 1.1.9 Other Initial Information on which the Agreement is based:

None.

§ 1.2 Below is a schedule for the performance of the Architect's services. The schedule includes anticipated completion dates for various aspects of the Project described in the Initial Information. The schedule takes into account periods of time required for the Owner's review; for the performance of the Owner's consultants (if any), and for approval of submissions by authorities having jurisdiction over the Project. The time limits established by

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the schedule shall not, except by mutual agreement in writing, be exceeded by the Architect or Owner. The schedule of the Architect's services will be as follows:

.1 Design phase milestone dates:

- Schematic Design Phase _____
- Design Development Phase _____
- Construction Documents Phase _____
- SED Submission _____
- NYS Education Department Approval _____
- Bidding _____
- Bid Awards _____

Within two weeks of receiving approval from the New York State Education Department, the Architect will create a Project Schedule including anticipated completion dates for:

- Bid Opening
- Bid Awards
- Commencement of Construction
- Construction Milestones (as a part of a detailed construction schedule developed using predecessor logic software)
- Substantial Completion

.2 Commencement of Construction:

.3 Construction Milestones (as part of a detailed construction schedule developed using predecessor logic software)

.4 Substantial Completion date:

.5 Other:

This Project will take into account the Owner's school building use and programmatic needs.

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall plan for the necessary State Education Department review and approval.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. If at any time during the Project this representative becomes unacceptable to the Owner (on any lawful basis), the Architect will replace him/her with another representative who is mutually acceptable to the Owner and Architect.

§ 2.3.1 The Architect identifies the following representative(s) in accordance with Section 2.3:

- .1 Principal-In-Charge: Philip W. Wise, AIA
- .2 Project Manager: Joseph C. Kosiorek, AIA

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§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance, from insurers licensed in New York State, for the duration of this Agreement.

- .1 General Liability
\$1,000,000 each occurrence; \$2,000,000 aggregate
- .2 Automobile Liability
\$1,000,000 combined single limit
- .3 Workers' Compensation & State Disability Insurance
Statutory
- .4 Umbrella or Excess Liability Insurance
\$5,000,000 each occurrence; \$5,000,000 aggregate
- .5 Professional Liability
\$2,000,000 per claim; \$4,000,000 aggregate

§2.5.1 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements of this Section 2.5. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, Umbrella or Excess Liability Policies.

§2.6 The Architect acknowledges that the Owner is a school district which is subject to various laws and regulations of the State of New York. The Architect represents that it is familiar with such laws and regulations as they pertain to the design, bidding and construction of the Project including, but not limited to, the requirements of Article 5-A of the General Municipal Law (sections 100 & ff., "Public Contracts"); Article 9 of the Education Law (sections 401 & ff., "School Buildings and Sites"); and Sub-Chapter J, Part 155 of Title 8, Chapter II of the Codes, Rules and Regulations of the State of New York (Regulations of the Commissioner of Education, "Educational Facilities"), to the extent that they pertain to the Project. The Architect is familiar with the State Aid for School District Capital Projects and shall endeavor to maximize the School District's State Aid for this Capital Project. The Architect will exercise professional care and judgment to perform services in accordance with the requirements of these and other applicable laws, rules and regulations.

§2.7 The Architect and Owner agree that this Agreement is null and void unless and until the authorized voters of the School District approve a referendum authorizing the Board of Education to proceed with the Project.

§2.8 The Architect hereby represents to Owner that Architect is financially solvent and possesses sufficient experience, licenses, authority, personnel and working capital to complete the services required hereunder; that Architect has visited the site for the Project and reasonably familiarized itself with the local conditions under which the services required hereunder are to be performed and shall incorporate the observations in the performance of its services.

