

# Board of Trustees Meeting Monday July 15, 2024 6:00 pm Community Room

Watch here: <a href="https://www.youtube.com/@bethlehempubliclibrary9609">https://www.youtube.com/@bethlehempubliclibrary9609</a>
Public comments can be submitted here: <a href="https://www.bethpl.org/contact-us/contact-the-director/">https://www.bethpl.org/contact-us/contact-the-director/</a>
Board packet information can be accessed here: <a href="https://www.bethpl.org/board-of-trustees/">https://www.bethpl.org/board-of-trustees/</a>

#### Agenda

- Call to order
- Trustee oaths of office (p. 2)
- Election of board officers (p. 3)
- Public participation
- Committee appointments
- Board annual authorizations (p. 4)
- Holidays and Closings (p. 5-6)
- Annual ethics/conflict of interest statement (p. 7)
- Review of previous meeting minutes (p. 8-14, p. 15)
- Financial report (p. 16-25)

Treasurer's update (p. 16)

Personnel report (p. 26)

**Personnel actions** 

- Director's report (p. 27-36)
- UHLS report
- New business
  - Other Post-Employment Benefits (OPEB) valuation contract (p. 37-43)
  - o Construction manager contract (p. 44-66)
  - Length of trustee terms discussion
  - Other new business
- Old business
  - o Building project update
  - Other old business
- Future business
- Public participation
- Executive session
- Adjournment

Next board meeting: Monday August 12th, 2024 Next Friends of the Library meeting: Monday August 19, 2024 6:30 pm



# ELECTED AND APPOINTED LIBRARY OFFICERS' OATH

I do solemnly swear (affirm) that I will support the Constitution of the United States of America and the Constitution of the State of New York, and that I will faithfully discharge, according to the best of my ability, the duties of the office of

# **Bethlehem Public Library Trustee**

name (please print)
residential address (please print)
signature
Sworn and subscribed before me this day of , ,
name and title of subscribing officer (please print)
signature of subscribing officer
hegipping date of subscribing officer's term

#### Slate of Board Officers

# Presented by the Nominating Committee

President: Mark Kissinger

VP: Michelle Walsh

VP: Caroline Brancatella

**UHLS: Lisa Scoons** 

Secretary: Sarah Patterson

#### **Board Authorizations 2024-25**

#### **Library Attorneys**

Roemer, Wallens, Gold & Mineaux, LLP

Nolan Heller Kauffman, LLP

Whiteman Osterman and Hanna, LLP

Bond, Schoneneck and King

The Law Office of Stephanie Adams PLLC

#### **Library Insurance Broker**

Amsure Associates Marshall and Sterling

#### **Library Auditors**

Marvin and Company (Last RFP 2019 – contract started July 2019)

#### Official Bank Depositories for Library Funds

TD Bank (Last RFP 2014 – contract started July 2014)

M&T Bank

Key Bank

**NBT** Bank

Pioneer Bank

#### **Official Newspapers**

The Spotlight Albany Times-Union

#### **Board Meeting Dates**

Official business – generally the second Monday of the month

Special meetings - called as needed

#### **Authorizations**

The Treasurer of the Board is to verify payrolls for the library.

A petty cash fund of \$100 is established.

The Treasurer, Account Clerk II and Director are authorized to enter into an agreement with TD Bank for electronic transfers of funds between library accounts effective July 1, 2014.

The following payroll-related transactions may be transferred electronically: IRS, NYS Tax, NYS Deferred Comp.

The Board authorizes payment of some time-sensitive bills by hand-drawn check between Board meetings.

Wire transfers between authorized financial institutions are allowed.

#### **Bonding**

The Director, Account Clerk II and Board Treasurer are bonded for \$1,000,000.

The Staff Assistant who prepares bank deposits is bonded for \$35,000.

The Messengers are bonded for \$35,000.

# Bethlehem Public Library Board Meetings 2025 (start time 6pm/DRAFT)

January 13

February 10

March 10

April 14 (conflict with Spring break and Passover)

May 12

June 9

July 14

August 11

September 8

October 14 (Tuesday)

November 10

December 8



# HOLIDAYS AND OTHER CLOSINGS DRAFT

2024			2025 proposed			
Monday, January 1	New Year's Day	Closed	Wednesday, January 1	New Year's Day	Closed	
Monday, January 15	MLK, Jr. Day	Open 9-9	Monday, January 20	MLK, Jr. Day	Open 9-9	
Monday, February 19	Presidents' Day	Open 9-9	Monday, February 17	Presidents' Day	Open 9-9	
Sunday, March 31	Easter Sunday	Closed	Sunday, April 20	Easter Sunday	Closed	
Saturday, May 25 Sunday, May 26 Monday, May 27	Memorial Day	Closed Closed Closed	Saturday, May 24 Sunday, May 24 Monday, May 26	Memorial Day	Closed Closed Closed	
Wednesday, June 19	Juneteenth	Closed	Thursday, June 19	Juneteenth	Closed	
CLOSED SUNDAYS IN JUL	Y AND AUGUST		CLOSED SUNDAYS IN JUL	Y AND AUGUST		
Thursday, July 4	Independence Day	Closed	Friday, July 4	Independence Day	Closed	
Saturday, August 31 Sunday, September 1 Monday, September 2 Sunday, September 8: SI	Labor Day JNDAY HOURS RESUME	Closed Closed Closed	Saturday, August 30 Sunday, August 31 Monday, September 1 Sunday, September 7: St	Labor Day JNDAY HOURS RESUME	Closed Closed Closed	
Monday, October 14	Columbus Day	Open 9-9	Monday, October 13	Columbus Day	Open 9-9	
Monday, November 11	Veterans Day	Open 9-9	Tuesday, November 11	Veterans Day	Open 9-9	
Wednesday, November 28 Thursday, November 28 Friday, November 29		Open 9-5 Closed Open 9-5	Wednesday, November 27 Thursday, November 27 Friday, November 28		Open 9-5 Closed Open 9-5	
Friday, December 6	Staff Development Day	Closed	Friday, December 5	Staff Development Day	Closed	
Tuesday, December 24 Wednesday, December 25	Christmas Eve Christmas Day	Closed Closed	Wednesday, December 24 Thursday, December 25	Christmas Eve Christmas Day	Closed Closed	
Tuesday, December 31 Wednesday, January 1, 202	New Year's Eve New Year's Day	Open 9-3 Closed	Wednesday, December 31 Thursday, January 1, 2026		Open 9-3 Closed	



# **ETHICS STATEMENT FOR LIBRARY TRUSTEES**

- Trustees, in the capacity of trust upon them, shall observe ethical standards with absolute truth, integrity and honor.
- Trustees must avoid situations in which personal interests might be served or financial benefits gained at the expense of library users, colleagues, or the situation.
- It is incumbent upon any trustee to disqualify himself/herself immediately whenever the appearance of a conflict of interest exists.
- Trustees must distinguish clearly in their actions and statements between their personal philosophies and attitudes and those of the institution, acknowledging the formal position of the board even if they personally disagree.
- Trustees must respect the confidential nature of library business while being aware of and in compliance with applicable laws governing freedom of information.
- Trustees must be prepared to support to the fullest the efforts of librarians in resisting censorship of library materials, programs and services by groups or individuals.
- Trustees who accept library board responsibilities are expected to perform all functions of library trustees.

I agree to abide by this ethics statement.

name (please print)		
signature	date	

Adopted by the Board of Directors of the American Library Trustee Association, July 1985 Adopted by the Board of Directors of the Public Library Association, July 1985 Amended by the Board of Directors of the American Library Trustee Association, July 1988 Amendment approved by the Board of Directors of the Public Library Association, January 1989

# MINUTES OF THE BOARD OF TRUSTEES MEETING BETHLEHEM PUBLIC LIBRARY (COMMUNITY ROOM) DRAFT Monday June 10, 2024

PRESENT: Caroline Brancatella

Laura DiBetta Mark Kissinger Sarah Patterson Lisa Scoons Michelle Walsh

Charmaine Wijeyesinghe

Sharon Whiting, library treasurer

Geoffrey Kirkpatrick, director Kristen Roberts, recording secretary

#### **EXCUSED:**

GUESTS: Jennifer Crawford, confidential secretary

Phil Berardi, assistant director/head of Circulation and Technical Services

Tanya Choppy, accounts clerk

Tracey McShane, personnel administrator

Chris McGinty, assistant director

Meredith Savitt Hazel Landa Leslie Hudson Jim Hudson Hazel Landa

Robert McDonald

Gail Sacco
Evelyn Loeb
Miles Garfinkel

Susanne Angarano, Ashley McGraw (virtual)

Elbert Eller, Ashley McGraw (virtual)

President M. Kissinger called the meeting to order at 5:57pm.

#### **PUBLIC PARTICPATION**

Four attendees addressed the board. A recording of the meeting and the public comment period is available on the library's YouTube channel.

#### REVIEW OF PREVIOUS MEETING MINUTES

On a MOTION by M. Walsh with a SECOND by C. Wijeyesinghe, the board unanimously approved the minutes from the Monday May 13 regular board meeting.

On a MOTION by C. Wijeyesinghe with a SECOND by M. Walsh, the board unanimously approved the minutes from the Tuesday June 4 special board meeting.

#### BUILDING PROJECT UPDATE - ARCHITECT'S PRESENTATION

- S. Angarano began the design update with a recap of the discussions leading up to this point in the design and planning process. Of note:
  - The design features three entrances, with the main entrance facing the parking lot, a second near the curbside pickup loop and a third located approximately where the current Delaware Avenue entrance stands.
  - The parking lot has an overall increase in spaces, including 6 EV charging spots and 6 accessible spots.
  - There would be an overall increase in library area by 52% to support patron volume and usage.
  - The lobby area features a lot of flexible space that could be adapted to future needs of the library.
  - A "living room" area would be located in the middle of the library where the Information Desk currently stands.
  - A fire protection system with sprinklers would be added based on the size of the project.
- C. Wijeyesinghe asked if the areas that needed improvements to meet building codes would be grandfathered in if the library were to not move ahead with the project. S. Angarano said that while it would be grandfathered in, she would recommend that the library address those issues. C. Wijeyesinghe asked if the board could get a list of those recommendations and the costs associated with addressing them.
- S. Angarano presented some new interior renderings of the design, saying the architects wanted to balance the geometric shapes with existing forms, using natural elements like wood to bring warmth to the existing brick elements. A variety of carpet and tile would help with the acoustics of the space and create visual interest. S.Angarano noted that the renderings were generated from the design concepts and imagery that people responded to in earlier focus groups. She said she welcomed any initial reactions and said the architects would begin revising the designs in the coming weeks.
- C. Wijeysinghe asked if the rendering of the children's area was a full view and noted that it looked kind of small. S. Angarano said that it is from the viewpoint of about two-thirds of the way into the space. M. Walsh agreed that it made the area look small and also not very childlike. C. Wijeyesinghe said she would like a view of the full space to better engage parents.
- M. Walsh asked if the updated design has eliminated the problem of pedestrians having to cross the curbside loop. S. Angarano said that maintaining the Delaware Avenue entrance would accomplish that, and the footpath doesn't connect around the building to discourage walking that way.
- M. Kissinger asked what the point of the pathway is if it just breaks off. S. Angarano said it was decorative and to encourage the use of the library's outdoor spaces.
- L. Scoons asked where the after-hours book drop would be located. E. Eller said it would be just south of the curbside window.

L. DiBetta said she loved the wood and natural elements and the brightness of the space. She said she would like to see more diversity of ages in the renderings, as well as someone who is using a wheel chair so that it could clearly show there is enough space between the stacks and other elements to maneuver. M. Kissinger said he would like to partner with an organization that could give the design a full disability review. C. Wijeyesinghe and L. DiBetta both noted that it might be time for a logo refresh. L. Scoons said the circles around the columns were perplexing.

#### FINANCIAL REPORT

*Treasurer's update* 

The board noted S. Whiting's treasurer's report. Additional items:

- The fiscal year will be closing out in a month. S. Whiting said there will be a surplus, but she is not yet sure how much.
- M. Walsh asked if the reason for the increase in spending on materials was because costs have risen. S. Whiting said it was more likely because there are more materials available to purchase.
- C. Brancatella said the biggest reason for the increase in overall spending is the bump in salaries. L. Scoons added that the library was also fully staffed.

On a MOTION by M. Walsh with a SECOND by S. Patterson, the board unanimously approved the Financial Statement dated 31 May 2024 (Checks disbursed in May 2024 based on pre-approval \$47,433.10; Checks disbursed in May 2024 relating to payroll \$303,037.58; Checks being submitted for approval \$113,348.11; CapProject Fund Checks \$190,304.57; Total: \$654,123.36).

#### PERSONNEL REPORT

The board noted the personnel report. G. Kirkpatrick said there are no personnel actions being requested at this time.

#### DIRECTOR'S REPORT

The board noted the director's report. Additional items:

- The library continues to experience very high attendance at early literacy programs. In summer, many will take place on the Green, but if they are held inside, they have to be in the Community Room because of the need for space. G. Kirkpatrick said this makes the room less available to the public, but programming for children is the priority.
- Museum pass circulation was up again. He noted that the print-on-demand passes allowed for 35 checkouts that would not have happened before because one checkout no longer takes the pass out of circulation for three or more days.
- Door count continues to climb.

#### **UHLS BOARD UPDATE**

L. Scoons said she would see everyone at UHLS annual celebration on Wednesday.

#### **EXECUTIVE SESSION**

On a MOTION by M. Kissinger with a SECOND by C. Wijeyesinghe, the board voted unanimously to enter into executive session at 7pm to discuss matters involving proposed, pending or current litigation.