§2.9 The Architect with the assistance of the Owner, shall prepare, file, apply for and secure all licenses, approvals, permits and authorizations as may be required by the State Education Department and any other governmental authority or agency having any jurisdiction over or interest in the project, all within the required time limits, or shall

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where appropriate ensure that responsibility for the same is incorporated in the Construction Documents as an obligation of the appropriate Contractor. The Owner shall provide all information in its possession, and provide such other assistance, requested and reasonably required by the Architect to perform its obligations under this Paragraph.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services necessary to accomplish the Owner's program and complete the Project. The Architect shall advise the Owner if it believes that any additional consultants are required to complete the Project, at the earliest possible date. Moreover, the Architect will assist the Owner in the selection of consultants (e.g., construction managers), where appropriate.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of information furnished by the Owner. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of or has reason to believe there is any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner a schedule of the Architect's services consistent with Section 1.2 for inclusion in the Project Schedule. The schedule of the Architect's services shall include, among other things, design milestone dates, anticipated dates when cost estimates or design reviews will occur, and allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall prepare, file, apply for and secure all licenses, approvals, permits and authorizations as may be required by the State Education Department and any other governmental authority or agency having any jurisdiction over or interest in the project, all within the required time limits, or shall where appropriate ensure that responsibility for the same is incorporated in the Construction Documents as an obligation of the appropriate Contractor. The Owner shall provide all information in its possession, and provide such other assistance, requested and reasonably required by the Architect to perform its obligations under this Paragraph.

§ 3.1.7 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of government authorities having jurisdiction over the Project.

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall assist the Owner in the development of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 In the process described in paragraph 3.2.2, the Architect shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, and/or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings and described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents along with its written recommendation for design alternatives, material choices, building systems, equipment, etc., for the Owner's consideration and approval.

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update and advise the Owner of any changes to the estimate of the Cost of the Work and see to it that the estimate of the Cost of the Work does not exceed the amount approved by the District's voters in the voter referendum on this Project ("Referendum Amount"). Should the revised estimate exceed the Referendum Amount, the Architect will develop and provide to Owner Design Development Document alternatives which do not exceed the Referendum Amount.

§ 3.3.3 The Architect shall submit the Design Development Documents along with any Design Development Document alternatives and written recommendations as to how to proceed with the Work, to the Owner for review and approval.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawing and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the

construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals which the Architect shall review in accordance with Section 3.6.4

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 The Architect, after consultation with the Owner, shall be primarily responsible for preparation of necessary bidding information, bidding forms, the Conditions of the Contract and the form of the Agreement between Owner and Contractor.

§ 3.4.4 Deleted.

§ 3.4.5 The Architect shall submit a complete set of Construction Documents to the New York State Education Department's Facilities Planning Department ("FPD") for review and approval. The Architect shall also furnish a copy of that submission to the Owner. The Architect will advise the Owner of any necessary revisions to the Contract Documents mandated by FPD and any adjustments to the estimate Cost of the Work resulting from those revisions, seeing to it that the estimate does not exceed the Referendum Amount. Should the revised estimate exceed the Referendum Amount, the Architect will develop and provide to Owner Construction Document alternatives which do not exceed the Referendum Amount for review and approval. Should this require a resubmittal of Construction Documents to FPD, Architect will be responsible for same as detailed in Article 6.

§ 3.5 BIDDING PHASE SERVICES

§ 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining competitive bids in accordance with General Municipal Law, including without limitation the preparation of all notices and advertisements required thereby; (2) confirming responsiveness of bids; (3) determining the successful bid; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders. The Architect shall also advise the Owner of the acceptability of low bidders.

§ 3.5.3 Deleted.

(Paragraphs deleted)

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction, as amended. All references to AIA Document A201, General Conditions of the Contract for Construction, shall mean such General Conditions as they may be modified by the Owner by the Supplementary Conditions or otherwise. No

change to those General Conditions shall be binding upon the Architect unless the Architect has had an opportunity to review such change and did not object thereto in writing within five days.

§ 3.6.1.2 The Architect shall be a representative of and shall advise and consult with the Owner during construction until final payment to the Contractor is due and at the Owner's direction from time to time until ninety (90) days after the date of Substantial Completion of the Work. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates three (3) months after the date of Substantial Completion of the Work which in no event shall occur prior to the issuance by the New York State Department of Education of a final Certificate of Occupancy for the Project, for each building.

§3.6.1.4 To avoid delay in the Construction Phase, the Architect shall notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the delay or potential delay and make a written recommendation to the Owner regarding how to proceed with the Work in a timely fashion.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become familiar with the progress and quality of the portion of the Work completed, and to determine if the Work observed is being performed in a manner indicating that the Work, once completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor; (2) defects and deficiencies observed in the Work; and (3) make a written recommendation to the Owner as to how to proceed with the Work in light of these deviations, deficiencies, and/or defects.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing supplemented by drawings when appropriate. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be made only after consultation with the Owner and shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

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§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information, belief and professional judgment, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect. The Architect's certification on the Certificate of Payment shall read: "To the best of our knowledge, information, belief and professional judgment, the percentages of Work shown on this Application are completed. No judgment is made as to the value of this Work or the value of uncompleted Work."