On a MOTION by C. Brancatella with a SECOND by S. Patterson, the board voted unanimously to adjourn executive session at 7:26pm.

#### **NEW BUSINESS**

#### Public Meeting Room Policy

M. Kissinger noted that the policy would be effective July 1, 2024. C. Brancatella said that, since the last meeting, the draft had gone through two rounds of comments from staff and board members, taking into account public feedback, as well as additional review by the library's attorney.

She said the most significant modification is the expansion of the definition of a community organization that can bring in outside speakers. Such an organization would have to be either a registered 501c3, registered with the New York State Attorney General's Charities Bureau or a New York not-for-profit corporation. If a group does not fall under one of those categories, they can still be sponsored by one that does.

Other edits included some wording changes regarding the security provision and an opportunity to appeal a decision that an event require additional security.

- L. DiBetta said she wanted to add that there has been a lot of discussion surround the definition of a "community organization. She said the idea of a sponsoring organization is very common with grant programs, opening up opportunities for organizations that might not be otherwise eligible. She said her hope was that the expansive definition would be more inclusive.
- C. Wijeysinghe said that, in addition, any library cardholders can book a space for smaller meetings. She also noted that the policy would be reviewed quarterly so if the board finds that it is limiting people unfairly, then it can be revisted. M. Walsh said that there may be a learning curve with the new policy, but she believes it casts a wide net of inclusion. Library staff will begin preparing the required training module in advance of implementation. The cost for room rentals was still being discussed, but M. Kissinger said it would probably mirror what the school district does.

On a MOTION by C. Wijeyesinghe with a SECOND by C.Brancatella, the board voted unanimously to adopt the updated Meeting Room Policy with an implementation date of July 1, 2024.

#### *Code of Conduct – Resolution*

M. Kissinger said he was in attendance at the December 5 event hosted by the Bethlehem Neighbors for Peace. He said he witnessed a lot of bad behavior from people for and against the program both in the room and in the hallway. He noted that in the aftermath, two actions were taken. The first action, taken by the director, was to suspend the group for one year for the selling of books on library property, the group's third violation of the policy. That action was appealed to the board, and the board asked the director to consider the length of the suspension. The second action, taken by the Board of Trustees, was a motion to consider sanctions against the group for

violations of the Patron Conduct Policy. That motion has been under discussion since and is the reason for a resolution read into public record by M. Kissinger. (See attached.)

On a MOTION by M. Kissinger with a SECOND by C. Brancatella, the board voted to adopt a resolution that states that no sanctions will be imposed for violations of the Patron Conduct Policy at the Bethlehem Neighbors for Peace event on Dec. 5, 2023. C. Brancatella, L. DiBetta, M. Kissinger, S. Patterson, L. Scoons and C. Wijeyesinghe voted in favor. M. Walsh was opposed.

C. Brancatella thanked library staff for their significant effort in investigating complaints of harassment received that night. C. Wijeyesinghe said she thinks the resolution is good in terms of equity because some of the people from the evening are more recognizable than others and it wouldn't be fair to only take action against those who could be identified.

#### Construction manager

G. Kirkpatrick said the library received t very strong proposals, and the interview team had spoken to both and were recommending Schoolhouse Construction Services. M. Kissinger said Schoolhouse seemed to have a good understanding of the proposal. S. Whiting said they also came with the lowest bid. G. Kirkpatrick said that after board approval, a contract would be drawn up and would go to the library's attorney for review. C. Brancatella noted that the construction manager costs are part of the total project cost estimate.

On a MOTION by M. Walsh with a SECOND by C. Wijeyesinghe, the board voted to enter into a contract with Schoolhouse Construction Services for construction management for the library's proposed in the amount of \$1,642,500.

#### *M/C salaries 2024-25*

M/C staff are not covered under the five-year union contract, but G. Kirkpatrick typically recommends increases in line with the what is outlined in the contract. These salaries need to be approved each year.

On a MOTION by M. Walsh with a SECOND by L. DiBetta, the board voted unanimously to approve the 2024-25 salary schedule for management confidential employees not covered by the union contract.

#### Other new business

There was no other new business to discuss.

#### **OLD BUSINESS**

#### Building project update

G. Kikrpatrick said the SEQR process has begun, and the long assessment form is in progress and when complete will be part of the upcoming board packet. He said the board needs to pass a resolution stating that they intend to be the lead agency in the process and send out letters to other government agencies with a potential interest informing them of that intent. L. DiBetta noted that she would abstain from voting to avoid the appearance of a conflict of interest.

On a MOTION by C. Wijeyesinghe with a SECOND by S. Patterson, the board voted to pass a resolution declaring itself the lead agency in the SEQR review process. C. Brancatella, M. Kissinger, S. Patterson, L. Scoons, M. Walsh and C.Wijeyesinghe voted in favor. L. DiBetta abstained.

Animals in the Library Policy – second read

C. Wijeyesinghe said the policy revisions consisted mostly of minor edits and modernizing the language.

On a MOTION by S. Patterson with a SECOND by M. Walsh, the board voted to unanimously to approve updates to the Animals in the Library Policy.

Community Bulletin Board and Literature Rack Policy – second read

L. DiBetta said she had some concern is that the policy was too restrictive on who can post information and that a lot of groups could end up being excluded because of it. She said she understands the desire to be consistent with the meeting room policy but she would like to discuss it further and see if more inclusive language could be used. She noted that she has had two events at her Little Free Library that would not be eligible because it is not a registered 501c3 or charity. She worried that student and parent groups could end up be excluded too. G. Kirkpatrick recommended that the board table the discussion.

On a MOTION by M. Kissinger with a SECOND by C. Brancatella, the board voted to unanimously to table the discussion of the Community Bulletin Board and Literature Rack Policy until a later date.

Meeting Room Policy violation — update

G. Kirkpatrick said that he had taken into consideration the trustees' direction to re-evaluate the length of the suspension of Bethlehem Neighbors for Peace for their third violation of the Public Meeting Room Policy. He said the only other action to base the decision on had previously been for a no call, no show violation, which is a year suspension. He said he has given careful thought to the request and has decided to shorten the suspension, allowing it to expire on July 1, when the new Public Meeting Room Policy is enacted, and contingent on the group's completion of the training module. C. Brancatella asked that G. Kirkpatrick send a copy of the communication he would be sending to the organization.

Other old business

There was no other old business at this time.

#### **FUTURE BUSINESS**

There was no future business at this time.

#### PUBLIC PARTICIPATION

One attendee addressed the board. A recording of the meeting and the public comment period is available on the library's YouTube channel.

#### **ADJOURNMENT**

On a MOTION by C. Wijeyesinghe with a SECOND by L. DiBetta, the board voted

unanimously to adjourn the regular meeting at 7:57pm.

Prepared by Kristen Roberts, recording secretary Cosigned by M. Kissinger, board president

# **Appendix**

WHEREAS, on December 5, 2023, the community group Bethlehem Neighbors for Peace (the "Group") hosted an event (the "Event") at the Bethlehem Public Library (the "Library"); and

WHEREAS, on December 5, 2023 while the Event was ongoing, the Library Director ejected two (2) individuals from the Event on the basis of violation of the Library's Patron Conduct Policy, but was unable to fully respond to all instances of unauthorized behavior during the Event; and

WHEREAS, in response to specific complaints from Library patrons, on December 11, 2023, the Library Board of Trustees (the "Board") passed a resolution to consider sanctions against the Group related to the conduct of individuals at the Event in violation of the Library's policies, including the Patron Conduct Policy (the "December Resolution"); and

WHEREAS, after receiving additional complaints regarding the conduct of individuals at the Event, the Library has investigated such complaints and reviewed the behavior of additional individuals at the Event in relation to the Patron Conduct Policy; and

WHEREAS, upon such investigation and review, the Library found numerous additional instances of patron behavior at the Event that were in violation of the Library's Code of Conduct; and

WHEREAS the Library is not able to determine the identity of all individuals in violation of the Library's Patron Conduct Policy or potentially in violation of the Library's Patron Conduct Policy at the Event; and

WHEREAS, the Library has concluded that it is not able to equitably impose sanctions against all individuals who acted in violation of the Patron Conduct Policy at the Event; NOW THEREFORE

BE IT RESOLVED, in the interest of equitable application of its policies, no sanctions will be imposed by the Board on the Bethlehem Neighbors for Peace pursuant to the December Resolution; and

BE IT FURTHER RESOLVED, also in the interest of equitable application of its policies, the Board shall impose no further sanctions against anyone in attendance the night of the Even based on violations of the Code of Conduct at the Event.

# MINUTES OF THE BOARD OF TRUSTEES MEETING BETHLEHEM PUBLIC LIBRARY (STORY HOUR ROOM) DRAFT Tuesday June 18, 2024

PRESENT: Caroline Brancatella

Laura DiBetta Mark Kissinger Sarah Patterson Lisa Scoons Michelle Walsh

Geoffrey Kirkpatrick, director

#### **EXCUSED:**

GUESTS: Phil Berardi, assistant director/head of Circulation and Technical Services

Chris McGinty, assistant director

Susanne Angarano, Ashley McGraw (virtual)

President M. Kissinger called the meeting to order at 6:03pm.

#### PUBLIC PARTICPATION

There was no public participation at this time.

#### PRESENTATION BY ASHLEY MCGRAW ARCHITECTS

The board discussed element of the building project design. No action was taken.

#### PUBLIC PARTICIPATION

There was no public participation at this time.

#### **ADJOURNMENT**

On a MOTION by M. Kissinger with a SECOND by S. Patterson, the board voted unanimously to adjourn the meeting at 8:25pm.

Prepared by Cosigned by

Kristen Roberts, recording secretary M. Kissinger, board president

# **Treasurer's Report**

#### **July 2024**

#### Revenue and Expense Report

The revenue and expense report for the fiscal year ended June 30, 2024 shows net revenue of \$441,704, Contributing to this surplus are \$154,000 in interest earned over the amount that was budgeted, \$115,000 in unused capital expenditures and contingency, and \$155,000 in unused salaries and benefits. There will be a few year-end adjustments such as accrued payroll and other accrued expenses that will likely reduce net revenue somewhat. Salaries and benefits are 4.5% under budget and total expenses are 5.4% under budget for the year.

Sharon Whiting CPA District Library Treasurer

#### **CASH & INVESTMENTS SUMMARY**

# AS OF 6/30/24

	BALANCE					BALANCE
	5/31/2024	RECEIPTS	DISBURSEMENTS	EARNINGS	TRANSFERS	6/30/2024
			/			
TD Bank General Fund	431,048.36	3,840.56	(233,099.23)	(175.34)	5,469.73	207,084.08
TD Bank Payroll	0.00		(134,530.27)	-	134,530.27	0.00
TD Bank Money Market	1,695,104.59	-		3,769.75	(300,000.00)	1,398,874.34
TD Bank Treasury Bill	1,083,547.86		-	4,701.26	-	1,088,249.12
TD Bank Capital Project Fund	33,903.86	=	(190,304.57)		160,000.00	3,599.29
TD Bank 6 mo. CD Opened 5/7/24	1,003,597.26			4,165.62	-	1,007,762.88
TD Bank 3 mo. CD Opened 5/7/24	541,976.97			2,280.76	-	544,257.73
Key Bank Checking	13,811.49	2,194.87	(146.26)		<u>-</u>	15,860.10
TOTAL:	4,802,990.39	6,035.43	(558,080.33)	14,742.05	-	4,265,687.54

Checks outstanding greater than 90 days old:

General Fund cash balance includes \$18,632\* of Storch Fund money \*Includes Friends match for 2023

# **REVENUE & EXPENSE REPORT**

# **12 MONTHS ENDED 6/30/24**

FISCAL YEAR 2023-2024

	ANNUAL BUDGET 2023-2024	YTD ACTUAL 12 MO. ENDED 6/30/2024	Percent YTD 6/30/2024	ANNUAL BUDGET 2022-2023	YTD PRIOR 12 MO. ENDED 6/30/2023	Percent YTD 6/30/2023
Real Property Taxes	4,401,969	4,401,969	100.0%	4,308,076	4,308,564	100.0%
PILOT	241,523	239,259	99.1%	227,724	233,871	102.7%
Fines	3,000	2,381	79.4%	2,000	3,618	180.9%
Interest on Deposits	52,000	205,950	396.1%	6,000	127,645	2127.4%
Lost Book Payments	7,500	12,348	164.6%	2,500	10,735	429.4%
Friends of BPL Contributions	-	7,903	0.0%	-	· -	0.0%
Gifts and Donations, Misc	4,000	19,204	480.1%	3,500	11,183	319.5%
Photocopier	7,000	12,134	173.3%	6,500	9,762	150.2%
State Aid	26,000	25,367	97.6%	24,500	25,309	103.3%
Grants	-	-	0.0%	-	-	0.0%
Miscellaneous Income	-	1,125	0.0%	-	1,066	0.0%
Total Revenue	4,742,992	4,927,640	103.9%	4,580,800	4,731,753	103.3%
EXPENSES						
Salaries	2,547,087	2,453,945	96.3%	2,444,929	2,314,617	94.7%
Retirement	280,440	263,799	94.1%	237,333	240,368	101.3%
Health Insurance	372,300	350,814	94.2%	364,700	357,684	98.1%
Other Benefits	227,365	203,780	89.6%	219,538	191,379	87.2%
Subtotal Salaries & Benefits	3,427,192	3,272,339	95.5%	3,266,500	3,104,048	95.0%
Library Materials - Print	292,000	297,477	101.9%	290,000	226,557	78.1%
Library Materials - Electronic & Audio	283,000	290,741	102.7%	296,000	318,730	107.7%
Subtotal Library Material	575,000	588,218	102.3%	586,000	545,287	93.1%
Operations	605,800	604,906	99.9%	593,300	558,503	94.1%
Capital Expenditures	100,000	20,473	20.5%	100,000	18,801	18.8%
Contingency	35,000	<u> </u>		35,000	<u> </u>	
Total Expenses	4,742,992	4,485,936	94.6%	4,580,800	4,226,638	92.3%
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#### **EXPENSES REPORT - DETAIL**