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review and revise as necessary each Contractor's submittal schedule in order to adhere to the approved Project Schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Should a Contractor fail to make a required submittal or resubmittal (necessitated by the Architect's prior submittal rejection) and that failure could reasonably lead to a delay of the Work as set forth in the Project Schedule, the Architect shall notify the Owner of the facts and circumstances surrounding the matter and assist the Owner in taking steps necessary to compel the Contractor to make an acceptable submittal in a timely manner.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. To the extent permitted by New York State Law, the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents. The Architect's issuance of a final Certificate for Payment shall (in addition to anything set forth thereon or in connection therewith) constitute a representation by the Architect to the Owner that to the best of the Architect's knowledge and professional judgment: A) each Contractor has fully performed all Work required by the Contract Documents; B) all Work has been performed in a good and workmanlike manner; and C) each Contractor has submitted satisfactory evidence by way of affidavits that all liens have been paid and that all claims of subcontractors, laborers, material men and suppliers of all Contractors and subcontractors and their agents have been paid in full.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance. When applicable, the Architect shall assist the Owner in having warranty work performed by the appropriate party or parties (e.g., contractors, manufacturers, etc.). Such assistance may include, but is not limited to, notifying the appropriate individuals or corporations of their warranty obligations.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Unless otherwise indicated below as being included in Basic Services, Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
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§ 4.1.1	Programming	Not Provided	
§ 4.1.2	Multiple preliminary designs	Not Provided	
§ 4.1.3	Measured drawings	Not Provided	
§ 4.1.4	Existing facilities surveys	Not Provided	
§ 4.1.5	Site Evaluation and Planning (B203™-2007)	Not Provided	
§ 4.1.6	Building information modeling	Not Provided	
§		Not Provided	
<i>(Row deleted)</i>			
§ 4.1.8	Landscape design	Not Provided	
§		Not Provided	
<i>(Row deleted)</i>			
§ 4.1.10	Value Analysis (B204™-2007)	Not Provided	
§ 4.1.11	Detailed cost estimating	Not Provided	
§ 4.1.12	On-site project representation	Not Provided	
§ 4.1.13	Conformed construction documents	Not Provided	
§ 4.1.14	As-Designed Record drawings	Not Provided	
§ 4.1.15	As-Constructed Record drawings	Not Provided	
§ 4.1.16	Post occupancy evaluation	Not Provided	
§ 4.1.17	Facility Support Services (B210™-2007)	Not Provided	
§ 4.1.18	Tenant-related services	Not Provided	
§ 4.1.19	Coordination of Owner's consultants	Not Provided	
§ 4.1.20	Telecommunications/data design	Not Provided	
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	Not Provided	
§ 4.1.22	Commissioning (B211™-2007)	Not Provided	
§ 4.1.23	Extensive environmentally responsible design	Not Provided	
§ 4.1.24	LEED [®] Certificate Application (B214™-2007)	Not Provided	
§ 4.1.25	Fast-track design services	Not Provided	
§ 4.1.26	Historic Preservation (B205™-2007)	Not Provided	
§ 4.1.27	Furniture, Furnishings, and Equipment Design/Selection (B253™-2007)	Not Provided	
§ 4.1.28	Soils testing	Not Provided	
§ 4.1.29	Unusual foundation conditions	Not Provided	
§ 4.1.30	Geotechnical exploration and engineering	Not Provided	
§ 4.1.31	Topographic survey	Not Provided	
§ 4.1.32	Design of backflow prevention devices	Not Provided	
§ 4.1.33	NYS DEC storm water management inspections	Not Provided	
§ 4.1.34	NYSERDA energy modeling or services	Not Provided	
§ 4.1.35	Hazardous materials (including asbestos containing) surveys	Not Provided	
§ 4.1.36	3D architectural renderings or models	Not Provided	
§ 4.1.37	Marketing collaterals	Not Provided	
§ 4.1.38	Deleted		

§ 4.1.39 Notwithstanding anything to the contrary expressed elsewhere in Article 3, no architectural services made necessary, in whole or in part, by the fault or omission of the Architect to perform its duties under this Agreement shall be compensated as an Additional Service.