#### 12 MONTHS ENDED 6/30/24

FISCAL YEAR 2023 - 2024

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	ANNUAL BUDGET	YTD ACTUAL	Percent YTD	ANNUAL BUDGET	YTD PRIOR	Percent YTD
	2023-2024	12 MO. ENDED 6/30/2024	6/30/2024	2022-2023	12 MO. ENDED 6/30/2023	6/30/2023
	2023-2024	0/30/2024	0/30/2024	2022-2023	0/30/2023	0/30/2023
Salaries & Benefits						
Salaries-Librarians	1,178,184	1,220,560	103.6%	1,174,134	1,137,381	96.9%
Salaries-Support Staff	1,190,063	1,053,420	88.5%	1,108,487	1,010,895	91.2%
Salaries-Custodians	178,840	179,965	100.6%	162,308	166,341	102.5%
Subtotal Salaries	2,547,087	2,453,945	96.3%	2,444,929	2,314,617	94.7%
Retirement	280,440	263,799	94.1%	237,333	240,368	101.3%
Health Ins.	372,300	350,814	94.2%	364,700	357,684	98.1%
SocSec/Medicare	194,865	182,283	93.5%	187,038	168,670	90.2%
Worker's Comp.	20,000	9,735	48.7%	20,000	12,370	61.8%
Unemployment	10,000	11,083	110.8%	10,000	9,072	90.7%
Disability Ins.	2,500	679	27.1%	2,500	1,267	50.7%
Subtotal Salaries & Benefits	3,427,192	3,272,339	95.5%	3,266,500	3,104,048	95.0%
Library Materials						
Adult books	171,000	188,992	110.5%	171,000	139,189	81.4%
Periodicals	21,000	11,390	54.2%	19,000	11,567	60.9%
YS Books	85,000	80,550	94.8%	85,000	62,450	73.5%
Special Collections	15,000	16,546	110.3%	15,000	13,351	89.0%
Subtotal Print Materials	292,000	297,477	101.9%	290,000	226,557	78.1%
Audiobooks	20,000	23,731	118.7%	23,000	22,848	99.3%
E-Collections	196,000	193,600	98.8%	196,000	224,284	114.4%
Electronic Resources	31,000	48,076	155.1%	27,000	41,744	154.6%
YS Audiobooks	4,000	4,362	109.0%	5,000	5,340	106.8%
YS Media	2,000	1,347	67.3%	5,000	1,951	39.0%
AS Media	30,000	19,626	65.4%	40,000	22,561	56.4%
Subtotal Electronic & Audio	283,000	290,741	102.7%	296,000	318,730	107.7%
Subtotal Library Materials	575,000	588,218	102.3%	586,000	545,287	93.1%
0						
Operations Copiers and supplies	15,000	13,183	87.9%	15,000	11,642	77.6%
Office supplies	20,000	13,511	67.6%	20,000	13,467	67.3%
Custodial supplies	20,000	19,574	97.9%	26,000	18,134	69.7%
Postage	22,000	19,574	88.9%	20,000	17,215	86.1%
Printing & Marketing	35,000	46,272	132.2%	35,000	27,692	79.1%
	4,000	1,892	47.3%	4,000	571	14.3%
Van lease & oper. Gas and Electric	75,000	59,267	79.0%	65.000	74,959	115.3%
Telecom & Cloud Svcs						
	24,000	24,259	101.1%	14,000	26,518	189.4%
Water	3,000	2,667	88.9%	3,000	3,169	105.6%
Taxes-sewer & water	3,400	2,871	84.4%	3,400	3,336	98.1%
Refund property taxes	5,000 30.000	3,275	65.5%	7,500	99 39.634	1.3%
Prof. Services		30,613	102.0%	30,000		
Contract Services	50,000	45,126	90.3%	45,000	42,571	94.6%
Insurance	30,000	29,581	98.6%	29,000	25,739	88.8%
Bank Fees	1,400	1,808	129.1%	1,400	1,566	111.9%
Travel/Conference	3,500	8,569	244.8%	3,000	3,387	112.9%
Memberships	3,000	3,068	102.3%	3,000	3,789	126.3%
Special Programs	35,000	47,660	136.2%	32,000	25,829	80.7%
Furniture & Equipment	30,000	25,360	84.5%	40,000	28,524	71.3%
IT Hardware & Software	50,000	55,939	111.9%	42,000	45,637	108.7%
Bld & Grnd. Repair	40,000	43,630	109.1%	40,000	24,676	61.7%
Furn/Equip Repair	2,000	3,157	157.8%	2,000	290	14.5%
Miscellaneous Audit Service	6,500 24,000	9,388 19,250	144.4% 80.2%	6,000 24,000	10,250 22,900	170.8% 95.4%
Accounting Service	24,000	19,706	98.5%	30,000	33,521	111.7%
UHLAN fees	54,000	55,726	103.2%	53,000	53,385	100.7%
Subtotal Operations	605,800	604,906	99.9%	593,300	558,503	94.1%
Capital Expenditures	100,000	20,473	20.5%	100,000	18,801	18.8%
Contingency	35,000	-	0.0%	35,000	-	0.0%
TOTAL	4,742,992	4 40E 02E	94.6%	4,580,800	1 226 620	92.3%
IUIAL	4,742,992	4,485,936	94.0%	4,580,800	4,226,638	92.3%

# **DISBURSEMENTS SUMMARY**

CHECKS DISBURSED IN JUNE 2024 BASED ON PRE-APPROVAL	\$ 57,802.88
CHECKS DISBURSED IN JUNE 2024 RELATING TO PAYROLL	\$ 196,478.51
CHECKS BEING SUBMITTED FOR APPROVAL	\$ 137,694.79
CHECKS BEING SUBMITTED FOR APPROVAL - CAPITAL PROJECT FUND	\$ 140,990.01





Check #	Check Date \	Vendor ID Vendor Name	PO Number	Check Amount
42048	06/01/2024	1424 AFLAC NEW YORK		220.04
42049	06/01/2024	1831 CDPHP UNIVERSAL BENEFITS, INC.		33,777.66
42050	06/01/2024	2395 CSEA EMPLOYEE BENEFIT FUND		192.13
42051	06/01/2024	2061 UNITED HEALTHCARE INSURANCE CO		168.67
42052	06/03/2024	2340 T-MOBILE	240018	1,020.54
42053	06/03/2024	1161 TOWN OF BETHLEHEM	240633	575.55
42054	06/03/2024	1581 UNITED STATES POSTAL SERVICE	*See Detail Report	1,592.62
42055	06/03/2024	632 UPPER HUDSON LIBRARY SYSTEM	240637	560.00
42056	06/03/2024	1607 VERIZON BUSINESS FIOS	240003	199.99
42057	06/03/2024	1607 VERIZON BUSINESS FIOS	240003	89.00
42111	06/10/2024	1865 FLEURY RISK MANAGEMENT LLC		1,884.90
42112	06/10/2024	2113 NYSIF DISABILITY BENEFITS		1,383.18
42113	06/10/2024	559 STATE INSURANCE FUND		14,117.25
42114	06/10/2024	2137 WEX BANK	240598	51.20
42116	06/24/2024	2426 JPMORGAN CHASE BANK NA	*See Detail Report	1,570.15
42117	06/24/2024	2408 SUSANNAH STRUMFELD	240665	400.00
Number o	of Transactions: 16		Warrant Total:	57,802.88
			Vendor Portion:	57,802.88

<sup>\*</sup>See Detail Report denotes that multiple purchase orders are referenced on this check. Run the Detail report to view the purchase order information

	Certification of Warrant	
	by certify that I have verified the above claims, reby authorized and directed to pay to the claimants cer und.	in number, in the total amount of ified above the amount of each claim allowed
Date	Signature	Title

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Check #	Check Date	Vendor ID Vendor Name	PO Number	Check Amount
42110	06/14/2024	712 CIVIL SERVICE EMPL ASSOC INC.		906.86
42115	06/28/2024	712 CIVIL SERVICE EMPL ASSOC INC.		906.86
100894	06/14/2024	709 BPL SPECIAL PAYROLL ACCOUNT		66,014.11
100895	06/14/2024	710 NYS INCOME TAX BUREAU		3,779.84
100896	06/14/2024	1946 IRS - PAYROLL TAX PMT		21,158.73
100897	06/14/2024	2003 NEW YORK STATE DEFERRED		2,965.37
100898	06/28/2024	709 BPL SPECIAL PAYROLL ACCOUNT		68,516.16
100899	06/28/2024	710 NYS INCOME TAX BUREAU		3,855.40
100900	06/28/2024	730 NYS EMPLOYEES RETIREMENT SYSTE		3,687.53
100901	06/28/2024	1946 IRS - PAYROLL TAX PMT		21,696.11
100902	06/28/2024	2003 NEW YORK STATE DEFERRED		2,991.54
Number o	of Transactions: 11	ı	Warrant Total:	196,478.51
			Vendor Portion:	196,478.51

#### **Certification of Warrant**

	eby certify that I have verified the above claims, ereby authorized and directed to pay to the claimants co fund.	in number, in the total amount of ertified above the amount of each claim allowed
Date	Signature	Title

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# Check Warrant Report For A - 2: BILL SCHEDULE - JUL 24 For Dates 7/16/2024 - 7/16/2024



Check #	Check Date	Vendor ID Vendor Name	PO Number	Check Amount
42129	07/16/2024	1531 A-J LAWN SPRINKLER CO., INC.		170.00
42130	07/16/2024	2488 ALAN OKUN	250024	300.00
42131	07/16/2024	30 ALBANY PUBLIC LIBRARY-MAIN BR		17.00
42132	07/16/2024	2420 AMAZON CAPITAL SERVICES INC		1,165.94
42133	07/16/2024	2457 AQUATIC ALLIES	250001	70.00
42134	07/16/2024	77 BAKER & TAYLOR , INC.		29,844.73
42135	07/16/2024	1681 BERNE PUBLIC LIBRARY		9.00
42136	07/16/2024	117 CAPITAL EAP C/O FAMILY & CHILDREN'S SERVICE OF CAP REG INC.	250021	553.13
42137	07/16/2024	697 CAPITAL REGION BOCES	250015	19,723.23
42138	07/16/2024	827 PHYLLIS CHAMBERS		524.10
42139	07/16/2024	2459 CHLOE WHITTAKER	250030	200.00
42140	07/16/2024	2487 COLLAR CITY MUSHROOMS DE, LLC	250034	100.00
42141	07/16/2024	2487 COLLAR CITY MUSHROOMS DE, LLC	250034	100.00
42142	07/16/2024	2111 COMMUNITY MEDIA GROUP		104.00
42143	07/16/2024	2078 COUNTY WASTE & RECYCLING SERVICE, INC.		800.23
42144	07/16/2024	634 CSLP		61.32
42145	07/16/2024	2428 DANIEL MAY	250027	40.00
42146	07/16/2024	2492 DAVID GRAPKA	250033	550.00
42147	07/16/2024	1220 DEMCO, INC		3,090.58
42148	07/16/2024	1981 DUDLEY OBSERVATORY	250025	150.00
42149	07/16/2024	1991 EASTERN MANAGED PRINT NETWORK LLC	250005	1,004.58
42150	07/16/2024	1986 FIRSTLIGHT FIBER	250006	381.80
42151	07/16/2024	1965 PATRICIA GEROU		524.10
42152	07/16/2024	787 GUILDERLAND PUBLIC LIBRARY	250040	79.93
42153	07/16/2024	745 MARY HARTMAN		524.10
42154	07/16/2024	2489 ISRAEL SINGER	250026	300.00
42155	07/16/2024	310 JANWAY COMPANY		1,715.38
42156	07/16/2024	2322 KANOPY INC.	250014	1,141.00
42157	07/16/2024	1155 LAKESHORE LEARNING MATERIALS		68.99
42158	07/16/2024	2201 LANE PRESS OF ALBANY	250035	6,615.00
42159	07/16/2024	2491 LAURIE A. MCINTOSH	250032	350.00
42160	07/16/2024	2127 MASS MoCA	250044	275.00
42161	07/16/2024	1024 MIDWEST TAPE LLC	250037	5,058.09
42162	07/16/2024	1172 ANNE B MOSHER		524.10
42163	07/16/2024	2493 NATALYA SUKHONOS	250036	100.00
42164	07/16/2024	1654 NORTH GREENBUSH PUBLIC LIBRARY		25.00
42165	07/16/2024	2088 NYSID		235.71
42166	07/16/2024	2121 NYSPSP		101.74
42167	07/16/2024	1742 BARRY O'KEEFE	250023	200.00
42168	07/16/2024	2094 OTC BRANDS, INC.		382.54
42169	07/16/2024	1823 OVER DRIVE INC.		19,881.22
42170	07/16/2024	450 PHILLIPS HARDWARE INC		107.39
42171	07/16/2024	458 PITNEY BOWES INC		248.92
42172	07/16/2024	2430 PLAYAWAY PRODUCTS LLC		2,385.01
42173	07/16/2024	1210 PROQUEST LLC		1,803.68