§ 4.2 Deleted.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation in accordance with a written amendment to this

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Agreement which addresses: 1) the scope of the work to be performed; 2) the Architect's fee for the same; and 3) the impact of the Additional Service(s) on the Project Schedule.

§ 4.3.1

(Paragraphs deleted)

Deleted.

§ 4.3.2

(Paragraphs deleted)

The services described in this Article 4 are not included in Basic Services unless so identified in Article 12. The services described in this Article shall only be provided if authorized in writing by the Owner; such authorization shall include the mutually agreed upon compensation or method for determining the compensation for such Additional Service. Owner shall be obliged to pay for any Additional Service only the amount determined in accordance with such prior written agreement.

§ 4.3.3

(Paragraphs deleted)

Deleted.

§ 4.3.4 Deleted.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall with the assistance of the Architect provide information in a timely manner regarding requirements for and limitations on the Project.

§ 5.2 The Owner and the Architect shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.3.1 The Owner identifies the following representative in accordance with Paragraph 5.3:

Mr. Robert Magin, School Business Administrator
North Rose-Wolcott Central School District
11631 Salter-Colvin Road
Wolcott, NY 14590

§ 5.3.2 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

None.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall compensate the Architect (as an additional service) to perform geotechnical services, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests,

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evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 Deleted.

§ 5.6.1 The Owner shall furnish the services of a qualified asbestos inspector to provide sampling and testing of suspected asbestos-containing building materials that are anticipated to be impacted by the proposed Work and to provide a pre-renovation asbestos survey which describes the test locations and results, the homogeneous areas, locations and quantities of the asbestos-containing building materials that are anticipated to be impacted by the proposed Work.

§ 5.6.2 The Owner shall furnish the services of a qualified asbestos inspector to provide sampling and testing of suspected PCB-containing and lead-containing building materials that are anticipated to be impacted by the proposed Work and to provide a pre-renovation PCB and lead survey which describes the test locations and results, the homogeneous areas, locations and quantities of the PCB-containing and lead-containing building materials that are anticipated to be impacted by the proposed Work.

§ 5.6.3 The Owner shall furnish the services of a qualified testing agency to provide special inspections and testing as required by Chapter 17 of the Building Code of New York State.

§ 5.6.4 The Owner shall furnish the services of a qualified asbestos project monitor and asbestos air monitor to provide asbestos monitoring and air sampling and analysis during asbestos abatement work as required by New York State Code Rule 56 and AHERA.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents when so notified by the Architect, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Deleted.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§5.13 Notwithstanding anything to the contrary in this Article 5, the Owner shall be required to furnish information or services described in this Article 5 only to the extent that such information or service is both reasonably required and actually requested by Architect in order to perform Architect's services under this Agreement.

ARTICLE 6 COST OF THE WORK

§ 6.1 The Cost of the Work is the sum of the Construction Cost. Project Cost Includes, but is not necessarily limited to, Construction Cost, the compensation of the Architect and the Architect's Consultants, Construction Manager compensation (if any), the cost of other project representation, costs of land, rights-of-way, financing costs, legal fees, other costs which can be listed as incidental costs under the rules and procedures of the State Education Department and those other costs associated with the Project which are the responsibility of the Owner as provided in Article 5. In no event shall Project Cost exceed the Referendum Amount.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 Pursuant to the Education Law, the Owner must obtain approval of the voters of the District for the Project Cost, and for the maximum Cost of the Work (sometimes referred to herein as the "Referendum Amount"). Voter approval is to be sought at a referendum to be held prior to the Bidding Phase, and if obtained shall constitute a fixed limit of Cost of the Work, and the Construction Cost portion thereof estimated in the latest estimate of Construction Cost and Cost of the Work made by the Architect and approved by the Owner from time to time shall constitute a fixed limit of Construction Cost.