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Check #	Check Date	Vendor ID Vendor Name	PO Number	Check Amount
42174	07/16/2024	478 QUILL.COM		122.01
42175	07/16/2024	1490 REPEAT BUSINESS		89.54
42176	07/16/2024	2421 SENTRON ASSOCIATES INC.		434.96
42177	07/16/2024	2482 SPRINGSHARE LLC	250039	37.30
42178	07/16/2024	2038 STAPLES BUSINESS ADVANTAGE	250038	270.42
42179	07/16/2024	1784 GEORGE STEELE	250029	250.00
42180	07/16/2024	2154 STERICYCLE, INC.	250008	21.99
42181	07/16/2024	2211 STORM KING ART CENTER	250046	250.00
42182	07/16/2024	2340 T-MOBILE		1,023.40
42183	07/16/2024	2437 THE CORNER GATEWAY, LLC		174.00
42184	07/16/2024	2307 TRANE U.S. INC.		3,436.00
42185	07/16/2024	2312 ULYSSES S. GRANT COTTAGE	250045	100.00
42186	07/16/2024	2448 UNCHARTED WILD C/O ADAM BORNT	250028	600.00
42187	07/16/2024	2328 UNIFIRST CORPORATION	250009	307.30
42188	07/16/2024	632 UPPER HUDSON LIBRARY SYSTEM	*See Detail Report	27,705.27
42189	07/16/2024	1607 VERIZON BUSINESS FIOS	250018	199.99
42190	07/16/2024	1607 VERIZON BUSINESS FIOS	250018	89.00
42191	07/16/2024	1968 VERIZON WIRELESS	250002	100.43
42192	07/16/2024	746 VOORHEESVILLE PUBLIC LIBRARY	250041	11.99
42193	07/16/2024	645 W W GRAINGER INC		856.66
42194	07/16/2024	1593 WILLIAM K. SANFORD LIBRARY	250042	7.99
Number o	of Transactions: 6	6	Warrant Total:	137,694.79
			Vendor Portion:	137,694.79

<sup>\*</sup>See Detail Report denotes that multiple purchase orders are referenced on this check. Run the Detail report to view the purchase order information

#### **Certification of Warrant**

	eby certify that I have verified the above claims, ereby authorized and directed to pay to the claimants c	in number, in the total amount of ertified above the amount of each claim allowed
and charge each to the proper	, , ,	
Date	Signature	Title

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Date





Title

Check Date	Vendor ID Vendor Name	PO Number	Check Amount
07/16/2024	1570 NATIONAL GRID		1,000.00
07/16/2024	2424 ASHLEY MCGRAW ARCHITECTS		139,990.01
f Transactions: 2		Warrant Total:	140,990.01
		Vendor Portion:	140,990.01
	Certification of Warrant		
You are h	ereby authorized and directed to pay to the claimants co		
	07/16/2024 07/16/2024  f Transactions: 2  strict Treasurer: I her	07/16/2024 2424 ASHLEY MCGRAW ARCHITECTS  f Transactions: 2  Certification of Warrant strict Treasurer: I hereby certify that I have verified the above claims,	07/16/2024 1570 NATIONAL GRID 07/16/2024 2424 ASHLEY MCGRAW ARCHITECTS  f Transactions: 2  Certification of Warrant  ctrict Treasurer: I hereby certify that I have verified the above claims, in number, in the total amount of You are hereby authorized and directed to pay to the claimants certified above the amount of each claim al

Signature

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	Meeting									
t	Current			Previous or		ВОТ				
Dept.	Hours to be Approved	Former Hours if Changed	Salary/Rate	Current Incumbent	End Date	Approved to Fill	Status	Name	Start Date	Туре
to Fill										
Circulation			\$18 19/hour or ner							
Services	11 hrs/wk		contract	E. Romero	2/28/2021	3/8/2021				
Circulation	•		\$18.19/hour or per			, ,				
Services	15 hrs/wk		contract	A. Russo	8/15/2021	10/12/2021				
Collection										
Maintenance	12.8 hrs/wk		\$15.00/hour	M. Mitchel	5/11/2022	5/9/2022				
	_									
Maintenance	6 hrs/wk		\$15.00/hour	D. Bloom	8/30/2023	9/11/2023				
Collection										
Maintenance	9.8 hrs/wk		\$15.00/hour	S. Iambriaco	8/7/2024					
	,		\$43,040/annual or							
Public Services	35 hrs/wk		per contract	A. Wang	7/26/2024					
			\$23.65/hour or per							
Public Services	16 hrs/wk		contract	S. Moon	7/26/2024					
+										
	Circulation Services Circulation Services Collection Maintenance Collection Maintenance  Collection Maintenance  Public Services	Current Hours to be Approved  to Fill  Circulation Services 11 hrs/wk Circulation Services 15 hrs/wk Collection Maintenance 12.8 hrs/wk  Collection Maintenance 6 hrs/wk  Collection Maintenance 9.8 hrs/wk  Public Services 35 hrs/wk	Current Hours to be Approved  to Fill  Circulation Services 11 hrs/wk Circulation Services 15 hrs/wk  Collection Maintenance Maintenance Collection Maintenance Maintenance Maintenance  Collection Maintenance Maintenance  Collection Maintenance Maintenance  Services 15 hrs/wk  Collection Maintenance  Collection Maintenance  9.8 hrs/wk  Public Services 35 hrs/wk	Current Hours to be Approved  To Fill  Circulation Services 11 hrs/wk Circulation Services 15 hrs/wk Collection Maintenance Maintenance Collection Maintenance Maintenance Maintenance Maintenance  Collection Maintenance Maintenance Maintenance Maintenance Services 15 hrs/wk Services 15 hrs/wk Services Services 15 hrs/wk Services Servic	Current Hours to be Approved  To Fill  Circulation Services 11 hrs/wk Collection Maintenance Collection Maintenance Collection Maintenance Collection Maintenance Maintenance Collection Maintenance Maintenance Collection Maintenance Services Collection Maintenance Services Collection Maintenance Services Serv	Circulation Services 15 hrs/wk Collection Maintenance	Current Hours to be Approved if Changed Salary/Rate Incumbent End Date to Fill  Circulation Services 11 hrs/wk 15 hrs/wk contract Collection Maintenance 12.8 hrs/wk S15.00/hour D. Bloom S430/2023 9/11/2023  Collection Maintenance 9.8 hrs/wk S15.00/hour S. lambriaco Public Services 35 hrs/wk S23.65/hour or per S23.65/hour or per S43,040/annual or per contract A. Wang 7/26/2024	Current Hours to be Approved   Former Hours if Changed   Salary/Rate   Incumbent   End Date   Approved to Fill   Status	Current Hours to be Approved if Changed Salary/Rate Incumbent End Date to Fill Status Name    Comparison	Current Hours to be Approved if Changed Salary/Rate Incumbent End Date to Fill Status Name Start Date    Circulation Services   11 hrs/wk   15 hrs/wk

# Director's Report July 2024

# **Building Project**

There are a lot of things in motion with the building project right now. The SEQR process is in swing, we have received most of the declinations from the other governments seeking to be lead agency on the process.

We continue to work with the school district, library attorneys, and the board of elections to prepare for the bond referendum.

Our attorney is working with the architect, engineers, and consultants about what is required for the geothermal rebates.

Ashley McGraw, the library's architecture firm returned on June 18 to solicit reactions and thoughts from some test images of children's libraries. Reading cubbies are extremely popular with kids! These images have resulted in the largest participation from the public so far. I have included some pictures of just one of the rounds of comments.









I toured the Guilderland Public Library with our architect to see the new shelves that had been installed there.

#### **Public Services**

The 2024 edition of our annual Seed Library service concluded on June 30. This year, we offered the Seed Library for three months, providing 4421 seed packets to 737 people. We had three volunteers, each coming to help with the Seed Library multiple times.

The library has continued to provide our Book Bundle reader's advisory service where librarians select 10 books or media items for patrons to pick up. We currently offer Adult, Children, Educator, Media, Story Time, and Teen Book Bundles. For the past fiscal year, 7/2023 - 6/2024, we averaged about 12 Book Bundle requests per month. Adult Book Bundles were the most popular.

Everyone's favorite book return helper, Bookie Monster, has gone on a whirlwind global vacation to promote Summer Reading, and he'll be sending us postcards (posted on the library's social media) all summer long. When he's not travelling the world, you'll usually find Bookie helping at the book return in the library's hallway.



# **Program Highlights**

Competitive Puzzling (6/9) – Puzzle solvers were invited to work solo or in a group to see who can solve their puzzle fastest to win a prize. Attendance: 20

Dinosaur Dance (6/18) – Children were invited to join us for a roaring good time to dance and march around and pretend to be dinosaurs, followed by a dinosaur hunt and a dino-mite craft. Many of the grownups thanked us for offering such a fun indoor program to take the kids to on what was a very uncomfortable day to be outside. Attendance: 80

Downsizing and Organizing (6/10) – An expert presented best practices for removing clutter, downsizing and organizing. It was a well-done presentation the attendees got a lot out of it, learning not only about methodology, but also how to responsibly and respectfully remove/rehome/recycle items. Attendance: 14

Pride Month Celebration (6/21) – To celebrate Pride Month, we shared stories & songs and danced. While the program was advertised for ages 3+, most families brought kids much younger so, we ended up doing a Music & Movement-type program that featured familiar songs from our regular early literacy programs and shared two short picture books featuring LGBTQIA+ families. Then we all danced around with bubbles, balloons and colorful boas. Attendance: 22



Introduction to Microsoft Excel (6/23) – This hands-on workshop was designed for beginners interested in seeing what Excel can do. Basic data entry, formatting and sorting techniques were discussed followed by a simple, family budget project that introduced Excel functions, autofill techniques and charts. Attendance: 5

Juneteenth Concert: The Hudson Valley Jazzwomen (6/18) – The Hudson Valley Jazzwomen, led by Linda Brown, performed a special Juneteenth concert, inviting the community to experience history as told by music. Originally scheduled to take place outside on the Green, the program moved indoors because of the extreme heat advisory. Attendance: 18

Pressed Flower Candle Holders (6/10) – With summer around the corner, adults and teens were invited to join us at the library for a craft program to create pressed flower candle holders to enhance seasonal outdoor lighting at their home. Attendance: 13

Summer Reading Kickoff: Jumpin' Jamie & Indiana Jamie and the Adventures in Reading (6/28) – Summer Reading 2024 got started at the library with two musical performances out on the Green, one in the morning and one in the afternoon. We set up our tent and table nearby to greet and sign people up for Summer Reading and brought Gerald the giraffe for a photo op. Total Attendance for both events: 195

# **Outreach Highlights**

Bethlehem Pride Fest (6/22) – Sarah R. and Sarah M. attended the inaugural Bethlehem Pride Fest in Delmar on June 22. Sarah R. made 200 Pride buttons set up a Reading Nook with Pride-themed books from our picture book collection, our booth was stationed near the kid's area. She also created QR signage linking to our library card signup page as well as the Pride library card upgrade page. There was a newly created display board titled: What can your library do for you? where folks could post suggestions. Despite poor weather, the event was fun and well-attended. Our interaction count was high, and everyone was happy to see the library at the event. Interactions: 455





Get Outdoors & Get Together Day at Fiver Rivers (6/8) – Robert set up a table to represent the library at this Five Rivers Environmental Education Center annual event. This year's event highlighted ways to explore and enjoy the outdoors, along with a special focus on making the outdoors accessible to all. Robert was assisted by two teen volunteers who were a great help. Interactions: 193

Thursdays in the Park (6/13 & 6/27) – An annual music and program series where we collaborate with Bethlehem Parks & Recreation to host at Elm Avenue Park each summer. It was a rough start to the series with two events rescheduled to August for weather concerns, but we did manage to hold two events. Mary brought the Pop-Up library to the June 27 performance featuring Jester Jim, who is always

a big hit. Many people stopped by to chat. We will have the Pop-Up library at the July 11 and July 18 events as well. Interactions: 156

# **Summer Reading 2024 Outreach at Local Schools**

Bethlehem Middle School (6/11 & 6/13) – Rachael met with ten 7<sup>th</sup> grade classes to promote the library, Summer Reading, and our volunteer program. She highlighted how to sign up for Summer Reading and how to use the game cards to earn prizes, getting a library card, accessing the library catalog, Libby and Hoopla, volunteering at the library, and upcoming summer programs. Interactions: 286

Eagle Elementary (6/17) – Luke attended Field Day to promote the library and Summer Reading. He set up a table with Summer Reading materials, bookmarks, programming highlights, pencils, and snap bracelets. Most of the K-5 classes were able to visit throughout the day. Interactions: 250

Elsmere Elementary (6/7, 6/10 & 6/12) – Beth visited with most in grades K-5 during library classes. For grades K-1, she gave them a very brief introduction to their public library and the Summer Reading. For grades 2-4, she provided a longer overview of BPL, the website and Summer Reading. Interactions: 174

Glenmont Elementary (6/6) – Sarah R. attended Glenmont's annual Art Show/Ice Cream Social/Dance. She had a great turnout and talked to lots of kids and parents about Summer Reading. She set up a table and introduced Gerald the giraffe our Summer Reading mascot, who got lots of hugs. Interactions: 335





Hamagrael Elementary (6/21) – Mary attended Field Day to promote the library and Summer Reading. The school provided a tent and table and paired us with the popcorn and class photo sections, which worked out well. Despite the shortened school day resulting from the extreme heat advisory, we visited with a lot of kids who were able to spend as much time at our table as they wanted. Interactions: 330

Slingerlands Elementary (5/28, 5/29, 5/31, 6/3 & 6/6) – Erin finished our Summer Reading visits that began the last week of May, visiting with most in grades K-5 during library classes. She brought Gerald the giraffe who was a big hit. Since our visits to the school, a bunch of kids visiting BPL have recognized Erin and she's spoken to a few parents whose kids told them about Summer Reading, so it seems our visits to the schools continue to be effective and memorable. Interactions for June dates: 225

Thursdays in the Park (6/13 & 6/27) – An annual music and program series we collaborate with Bethlehem Parks & Recreation to host at Elm Avenue Park each summer. It was a rough start to the series with two events rescheduled to August for weather concerns, but we did manage to hold two events. Mary brought the Pop-Up library to the June 27 performance featuring Jester Jim who is always a big hit. She had the small prize wheel and interacted with a lot of kids that came up to get a prize and promoted Summer Reading 2024. Few people checked items out, but many people stopped by to chat. We'll have the Pop-Up library at the July 11 and July 18 events as well. Interactions: 156

#### **Circulation and Technical Services**

Understanding how important connectivity is, we have worked with T-Mobile to extend data coverage through Canada and Mexico. The data service has been rolled into our existing plan with no cost increases. We are excited that patrons now have international options and anticipate that the current 2-week loan will meet the needs of most of our travelers. MiFi demand continues to exceed supply even with the addition of new hotspots. At the time of this writing, all MiFi devices are checked out.