§ 6.4 Deleted.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the lowest responsible bid, or the aggregate of the lowest responsible bids in the case of multiple prime contracts, submitted by qualified contractor(s), exceeds the fixed limit of Construction Cost, the Owner shall:

- .1 give written approval of an increase in such fixed limit (and corresponding reduction of other elements of the Cost of the Work);
- .2 authorize rebidding of the Project within a reasonable time;
- .3 terminate in accordance with paragraph 9.5;
- .4 cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

If the Project is bid in phases, then for purposes of this Paragraph 6.6, the fixed limit of Construction Cost shall mean the portion of Construction Cost which was established by the Architect and Owner for that part of the Project involved in such bid phase.

§ 6.7 If the Owner chooses to proceed under clause 6.6.4, the Architect shall make such modifications to the Construction Documents as may be necessary to bring the Contract Cost within the fixed limit, and shall perform such services with respect to approval of the State Education Department and to any rebidding processes as are required for the original bidding, all at no additional cost to the Owner. The Architect shall be entitled to compensation in accordance with this Agreement for all compensable services performed whether or not the Construction Phase is commenced.

§ 6.8 Deleted.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmission.

§ 7.2 Original drawings and specifications and other documents, including those in electronic form, are Instruments of Service which are the property of the Architect and/or the Architect's consultants; however, the Project is the property of the Owner, and Architect may not use the Instruments of Service for any purpose not relating to the Project without Owner's consent. Owner shall be furnished with such electronic and print reproductions of drawings and specifications as Owner may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article 9, Architect will revise drawings to reflect changes made during

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construction and, upon full payment of all sums due the Architect under this Agreement, will promptly furnish the Owner with one complete set of reproducible record prints. Additional prints shall be furnished, as an Additional Service, at any other time requested by Owner. All such reproductions shall be the property of the Owner who may use them without Architect's permission for any proper purpose relating to the Project, including, but not limited to, completion of the Project.

§ 7.3 The Owner shall not use or authorize any other person to use the Drawing, Specifications, electronic data and other instruments of service on other projects. Any such use without the Architect's professional involvement will be at the Owner's sole risk and without liability to the Architect.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 In the event the Owner chooses to complete the Work without the services of the Architect, the Owner shall be solely responsible thereafter for interpreting the Contract Documents and observing the Work of the Contractor to discover, correct or mitigate errors, inconsistencies or omissions. If the Owner authorizes any deviations, recorded or unrecorded, from the documents originally prepared by the Architect, the Owner shall not bring any claim against the Architect and shall indemnify and hold the Architect, its agents and employees harmless from and against claims, losses, damages, and expenses, including but not limited to defense costs and the time of the Architect, to the extent such claim, loss, damage or expense arises out of or results in whole or in part from such deviations.

§ 7.4.1 Deleted

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the time period specified by New York State law.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 Deleted

§ 8.2 MEDIATION

§ 8.2.1

The parties agree that prior to commencing a lawsuit against the other party with respect to any claim, dispute or other matter in question arising out of this Agreement, they will submit the issues in dispute to a mutually acceptable mediator for the purpose of seeking to resolve the dispute. If either party will be prejudiced by waiting until the mediation has conclude, then either party may proceed in accordance with applicable law to comply with filing deadlines prior to resolution of the matter by mediation.

(Paragraph deleted)

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American

Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint but, in such event, mediation shall proceed in advance of the litigation, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the
(Paragraphs deleted)
parties shall proceed to litigation in New York State Supreme Court for the County where the Project is located.

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

§ 9.7 Deleted.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

§ 9.9 Deleted.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of New York.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction as revised by the parties and contained in the Contract Documents.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement or any part thereof without the written consent of the other.

§ 10.4 Deleted.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.5.1 The Architect's services under this Agreement are being performed solely for the Owner's benefit, and no other entity shall have any claim against the Architect because of this Agreement or the performance or nonperformance of services hereunder. The Owner agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of this paragraph.

§ 10.6 The Architect is responsible to review the Owner's AHERA reports and to specify in the Design Documents the location of existing asbestos. Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site provided, however, that the Architect shall promptly advise the Owner in writing of the presence and location of any suspected hazardous materials or toxic substances of which the Architect becomes aware. Architect shall have no obligation under this provision to test materials or substances to determine whether they are hazardous materials or toxic.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 **Contractor and Subcontractor Indemnities:** The Owner will require any Contractor and Subcontractor performing the Work, to the fullest extent permitted by law, to hold harmless and indemnify the Owner and Architect, their officers, directors, and employees from all claims resulting from the Contractor's or Subcontractor's negligence in the performance of the Work.