We contracted with the Nickerson Group to have custom shelf struts fabricated and installed in the Fiction collection. All freestanding units 84 inches in height were tied together using the struts. Shelf struts run across the top of shelving ranges connecting them together. This stabilizes the individual range and prevents the range from tipping and in the worst scenario, creating a domino effect.

Freestanding units 72 inches in height were prechecked and we confirmed that these have been anchored to the floor. The material and color of the shelf struts matches the existing shelving.



Patrons were given a self-check option in June 2018. At that time, 9% of physical check out was completed at the self-check devices. This month self-check made up 17% of physical check out and had 1,454 patron sessions. Use across the 3 self-check devices has remained consistent since 2018 with the children's self-check making up 70% and the two adult devices evenly split within a few hundred check outs each. In FY 2023/24 self-check averaged 15% of total physical check outs.

# **Upcoming Programs**

Our annual Evening on the Green concert starts again in July. We have performances scheduled for July 9, 16, 23, and 30 at 7pm. This Tuesday evening series is generously sponsored by the Friends of the Library.

We will be attending a few local outreach events this Summer. Look for us at the Delmar Farmer's Market on July 13 and August 10 and the Elm Avenue Town Park for the National Night Out on August 6.

# Meetings and miscellany

I met with Gail Sacco, our newly elected library trustee, to discuss the history of the building project and where it stands currently.

The UHLS Annual Celebration occurred on June 12 where I was delighted that the Board of Trustees collectively received the Trustees of the Year award.

The library staff have worked diligently to implement the updated Meeting Room Access and Use Policy. There has been a lot of work done to prepare the online software to accommodate the necessary changes. We have already received a small number of acknowledgement forms and expect to launch the online webpage soon. I have had a number of questions from community groups about the prohibition against sales and solicitation during public meetings. This portion of the policy has not changed from previous versions. The acknowledgement form has brought this more clearly to the attention of several groups, which has naturally resulted in conversations and questions. Special thanks to the staff for working so hard to get the library's procedures and software ready for implementation.

The Friends of the Library met on June 17 and reported that they had the most successful book sale fundraiser to date. They have planned bus trips to Williamstown this summer and New York City in December.

Geoffrey Kirkpatrick, Library Director

Library Collection				2022-23	Current Total
Adult fiction				27,254	28,367
Adult non-fiction				29,671	29,529
Adult audio				5,713	5,001
Adult video			-	8,387	7,892
Young adult fiction				5,084	4,653
Young adult nonfiction			-	650	611
Young adult audiobooks			-	486	290
Children's fiction				29,443	29,846
Children's non-fiction			-	15,860	15,642
Children's audiobooks			-	1,620	1,652
Children's video				1,314	1,164
OverDrive - UHLS Shared			-	120,043	136,558
e-magazines			-	4,710	5,439
Electronic (games, ereaders)			-	405	385
Total	1			250,640	267,029
Library Programs	Jun-24	Jun-23	% change	2022-23	F-Y-T-D
Programs	61	65	-6.2%	667	915
Program attendance	1,214	1,167	4.0%	17,832	26,209
Outreach Programs	18	27	-33.3%	91	104
Outreach Attendance	3,115	2,519	23.7%	11,899	17,204
Circulation	Jun-24	Jun-23	% change	2022-23	F-Y-T-D
Adult fiction	13,715	13,635	0.6%	157,456	164,971
Adult non-fiction	6,739	7,522	-10.4%	84,784	85,990
Adult audio	6,024	5,300	13.7%	56,558	69,337
Adult video	4,781	5,665	-15.6%	71,154	67,542
Magazines	2,375	1,203	97.4%	15,828	30,266
Young adult fiction	1,691	1,673	1.1%	17,774	17,921
Young adult nonfiction	86	152	-43.4%	1,792	1,484
Young adult audiobooks	238	239	-0.4%	2,844	3,384
Children's fiction	12,041	12,152	-0.4%	147,150	147,338
Children's non-fiction	2,887	2,700	6.9%	37,799	37,789
Children's audiobooks	1,333	1,426	-6.5%	14,929	16,153
Children's video	364	519	-29.9%	6,330	6,059
Electronic (games, ereaders)	673	589	14.3%	7,669	8,428
Total	52,947	52,775	0.3%	622,067	656,662
Interlibrary Loan	Jun-24	Jun-23	% change	2022-23	F-Y-T-D
Borrowed from others	5,335	5,723		73,725	72,475
Loaned to others	4,382	4,278	2.4%	53,319	55,610
Miscellaneous	Jun-24	Jun-23	% change	2022-23	F-Y-T-D
Visits to our home page	29,254	34,005	-14.0%	418,101	454,330
Public use of meeting rooms	34	37	-8.1%	473	395
Public meeting attendance	431	365	18.1%	5,695	4,901
Staff use & library programs	62	63	-1.6%	714	861
Study room sessions	388	428	-9.3%	4,290	4,846
Tech room/ Studio use	13	11	18.2%	125	97
Door count	17,922	18,836	-4.9%	194,334	221,744
Registered BPL borrowers	104	116	-10.3%	1,085	
			12.3%		1,095
Computer signups	1,287 149	1,146		13,008	14,751
Museum Pass use		155 5 773	-3.9% 13.4%	1,192	1,359 75,317
E-book use	6,549	5,773	13.4%	67,186	75,317
E-audiobook use	5,690	4,613	23.3%	49,297	62,498
E-magazine use	2,135	963	121.7%	12,862	27,587
Streaming video use	1,386	1,346	3.0%	14,758	17,158
BCSD use via Overdrive	232	79	193.7%	1,549	2,197
Equipment	407	422	-3.6%	3,867	4,625
Wireless Use	9,973	14,094	-29.2%	127,768	112,669

Adult fiction         27,254         28,367         4%           Adult non-fiction         29,671         29,529         0%           Adult video         5,713         5,001         1-12%           Adult video         8,387         7,892         -6%           Young adult fiction         5,084         4,653         -8%           Young adult nonfiction         650         611         -6%           Young adult audiobooks         486         290         -40%           Children's non-fiction         15,860         15,642         -1%           Children's video         1,314         1,164         -11%           OverDrive - UHLS Shared         120,043         136,558         14%           e-magazines         4,710         5,439         15%           e-magazines         4,710         5,439         15%           Total         250,640         267,029         7%           Ibirary Programs         2022-23         2023-24           Program attendance         17,832         26,209         47%           Outreach Programs         91         104         14%           Outreach Programs         91         104         14%           Ci	Library Collection	2022-23	2023-24	% inc. or dec.
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Children's video         1,620         1,652         2%           Children's video         1,314         1,164         -11%           OverDrive - UHLS Shared         120,043         136,558         14%           e-magazines         4,710         5,439         15%           Electronic (games, ereaders)         405         385         -5%           Total         250,640         267,029         7%           Library Programs         2022-23         2023-24           Program attendance         17,832         26,209         47%           Outreach Programs         91         104         14%           Outreach Programs         91         104         14%           Outreach Attendance         11,899         17,204         45%           Circuation         2022-23         2023-24         4           Adult foction         157,456         164,971         5%           Adult audio         56,558         69,337         23%           Adult audio         56,558         69,337         23%           Magazines         15,828         30,266         91%           Young adult fiction         17,774         17,921         1%           Youn				
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Young adult nonfiction         1,792         1,484         -17%           Young adult audiobooks         2,844         3,384         19%           Children's fiction         147,150         147,338         0%           Children's non-fiction         37,799         37,789         0%           Children's video         6,330         6,059         -4%           Children's video         62,330         6,059         -4%           Electronic (games, ereaders)         7,669         8,428         10%           Total         622,067         656,662         6%           Interlibrary Loan         2022-23         2023-24           Borrowed from others         73,725         72,475         -2%           Loaned to others         53,319         55,610         4%           Miscellaneous         2022-23         2023-24         Visits to our home page         418,101         454,330         9%           Public use of meeting rooms         473         395         -16%           Public meeting attendance         5,695         4,901         -14%           Staff use & library programs         714         861         21%           Study room sessions         4,290         4,846         13				
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Children's fiction         147,150         147,338         0%           Children's non-fiction         37,799         37,789         0%           Children's audiobooks         14,929         16,153         8%           Children's video         6,330         6,059         -4%           Electronic (games, ereaders)         7,669         8,428         10%           Total         622,067         656,662         6%           Interlibrary Loan         2022-23         2023-24           Borrowed from others         73,725         72,475         -2%           Loaned to others         53,319         55,610         4%           Miscellaneous         2022-23         2023-24           Visits to our home page         418,101         454,330         9%           Public use of meeting rooms         473         395         -16%           Public meeting attendance         5,695         4,901         -14%           Staff use & library programs         714         861         21%           Study room sessions         4,290         4,846         13%           Tech room/ Studio use         125         97         -22%           Door count         194,334         221,744				
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Interlibrary Loan	,0			
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E-book use       67,186       75,317       12%         E-audiobook use       49,297       62,498       27%         E-magazine use       12,862       27,587       114%         Streaming video use       14,758       17,158       16%         BCSD use via Overdrive       1,549       2,197       42%         Equipment       3,867       4,625       20%	Computer signups	13,008	14,751	13%
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BCSD use via Overdrive         1,549         2,197         42%           Equipment         3,867         4,625         20%	<u> </u>			16%
Equipment 3,867 4,625 20%				42%
				20%
	Wireless Use	127,768	112,669	-12%



#### Private & Confidential

June 27, 2024

Ms. Tracey McShane Human Resource Manager Bethlehem Public Library 451 Delaware Avenue Delmar, New York 12054

RE: Service Agreement for Bethlehem Public Library GASB 75

Dear Tracey:

Enclosed you will find our service agreement for the GASB 75 Alternative Measurement Valuation. If you would like us to proceed with the engagement, please return one signed copy to us for our files and retain for your files.

The following is the contact information for your engagement team.

Name	Title	Telephone Number	Email Address
Nicholas R. Mark	Senior Consultant	(315) 703-8974	nmark@bpas.com
Nicole Valentine	Analyst	(315) 703-8964	nvalentine@bpas.con

Please review this service agreement carefully, and if you have any questions please do not hesitate to call me at (315) 703-8974.

Sincerely,

Nicholas R. Mark F.S.A., M.A.A.A.

Senior Consultant

**BPAS Actuarial & Pension Services** 



Service Agreement

#### Agreement

This Service Agreement ("Agreement") is between Bethlehem Public Library (the "Sponsor") and BPAS Actuarial and Pension Services, LLC ("BPAS").

#### **Purpose**

The Sponsor maintains the following Plan for the benefit of its employees.

Bethlehem Public Library Retiree Group Health Benefits Program

The Sponsor desires BPAS to provide actuarial and consulting services, in accordance with generally accepted actuarial principles and practices, with respect to the Plan for the Fiscal Year ending June 30, 2024 ("Fiscal Year").

- The GASB 75 Valuation of Postretirement Healthcare Benefits will be calculated under the GASB 75 Alternative Measurement Method. As in accordance with the Alternative Measurement Method, the report will not be an actuarially signed report, rather, completed in accordance with actuarial practices outlined in the GASB 75 Standard. Services will include:
  - Determination of Total OPEB Liability (TOL)
  - Determination of Actuarially Determined Contribution and OPEB Expense
  - 10 year projection of benefit payment cash-flow
- > Alternative contribution/benefit design scenarios can be reviewed (billed at separate hourly rates)

#### Responsibilities of the Sponsor

The Sponsor will provide BPAS, as requested in a specified format and timely manner, information regarding the Plan(s) (i.e. plan provisions, plan participants, plan assets, benefit payments, etc.) in order to complete the services outlined herein. The Sponsor will take full responsibility for ensuring that the data provided is reasonable and appropriate. While BPAS will take all necessary steps in compliance with Actuarial Standards of Practice to ensure the reasonableness of the information provided, we will not perform an audit or independent verification of the information.

#### **Assumptions**

Economic and demographic assumptions and methods must be determined in order to complete the services outlined herein. The Sponsor will determine all assumptions and methods not prescribed by the GASB 75 Alternative Measurement Method, and assume all responsibility for ensuring those assumptions and methods are reasonable and appropriate. BPAS will provide the Sponsor with guidance and information necessary to assist in the determination of all assumptions and methods required. BPAS recommends Bethlehem Public Library's auditors be consulted regarding the GASB 75 measurement and assumptions.



Service Agreement

#### Report

The information contained in our report(s) will be prepared for the use of the Sponsor and its auditors in connection with our actuarial valuation(s). It is not intended, nor necessarily suitable, for other purposes. BPAS has no responsibility to update the report(s) for events and circumstances occurring after the date of the report(s).

#### Fees

The specific services and associated professional service fees for each of the benefit plans are outlined below. BPAS reserves the right to amend the fee schedule from time to time. The Sponsor will receive prior notification of such changes.

Annual Alternative Measurement Method Fee for Fiscal Year 2024

\$7,000

Interim Valuation Fee for Fiscal Year 2025

\$2,000\*

\*Interim valuation fee includes calculations to reflect updated actuarial assumptions as of the interim measurement date. Additional fees may apply if plan amendments or changes are made during the interim fiscal year.

The associated fees above for the services outlined are based on the time required to perform the services. With regard to the expected time and our fee, we assume the following:

- Receipt of complete and accurate data in the format requested by the due date required, in order to staff the engagement appropriately and complete the work in the mutually agreed upon timeframe. Please refer to the cover page for details regarding your BPAS engagement team. If complete and accurate data is not received in the format requested or by the due date required to appropriately staff the engagement and complete the work in the mutually agreed upon timeframe, our fee will be adjusted to reflect the additional time spent and allocated resources.
- There will be no changes in any areas, including current law, regulations, accounting standards or
  plan provisions that would impact our deliverables. If however, there are changes that would
  impact the scope of our services, we will notify you and get approval for the revised fee before
  proceeding.
- Fees include telephone conference calls as needed with Bethlehem Public Library. Should Bethlehem Public Library require on-site meetings for other items including review of the final report, an additional fee of for \$2,000 per meeting applies.

In the event that the scope of the project changes, we will notify you promptly and obtain your concurrence regarding the revised scope and the payment of any additional monies/fees before proceeding. Our fee estimate does not encompass additional work that the Sponsor may ask us to complete.



Service Agreement

# Terms of Engagement

#### Entire Agreement

These Terms of Engagement and the Service Agreement letter to which they are attached (collectively, the "Agreement") constitute the entire agreement between the client to whom such engagement letter is addressed and any other legal entities referred to therein ("Client" or "you") and BPAS Actuarial and Pension Services, LLC, a New York limited liability company ("BPAS Actuarial and Pension Services," "we" or "us"), regarding the services described in the engagement letter. No modification, variation, amendment or supplement to this Agreement shall be effective for any purpose whatsoever unless reduced to writing and signed by each party.

#### Responsibilities of the Client

In circumstances where the Client is a business entity, the Client agrees to identify those individuals authorized to request services from BPAS Actuarial and Pension Services under the terms of this Agreement. Individuals authorized to request services agree to identify the purpose of the services, and identify for whom the services are to be performed (e.g., the corporation, an employee, a director) at the time the services are requested.

A fundamental term of this Agreement is that the Client will provide us with all information relevant to the services to be performed and to provide us with any reasonable assistance as may be required to properly perform the engagement. The Client agrees to bring to our attention any matters that may reasonably be expected to require further consideration to determine the proper treatment of any relevant item. The Client also agrees to bring to our attention any changes in the information as originally presented as soon as such information becomes available. Client acknowledges that it retains all management responsibilities related to judgments and decisions regarding the Client's financial or business matters.

Unless otherwise indicated, any returns, reports, letters, written opinions, memoranda, etc. delivered to the Client as part of the services ("Deliverables") are solely for the Client and are not intended to nor may they be relied upon by any other party (each, a "Third Party").

# Responsibilities of BPAS Actuarial and Pension Services

We will perform our services on the basis of the information you have provided and in consideration of the applicable federal, foreign, state or local tax laws, regulations and associated interpretations relative to the appropriate jurisdiction as of the date the services are provided. Laws and regulations are subject to change at any time, and such changes may be retroactive in effect and may be applicable to advice given or other services rendered before their effective dates. We do not assume responsibility for such changes occurring after the date we have completed our services. Client acknowledges that BPAS Actuarial and Pension Services does not practice law and our services do not constitute legal advice.

Some of the matters on which we may be asked to advise the Client may have implications to other persons or entities. However, we have no responsibility to these persons or entities unless we are specifically engaged to address these issues to such persons or entities, and we agree to do so in writing.

We will discuss with Client any issues of which we are aware that we believe may subject the Client to penalties and discuss with Client possible courses of action to avoid the imposition of any penalty. We are not responsible for any penalties imposed for positions that have been discussed with Client where we recommended a course of action to avoid penalties and the Client elected not to pursue such course.



Service Agreement

BPAS Actuarial and Pension Services is not responsible for any penalties assessed against the Client as the result of the Client's failure to provide us with all the relevant information relative to the issue under consultation. Furthermore, the Client agrees to defend, indemnify and hold BPAS Actuarial and Pension Services harmless for any penalties imposed on BPAS Actuarial and Pension Services or its staff, as the result of the Client's failure to provide such information.

#### **Electronic Communications**

In performing services under this Agreement, BPAS Actuarial and Pension Services and/or Client may wish to communicate electronically either via facsimile, electronic mail or similar methods (collectively, "E-mail"). However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Unless you notify us otherwise, your acceptance of this Agreement constitutes your consent to use E-mail. All risks related to your business and connected with your use of E-mail are borne by you and are not our responsibility.

Both parties will carry out procedures to protect the integrity of data. In particular, it is the recipient's responsibility to carry out a virus check on any attachments before launching or otherwise using any documents, whether received by E-mail or on disk or otherwise.

## **Engagement Limitations**

Except as may be specified in this Agreement, we will not audit or otherwise verify the information supplied to us, from whatever source, in connection with this engagement.

As you are aware, tax returns and filings with taxing and regulatory authorities may be subject to audit. We will be available to assist the Client in the event of an audit of any issue for which we have provided services under this Agreement. However, unless otherwise indicated, our fees for these additional services are not included in our fee for the services covered by this Agreement.

We will not be prevented or restricted by anything in this Agreement from providing services for other clients.

We are not responsible for auditing or verifying the work performed by previous service providers and are in no way liable for errors or omissions caused by such service providers.

In the course of our engagement, certain communications between Client and BPAS Actuarial and Pension Services may be subject to a confidentiality privilege. Client recognizes that we may be required to disclose such communications to federal, state and international regulatory bodies; a court in criminal or other civil litigation; or to other Third Parties, including Client's independent auditors, as part of our professional responsibilities. In the event that we receive a request from a Third Party (including a subpoena, summons or discovery demand in litigation) calling for the production of information, we will promptly notify you to the extent we are allowed to disclose the request for information. We agree to cooperate with Client in any effort to assert any privilege with respect to such information, provided Client agrees to hold BPAS Actuarial and Pension Services harmless from and be responsible for any costs and expenses resulting from such assertion.

# Disassociation or Termination of Engagement

Either party may terminate this Agreement upon written notice to the other party. In the event of termination, Client will be responsible for fees earned and expenses incurred through the date the termination notice is received.

#### Limitation of Liability

All services will be rendered by and under the supervision of qualified staff in accordance with the terms and conditions set forth in this Agreement. BPAS Actuarial and Pension Services makes no other representation or warranty regarding either the



# Service Agreement

services to be provided or any Deliverables; in particular, and without limitation of the foregoing, any express or implied warranties of fitness for a particular purpose, merchantability, warranties arising by custom or usage in the profession, and warranties arising by operation of law are expressly disclaimed.

In no event, unless it has been finally determined by a court of competent jurisdiction that BPAS Actuarial and Pension Services was grossly negligent or acted fraudulently, shall BPAS Actuarial and Pension Services be liable to the Client or any of its officers, directors, employees or shareholders or to any other third party, whether such claim is based in tort, contract or other law for any amount in excess of the total professional fee paid by you to us under this Agreement for the particular service to which such claim relates.

IN NO EVENT SHALL BPAS ACTUARIAL AND PENSION SERVICES BE LIABLE TO YOU OR ANY THIRD PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY LOSS OF PROFIT, LOSS OF REVENUE, OR FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER INDIRECT DAMAGES OF ANY NATURE, OR FOR ANY REASON, INCLUDING WITHOUT LIMITATION, THE BREACH OF THIS AGREEMENT OR ANY EXPIRATION OR TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

# Resolution of Differences

In the unlikely event that differences concerning this Agreement should arise that are not resolved by mutual agreement, to facilitate judicial resolution and save time and expense of both parties, BPAS Actuarial and Pension Services and the Client agree not to demand a trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

#### Other Provisions

Neither party shall be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control. All terms and conditions of this Agreement that are intended by their nature to survive termination of this Agreement shall survive termination and remain in full force, including but not limited to the terms and conditions concerning payments, warranties, limitations of liability, indemnities, and resolution of differences. If any provision of this Agreement, including the Limitation of Liability clause, is determined to be invalid under any applicable law, such provision will be applied to the maximum extent permitted by applicable law, and shall automatically be deemed amended in a manner consistent with its objectives to the extent necessary to conform to any limitations required under applicable law.

# Collection of Fees

In the event that Client fails to remit to BPAS Actuarial and Pension Services the fees covered under this Agreement within 90 days of the invoice date for *any* covered recurring service described herein or, if earlier, within 60 days of the delivery of *all* covered annual recurring services described herein, the Client authorizes BPAS Actuarial and Pension Services to directly invoice the above referenced Plan's Trustee or Custodian for the payment of any outstanding amounts attributable to this Agreement to the extent such fees are eligible to be paid from Plan assets. Furthermore, the above authorization shall also immediately apply if Client is a party to any bankruptcy proceeding that limits its ability to pay BPAS Actuarial and Pension Services the agreed upon fees within the above time limits. Client acknowledges that this Agreement shall serve as its only necessary authorization to the Plan's Trustee or Custodian to pay such outstanding invoiced amounts from Plan assets in accordance with the above and agrees to indemnify and hold harmless the Plan's Trustee or Custodian for its compliance with this authorization when presented by BPAS Actuarial and Pension Services to the Plan's Trustee or Custodian with an outstanding invoice covered by the terms described herein. BPAS Actuarial and Pension Services shall be held harmless in the event it exercises these provisions of this Agreement.



# Service Agreement

This Agreement will be governed by the laws of the State of New York. The sole jurisdiction and venue for actions related to the subject matter hereof shall be the state and federal courts sitting in the State of New York.

# Reference Authorization

By agreeing to the terms of this Agreement and signing below, you also authorize BPAS to use the Sponsor as a reference (either written or verbal) with respect to this Agreement, unless you specifically request otherwise.

# **Acceptance of Agreement**

We agree with the terms set forth in this Agreement; including the use of the Sponsor as a reference for BPAS unless otherwise noted below:

# **BPAS Actuarial and Pension Services, LLC**

gnature	Vice President  Title	June 27, 2024  Date
thlehem Public Library		-
thorized Representative Signature	Title	D
	1100	Date



# Standard Form of Agreement Between Owner and Construction Manager as Adviser

**AGREEMENT** made as of the \_\_\_\_\_ day of July in the year Two Thousand Twenty-Four (*Paragraph deleted*) BETWEEN the Owner:

Bethlehem Public Library 451 Delaware Avenue Delmar, NY 12054

and the Construction Manager:

Schoolhouse Construction Services, LLC 20850 State Highway 28 Delhi, NY 13753

for the following Project:

Bethlehem Public Library Capital Improvements Project (CIP)

The Architect:

Ashley McGraw Architects, D.P.C 125 E Jefferson Street Syracuse, NY 13202

The Owner and Construction Manager 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.

This document is intended to be used in conjunction with AIA Documents A132™-2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™-2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and B132™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. AIA Document A232™-2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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#### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1. Exhibit A – Construction Management Services Proposal, Dated May 9, 2024

§ 1.1.1 The Owner's program for the Project:

See Enclosed Exhibit A

#### § 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

See Enclosed Exhibit A

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

See Enclosed Exhibit A

- § 1.1.4 The Owner's anticipated design and construction milestone dates:
  - .1 Design phase milestone dates, if any:

Referendum/Voter Authorization October 2024

CD Documents Complete November 2024

Init.

User Notes:

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Bid/Award Period June 2025 (See Exhibit A)

.2 Construction commencement date:

June 2025 (See Exhibit A)

.3 Substantial Completion date or dates:

November 2027 (See Exhibit A)

Other milestone dates:

See Exhibit A

Within two (2) weeks of receiving approval form the New York State Education Department, the Construction Manager and the Architect shall collaborate and create an updated and amended Project Schedule, as appropriate, including anticipated completion dates for:

Bid Opening and Bid Awards: **Construction Commencement: Construction Milestone Dates:** Substantial Completion Date(s):

§1.1.4.1 Within one (1) month of receiving approval from the New York State Education Department, the Construction Manager shall confirm or create a detailed, comprehensive Milestone Construction Schedule using critical path and predecessor logic (and phasing plan, if necessary) using the Construction Manager's professional skill and judgment, to be included in the Bid Documents, reasonably acceptable to the Owner and Architect.

(Paragraph deleted)

The Construction Schedule will account for the Owner's school building use and programmatic needs.

§ 1.1.5 The Owner intends the following procurement method for the Project:

(Paragraph deleted)

Competitive bidding and/or procurement without competitive bidding in compliance with New York State law and New York State Education Department regulations.

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction are set forth below:

(Identify any requirements for fast-track scheduling or phased construction and, if applicable, list number and type of bid/procurement packages.)

TBD

§ 1.1.7

(Paragraphs deleted) Intentionally omitted.