§ 10.10 **Mutual Indemnity:** The Owner and the Architect both agree, to the fullest extent permitted by law, to indemnify and hold harmless the other, along with each other's officers, directors and employees against all damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the negligent acts, errors or omissions of the indemnifying party, or the indemnifying party's consultants, or any party for whose acts the indemnifying party is liable.

§ 10.11 **Facsimile Signatures:** Facsimile signatures shall be sufficient unless originals are required by a third party.

§ 10.12 **Form of Invoice:** The Architect's invoices shall display the following on the cover sheet: 1) The date of invoice; 2) the calendar interval covered by the Work invoiced; 3) the total for Basic Services; 4) the total for Reimbursables for the period invoiced. Other material, including recapitulations of previous invoices or payments (which shall be included on a separate page) may be included at the Architect's discretion, but shall be kept separate. Unless stipulated elsewhere in this Agreement, the Architect's invoices will not include backup, provided that such backup shall be furnished upon request of the Owner. A minimum charge of \$100 may be applied for each such request.

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§ 10.13 In the event that any term or provision, or part thereof, of this Agreement is held to be illegal, invalid or unenforceable under law, regulations or ordinances of any federal, state or local governments to which this Agreement is subject, such term or provision, or part thereof, shall be deemed served from this Agreement and the remaining term(s) and provision(s) shall remain unaffected thereby.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Compensation shall be a stipulated sum of Eighty-Five Thousand Dollars (\$85,000.00).

§ 11.2

(Paragraphs deleted)

Deleted.

§ 11.3

(Paragraphs deleted)

Deleted.

§ 11.4 Deleted.

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	\$15,000
Design Development Phase	\$20,000
Construction Documents Phase	\$25,000
Bidding Phase	\$4,000
Construction Evaluation Phase	\$21,000
<hr/> Total Basic Compensation	<hr/> \$85,000

§ 11.6 The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7

(Paragraphs deleted)

Deleted.

(Table deleted)

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and

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.11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10 %) of the expenses incurred.
Compensation for in-house expenses incurred by the Architect and personal expenses incurred by the Architect's employees in the interest of the Project shall be at cost.

§ 11.9 Deleted.

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1

§ 11.10.2

(Paragraphs deleted)

The Architect shall invoice the Owner on a monthly basis. The dollar amount of each invoice will vary depending upon which phase the Project is in (as set forth in Paragraph 11.5) and whether the phase has been completed on or before its anticipated completion date (as set forth in Paragraph 1.2). For example, during the Schematic Design Phase, the Architect may only invoice the Owner (in equal monthly installments) up to \$15,000 of its total fee for the Project (assuming that the stimulated sum set forth for that phase in paragraph 11.5 is \$15,000). In other words, if Paragraph 1.2 states that the Schematic Design Phase will be completed in three (3) months, the Architect will be permitted to invoice the Owner three (3) times, in equal amounts, totaling \$15,000 of its total Project fee. However, in the event that any phase of the Project (as outlined in Paragraph 11.5) is extended beyond its corresponding anticipated completion date (as set forth in Paragraph 1.2), the Architect shall not be permitted to invoice the Owner further until that phase is completed.

§ 11.10.3 Deleted.

§ 11.10.4 Records of Reimbursable Expenses shall be attached to the Architect's monthly invoices.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§ 12.1 During the course of construction, Architect shall schedule job meetings with representatives of the Owner, all Contractors and all other necessary parties once every other week or at such greater frequency as is appropriate to the stage and progress of construction.

§ 12.2 In the event that during the course of the construction any material believed to contain asbestos is discovered, the Architect shall arrange for immediate testing of such material at the Owner's expense.

§ 12.3 It is understood that any Clerk of the Works is retained by the Owner and is to protect the interests of the Owner during construction. The use of a Clerk of the Works by the Owner shall not diminish the responsibilities and obligations of the Architect in any way.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
 - .3 AIA Document A201-2007, General Conditions of the Contract for Construction
 - .4 Other documents:

Init.

(List other documents, if any, and additional scopes of service, if any, forming part of the Agreement.)

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

(Signature)

Robert Magin
School Business Administrator

(Printed name and title)

(Signature)

Philip W. Wise, AIA
Principal

(Printed name and title)

12-3-15

(Date signed)

(Date signed)

Init.