§ 1.1.8 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

The Owner has completed its Asbestos Hazard Emergency Response Act (AHERA) Report which is on file at the Owner's offices and available for use and consideration in connection with the Project. As a local educational agency, Owner must comply with the Asbestos Hazard Emergency Response Act (AHERA) 15 U.S.C. §2641-2656. The

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Construction Manager is responsible to review the Owner's AHERA reports. Unless otherwise required in this Agreement, the Construction Manager 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 not brought to the site by the Construction Manager, however, the Construction Manager shall promptly advise the Owner in writing of the presence and location of any suspected hazardous materials or toxic substances of which the Construction Manager becomes aware.

§ 1.1.9 The Owner identifies the following representative in accordance with Section 5.5: (List name, address, and other contact information.)

Mr. Geoffrey Kirkpatrick Bethlehem Public Library 451 Delaware Avenue Delmar, NY 12054

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

The Architect and others TBD

§ 1.1.11 The Construction Manager identifies the following representative in accordance with Section 2.5: (List name, address, and other contact information.)

Eric Robert, President Schoolhouse Construction Services LLC 20850 State Highway 28 Delhi, New York 13753 Phone: (607) 437-6971

(Paragraphs deleted)
eric.robert@schoolhouse.construction

#### § 1.1.12 The Construction

(Paragraphs deleted)

Manager's staffing plan as required under Section 3.3.3 is set forth in Exhibit C.

§ 1.1.13 The Construction Manager's consultants retained under Basic Services, if any: (List name, legal status, address, and other contact information of any consultants.)

Upstate Estimating Services, 1235 Upper Front Street, #332, Binghamton, NY 13905 for estimating and financial management services; additional consultants require the advance written approval of the Owner.

§ 1.1.14 The Construction Manager's consultants retained under Supplemental Services:

None unless approved by Owner in writing, in advance.

#### § 1.1.15

(Paragraphs deleted)

Other Initial Information on which this Agreement is based:

None



#### § 1.3 The

(Paragraphs deleted)

term "Contractors" refers to persons or entities who perform Work under contracts with the Owner that are administered by the Construction Manager and Architect. The term "Contractors" is used to refer to such persons or entities, whether singular or plural. The term does not include the Owner's own forces, or Separate Contractors, which are persons or entities who perform construction under separate contracts with the Owner not administered by the Construction Manager and Architect.

§ 1.4 The terms "Project Schedule", "Project Milestone Schedule", "Construction Schedule", "Construction Milestone Schedule", or similar terms refer to a schedule or the various schedules related to the Work of the Project, the services of the Architect and its consultants, and the services of the Construction Manager and its consultants.

#### ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

- § 2.1 The Construction Manager shall provide the professional services as set forth in this Agreement and the construction management services set forth in Exhibit A to this Agreement.
- § 2.2 The Construction Manager shall perform its services consistent with the skill and care ordinarily provided by construction managers practicing in the same or similar locality under the same or similar circumstances. The Construction Manager shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of the Project and the interests of the Owner, as made known to the Construction Manager. The Construction Manager shall visit the construction site(s) and familiarize itself with the requirements of the Project. The Construction Manager shall provide professional construction management services on the Project. The Construction Manager acknowledges that the Owner is relying on the Construction Manager's skill and care in connection with its services on the Project. The Construction Manager has represented, and the Owner agrees, that proper construction management services require a high degree of professional skill and experience to manage a school construction project of this size and type. The Construction Manager acknowledges that it will act as the Owner's agent, and in the Owner's best interest. The Construction Manager represents that it is knowledgeable in public school construction and shall furnish the Construction Manager's reasonable skill and judgment and agrees to cooperate with the Architect in furthering the interests of the Owner. The Construction Manager shall furnish construction administration and construction management services and use its best efforts to have the Project completed in an expeditious and economical manner consistent with the interests of the Owner. As soon as possible after discovery, the Construction Manager shall notify Owner in writing if a Contractor fails to comply with, all applicable federal and state laws as well as rules, regulations and specifications adopted by the New York State Education Department and any other agency with authority over the construction or renovation of public school facilities in New York State, to include the rules and regulations of the Owner.
- § 2.2.1 The Construction Manager will provide the Basic Services set forth in this Agreement, through the Pre-Construction, Construction and Close-Out phases of the Project, to the extent that such services are applicable to any one or more of these phases.
- § 2.3 The Construction Manager shall provide its services in conjunction with the services of an Architect as described in AIA Document B132<sup>TM</sup>\_2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition as the same may be amended by the Owner and the Architect, and a copy of the Architect's scope of services shall be provided to the Construction Manager upon request. The Construction Manager shall not be responsible for actions taken by the Architect.
- § 2.3.1 The Construction Manager shall supply and commit sufficient personnel on-site and off-site (both management and otherwise) to the Project to monitor the Work, record the condition(s) of the Project and the progress of the Work as set forth in Exhibit A. The Construction Manager shall be provided temporary office space by the Owner (if available) convenient to the Project in which progress meetings can be held. The office space will have access to the Owner's wi-fi system. Access to the temporary office space shall be subject to the Owner's policies and protocols for access.
- § 2.3.2 The Construction Manager shall have adequate clerical staff skilled in the construction field to maintain the Project Documents in an orderly manner and to provide timely and accurate correspondence, written meeting minutes, inspection records, daily logs, as well as organized photographic documentation of the progress of the Work.



- § 2.4 The Construction Manager shall coordinate its services with those services provided by the Owner, the Architect, the Contractors, and the Owner's other consultants and Separate Contractors. The Construction Manager shall be entitled to rely on, and shall not be responsible for, the accuracy and completeness of services and information furnished by the Owner, the Architect, and the Owner's other consultants and Separate Contractors. The Construction Manager shall provide prompt written notice to the Owner if the Construction Manager becomes aware of any error, omission, or inconsistency in such services or information.
- § 2.5 The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project. The Construction Manager agrees that any additional personnel and/or the replacement of existing personnel shall be subject to prior Owner approval, which shall not be unreasonably withheld. The Owner may request a change in existing personnel, which request may not be unreasonably denied. The intent underlying this provision is the mutual understanding that the success of the relationship between Owner and Construction Manager and the Project itself, depends upon the Owner having trust in and a reasonable working relationship with the personnel assigned to the Project by the Construction Manager. Responsive and timely communication from the Construction Manager to the Owner of issues and concerns raised by the Owner is one factor in such a successful relationship.
- § 2.6 If not set forth in Exhibit A, the Construction Manager, as soon as practicable after execution of the Agreement, shall notify the Owner in writing of the names and qualifications of its proposed key staff members. Within 14 days of receipt of the names and qualifications of the Construction Manager's proposed key staff members, the Owner may reply to the Construction Manager in writing, stating (1) whether the Owner has reasonable objection to a proposed key staff member or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection. The Construction Manager shall not staff any employees on the Project to whom the Owner has made reasonable and timely objection. The Construction Manager shall not change its key staff members without the Owner's prior written consent. If at any time during the Project any such representative becomes unacceptable to the Owner (on any lawful basis), the Construction Manager shall replace him/her with another representative who is mutually acceptable to the Owner and Construction Manager within ten (10) calendar days after receipt of written notification thereof from the Owner.
- § 2.7 Except with the Owner's knowledge and consent, the Construction Manager shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Construction Manager's judgment with respect to this Project. The Construction Manager shall also keep all proprietary information confidential and shall avoid interests that are in conflict with its obligations under this Agreement
- § 2.8 The Construction Manager shall maintain the following insurance until termination of this Agreement or beyond, if required herein.
- § 2.8.1 Comprehensive General Liability Insurance naming the Owner as an Additional Insured on a primary and a non-contributory basis and a follow-form basis, containing an Additional Insured Endorsement, Waiver of Subrogation Endorsement, or equivalent endorsements attached reasonably acceptable to Owner:

General Aggregate	\$4,000,000	
Personal and Advertising Injury	\$1,000,000	
Each Occurrence	\$2,000,000	
Fire Damage	\$50,000	
Medical Expense	\$5,000	

§ 2.8.2 Commercial Automobile Liability Insurance covering owned and rented vehicles operated by the Construction Manager with policy limits of not less than one million (\$1,000,000) combined single limit and two million (\$2,000,000) aggregate for bodily injury and property damage. Including Bodily Injury and Property Damage for the operation of Any Auto (Symbol 1) used in connection with Work to be completed by the Construction Manager and all subcontractors and consultants, naming the Owner as an Additional Insured on a primary and a non-contributory basis and a follow-form basis, containing an Additional Insured Endorsement, Waiver of Subrogation Endorsement, or equivalent endorsements attached reasonably acceptable to Owner.

## § 2.8.3 Umbrella Liability Insurance:

Each Occurrence Limit	\$5,000,000
Aggregate	\$5,000,000

The Umbrella Liability Insurance coverage shall provide additional limits of liability coverage over and above the General Liability and Automobile Liability coverages required by this Agreement with the Owner named as an Additional Insured on a primary and a non-contributory basis and a follow form basis, containing an Additional Insured Endorsement, Waiver of Subrogation Endorsement, or equivalent endorsements attached reasonably acceptable to Owner.

- § 2.8.4 Worker's Compensation Insurance covering the obligations of the Construction Manager in accordance with applicable law at statutory limits and Employer's Liability Insurance with a policy limit of not less than required by applicable law, covering all operations under this Agreement, whether performed by the Construction Manager, its subcontractors, or consultants.
- § 2.8.5 Professional Liability Insurance covering the Construction Manager's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than two million (\$2,000,000) per occurrence and in the aggregate.
- § 2.8.6 At the request of the Owner, the Construction Manager shall provide the Owner for each of the insurance coverages required herein one original or one certified copy of the original policy of insurance, including all endorsements, plus one certificate of insurance, with a brief description of the project or service. The policies and certificates shall show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, and umbrella or excess policies as set forth herein. All such insurance shall be written without expense to the Owner by an insurance company authorized to provide insurance in the State of New York, shall be drawn on standard forms approved by the New York State Insurance Department by a Carrier rated A or better by Standard & Poor's or A.M. Best rating services or otherwise approved in writing by the Owner, and shall protect the Construction Manager, its subcontractors and consultants, and the Owner from liability for claims for personal injury, death and property damage which may arise from performance under this Agreement.
- **§2.8.6.1** At the request of the Owner the issuing insurance company, agents and/or authorized representatives shall set forth in writing that there are no pending claims against the insured and/or that there is ample coverage remaining to cover the insured in the event of a claim.
- **§2.8.6.2** At the request of the Owner, the issuing insurance company, agents and/or authorized representatives shall set forth in writing that the insurance: (1) applies to all operations of the Construction Manager in connection with the Work to be performed under this Agreement; (2) applies on the effective dates stated, whether or not the Agreement between the Construction Manager and the Owner has been executed; and (3) is written in accordance with the company's regular policies and endorsements on standard forms approved by the New York State Insurance Department.
- § 2.8.6.3 Each policy must provide the Owner thirty (30) days advance written notice prior to cancellation, a reduction in coverage, and/or non-renewal of the policy.
- § 2.8.6.4 The Construction Manager shall provide written notification to the Owner of the cancellation or expiration of any insurance Construction Manager is required to provide under this Agreement. The Construction Manager shall provide such written notice within five (5) business days of the date the Construction Manager is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.
- § 2.9 Within thirty (30) days of the Contract awards, the Construction Manager shall collect each Contractor's Construction Schedule of its Work. In the event a Contractor fails to supply the Construction Manager with its Construction Schedule which meets the criteria set forth in the Contract Documents, then the Construction Manager shall notify the Owner, the Architect, and owner's legal counsel in writing of the Contractor's breach, and recommend a remedial course of action.

- § 2.10 The Construction Manager, in accordance with its professional skill and judgment, shall create the Construction Schedule (using predecessor logic software) which integrates and coordinates each Contractor's schedule to meet the Construction Schedule included in the Bid Documents in such a manner as to allow for the orderly and timely completion of the Project.
- § 2.11 In the event that the Construction Manager, based on its professional skill and judgment, determines that any Contractor fails to complete work beyond three (3) days after any deadline set forth in the Construction Schedule, then the Construction Manager shall notify the Owner, Architect and Owner's legal counsel in writing and make a recommendation on the manner in which the Contractor should recover the time and meet the Construction Schedule. Should this necessitate an update of the Construction Schedule, the Construction Manager shall provide a copy of the updated Construction Schedule to the Contractors, the Architect, and the Owner. Absent an Owner approved Change Order, no changes to the Construction Schedule will be allowed.
- § 2.12 The Construction Manager's Basic Services shall be extended throughout the following phases of the Project and durations:
  - .1 Construction Document Design Phase Services: The Construction Manager shall coordinate with the Owner and the Architect by providing cost estimates of Work, and proposed schedules of the Work, as needed, throughout the duration of the Construction Document Design Phase of the Project as a Basic Service.
  - .2 Construction Phase Services: The Construction Manager shall mobilize and establish its full-time construction management staffing upon the commencement of construction and continue throughout the Construction phase as determined by the Construction Schedule and the Construction Phase Basic Services shall end as set forth in Exhibit A. The Construction Manager shall hold weekly coordination meetings throughout the Construction Phase of the Project and, using its professional skill and judgment, shall coordinate the work of the Contractors, all consultants, and any testing or inspections for the Project.

#### (Paragraph deleted)

- .3 **Post-Construction Phase Services:** The Construction Manager shall organize and deliver its files during the thirty (30) day time period following the Construction Phase. The Construction Manager shall meet with the Owner and turn over its indexed project files, warranties, operation manuals and as-built records. The Construction Manager shall participate in the post-construction inspection of the Work no later than eleven (11) months after completion of the Work, with the Architect to identify all warranty and non-conforming work.
- .4 The Construction Manager shall not be entitled to additional compensation for any services from the Owner unless agreed to in advance in writing by the Owner. The Construction Manager shall not be entitled to any additional service compensation due to the fault of the Construction Manager.

## (Paragraph deleted)

- The Construction Manager and the Owner agree that this Project is contingent upon New York State Education Department approval. Once the Owner receives said approval, if necessary, the parties shall meet and confer and amend this Agreement in writing to reflect the agreed upon Milestone Construction Schedule and adjust the staffing plan and payments to the Construction Manager to align with the newly agreed upon Milestone Construction Schedule.
- § 2.13 The provision of a centralized electronic project management software, if needed to adequately support the administration of the project, shall be provided by the Owner and included as a expense that is addressed within the Incidental Budget for the overall Capital Project.
- Construction Management Software (Procore) will be utilized as explained above, to integrate with the Architects Project Software
- § 2.14 The Construction Manager shall retain all Project related documents and information it receives, and the Owner, Architect, and Owner's legal counsel shall have access to the documents and information through online remote access to the centralized electronic document management system and the Project Management software and

database, or otherwise. The Construction Manager shall transmit the documents and information to the Owner at final completion.

§ 2.15 Construction Manager hereby represents to the Owner, to the best of its knowledge, the following: (a) that Construction Manager is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the services required and perform its obligations hereunder; (b) that Construction Manager is able to and shall furnish any of the plant, tools, materials, supplies, equipment and labor required to complete the services required hereunder and perform all of its obligations hereunder and it has sufficient experience and competence to do so; (c) that Construction Manager is authorized to do business in New York and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and the services required under this Agreement and the Project itself; (d) that Construction Manager's execution of this Agreement and its performance of it is within its duly authorized powers; and (e) that Construction Manager's duly authorized representative has visited the Project, and familiarized himself or herself with the local conditions under which the services required under this Agreement are to be performed. Construction Manager agrees that the foregoing representations and warranties shall survive the execution and delivery of this Agreement.

# ARTICLE 3 SCOPE OF CONSTRUCTION MANAGER'S BASIC SERVICES § 3.1 Definition

The Construction Manager's Basic Services consist of those described in this Agreement, and include usual and customary Pre-Referendum, Preconstruction, Construction, Post Construction Phase Services, and Contract Closeout Services.

#### § 3.2 Preconstruction Phase

- § 3.2.1 The Construction Manager shall become fully familiar with the program developed by the Architect and Owner and the requirements necessary for the Project's timely completion.
- § 3.2.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, Project Schedule and construction budget requirements, each in terms of the other. The Construction Manager shall support the Architect in preparation of documentation for alternate bid or proposal requests by the Owner and shall attend any public presentations or meetings regarding the Project, as requested by the Owner.
- § 3.2.3 The Construction Manager shall prepare, and deliver to the Owner, for the Owner's approval, a written Construction Management Plan that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Milestone Schedule, (3) cost estimates, (4) recommendations for Project delivery method, and (5) Contractors' scopes of Work. The Construction Manager shall periodically update the Construction Management Plan, for the Owner's approval, over the course of the Project. (Paragraphs deleted)
- § 3.2.4 The Construction Manager shall meet with the Architect to review the Schematic Design Documents. The Architect and the Construction Manager shall work together on and agree to an estimate of the Cost of the Work during the Design Development Phase and shall report same in writing to the Owner. If the Architect suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems and may also provide its own suggestions.
- § 3.2.5 The Construction Manager shall expeditiously review design documents during their development and advise the Owner and Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide written recommendations to the Owner and Architect on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.
- § 3.2.6 The Construction Manager shall create and maintain the Construction Milestone Schedule agreed to by the Architect and approved by the Owner. The Construction Milestone Schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and establish all Project Critical Path milestones and deadlines, and shall incorporate the Architect's long lead item submittals which are necessary to complete the project on time. The Construction Manager shall also prepare, and deliver to the Owner, a written Construction Management Plan as set forth in §3.2.3.

- § 3.2.7 As the Architect progresses with the preparation of the Design Development and Construction Documents, the Construction Manager shall prepare and deliver to the Owner and the Architect estimates of the Cost of the Work prior to the following phases: 1) the Design Development Phase; and 2) the Construction Documents Phase. The Construction Manager shall include appropriate contingencies for design, bidding, price escalation, and market conditions in the estimates of the Cost of the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall advise the Owner and Architect if it appears that the Cost of the Work may exceed the Owner's budget and make written recommendations for corrective action, including but not limited to designation of one or more elements of the Work as "Alternates" for bidding purposes.
- § 3.2.8 The Construction Manager shall review recommendations for systems, materials, or equipment for the impact upon cost, schedule, sequencing, constructability, and coordination among the Contractors. The Construction Manager shall make written recommendations to the Owner and the Architect, and coordinate resolution, as necessary, of any such impacts.
- § 3.2.9 As the Architect progresses with the preparation of the Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make written recommendations whenever the Construction Manager determines that the design, or details, adversely affect cost, scope, schedule, constructability, or quality of the Project.
- § 3.2.10The Construction Manager shall provide written recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The Construction Manager shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.
- § 3.2.11 The Construction Manager shall provide written recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors. The Construction Manager shall review and become familiar with the New York State Department of Education Safety Regulations for the Project and all applicable safety regulations, guidelines or requirements that apply to the Project, including but not limited to all infectious disease exposure precautions. The Construction Manager's responsibility is limited to the coordination of safety programs. The Construction manager shall not have direct control over or charge of the acts or omissions of the Contractors.
- § 3.2.12 The Construction Manager shall provide recommendations to the Owner on the division of the Project into individual contracts for the construction of various categories of Work, including the method to be used for selecting Contractors and awarding Contracts for Construction. The Construction Manager shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project are assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes is minimized, and (4) proper coordination is provided for phased construction.
- § 3.2.13 The Construction Manager shall expedite, and coordinate the ordering and delivery of all materials in support of the Construction Schedule, identify critical path submittals, including those that must be ordered in advance of construction. The Construction Manager shall notify Contractors in writing (with copies to the Architect and Owner) of items Construction Manager has identified as critical path materials which Construction Manager knows require a long lead time to prompt Contractors to complete their work on schedule.
- § 3.2.14 The Architect and Construction Manager shall assist the Owner in selecting, retaining, and coordinating the professional services of surveyors, geotechnical engineers, special consultants, and construction materials testing required for the Project.
- § 3.2.15 The Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Construction Manager shall make recommendations for actions designed to minimize adverse effects of labor shortages. The Construction Manager shall review and break down each Contractor's schedule of values to show the value of materials and labor for each Contractor's work activity.
- § 3.2.16 Intentionally Deleted.

- § 3.2.17 As set forth in Section 3.2.7, the Construction Manager shall update and submit the latest written estimate of the Cost of the Work and the Project schedule for the Architect's review and the Owner's approval. If after review of Owner's incidentals and soft costs, the latest estimate of the Project Cost exceeds the Owner's budget for the Cost of the Work, the Construction Manger shall make written recommendations and provide its services as necessary to bring the estimate within that budget.
- § 3.2.18 The Construction Manager, in consultation with the Owner, shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager shall assist the Owner and the Architect with the development of the Bidding Documents, which consist of bidding requirements and proposed Contract Documents. The Construction Manager, with the assistance of the Architect, shall issue Bidding Documents to bidders and conduct pre-bid conferences with prospective bidders. The Construction Manager shall issue the current Milestone Schedule with each set of Bidding Documents. The Construction Manager shall assist the Architect with regard to questions from bidders and with the issuance of addenda.
- § 3.2.19 The Construction Manager shall submit a list of prospective bidders for the Architect's review and the Owner's approval.
- § 3.2.20 With the assistance of the Architect, the Construction Manager shall receive bids and prepare bid analyses. The Construction Manager shall assist the Owner and Architect with the evaluation of the apparent lowest responsive and responsible bidders and together with the Architect shall make written recommendations to the Owner for the Owner's award of Contracts or rejection of bids.
- § 3.2.21 The Construction Manager and the Architect, shall assist the Owner in preparing Contracts for Construction. The Construction Manager shall advise the Owner on the acceptability of Subcontractors and material suppliers proposed by Contractors.
- § 3.2.22 The Construction Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the Contractors. The Construction Manager shall verify that the Owner has paid applicable fees and assessments. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.
- § 3.2.23 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E235<sup>™</sup>–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement.

#### § 3.3 Construction Phase and Project Closeout

- § 3.3.1 The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232<sup>TM</sup>—2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition as modified, which shall include but not be limited to:
- .1 coordinating any utility interruptions with the Owner;
- .2 on-site, day-to-day observation of work;
- .3 collecting all bonds and insurance certificates from Contractor and forward same to the Owner;
- .4 coordinating all on-site stored material locations and Contractor staging;
- .5 greeting, escorting, and logging all authorized visitors to the Project site and alerting security and/or the appropriate authorities of any known, unauthorized visitors entering or attempting to enter the Project site to the extent reasonably possible with on-site staff;
- .6 maintaining a daily log of activities on the jobsite;
- .7 logging and maintaining all project samples on site;
- .8 maintaining documentation and photographs of project progress;
- .9 coordinating punch list inspections and completion of punch list items;
- .10 conducting regular observations of the Work for purposes of insuring that the Work is being performed to the standard and quality required by the Contract Documents, including any Submittals.



Notes:

- § 3.3.2 The Construction Manager's responsibility to provide Construction Phase Services commences and ends as set forth in Exhibit A.
- § 3.3.3 The Construction Manager shall provide staff, at a minimum, as set forth in Exhibit A, with attendance at the Project site whenever the Work is being performed.
- § 3.3.4 The Construction Manager shall provide administrative, management and related services to coordinate scheduled activities and responsibilities of the Contractors with each other and with those of the Construction Manager, the Owner, and the Architect. The Construction Manager shall coordinate the activities of the Contractors in accordance with the latest approved Construction Schedule and the Contract Documents. The Construction Manager shall hold weekly construction meetings with all Contractors. The Construction Manager shall publish the fully integrated Construction Schedule to all Contractors.
- § 3.3.5 The Construction Manager shall review and analyze the construction schedules provided by the Contractors to update the Project schedule, incorporating the activities of the Owner, Architect, and Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered in advance of construction. The Project schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall recommend corrective action to the Owner and Architect in writing.
- § 3.3.6 The Construction Manager shall schedule and conduct meetings to discuss matters such as procedures, progress, coordination, scheduling of the Work (including recovery schedules as necessary), and corrective action plans and to develop solutions to issues identified. The progress or lack thereof for all corrective action plans and recovery schedules shall be discussed and recorded in the minutes of the meetings. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and Contractors within three (3) business days of every meeting.
- § 3.3.7 In accordance with the Contract Documents and the latest approved Construction Schedule, and utilizing information from the Contractors, the Construction Manager shall review, analyze, schedule, and coordinate the overall sequence of construction and assignment of space in areas where the Contractors are performing Work.
- § 3.3.8 The Construction Manager shall schedule and coordinate all tests and inspections required by the Contract Documents or governmental authorities and observe the on-site testing and inspections.
- § 3.3.9 The Construction Manager shall endeavor to obtain satisfactory performance from each of the Contractors. The Construction Manager shall, in writing, recommend courses of action to the Owner when requirements of a Contract are not being fulfilled, including but not limited to the failure of a Contractor to complete Work in compliance with the Construction Schedule. The Construction Manager shall advise Owner in writing regarding the performance by each of the Contractors. Disputes with a Contractor relating to the execution or progress of the Work or the interpretation of the requirements of the Contract Documents (except interpretations of the drawings and specifications which shall be referred to the Architect) shall be referred to the Construction Manager who may make such written recommendations to the Owner as Construction Manager may deem necessary for the proper execution and timely progress of the Project. Owner, at its discretion, shall take whatever action it deems necessary.
- § 3.3.10 The Construction Manager shall maintain a budget for the Project, inclusive of construction cost, incidentals, and changes in the work, and include the most current version in the Construction Manager's progress reports and deliver it to the Owner as requested.
- § 3.3.11 The Construction Manager shall maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records. Additionally, the Construction Manager shall establish accounting procedures which coincide with the procedures utilized by the Owner. The Construction Manager shall also assist the Owner, upon request, with the development and completion of all reports required by the New York State Education Department with respect to the Project.

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- § 3.3.11.1 The Construction Manager shall, in conjunction with the Architect, develop and implement procedures for the review and processing of Applications for Payment by Contractors for progress and final payments.
- § 3.3.11.2 Not more frequently than monthly, the Construction Manager shall review and certify the amounts due the respective Contractors as follows:
  - .1 The Construction Manager shall, within seven days after the Construction Manager receives each Contractor's Application for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each Contractor; (2) prepare a Summary of Contractors' Applications for Payment by summarizing information from each Contractor's Application for Payment; (3) prepare a Project Application and Certificate for Payment; (4) certify the total amount the Construction Manager determines is due all Contractors collectively; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.
- § 3.3.11.3 The Construction Manager's certification for payment shall constitute a representation to the Owner, based on the Construction Manager's performance of all duties set forth in this Agreement, and professional evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, in accordance with the Construction Manager's professional opinion, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, including but not limited to completion and delivery of all tests and inspections, and the Contractors are entitled to payment in the amount certified. The foregoing representations are subject to: (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion; (2) results of subsequent tests and inspections; (3) correction of minor deviations from the Contract Documents prior to completion; and (4) specific qualifications or exceptions by the Construction Manager listed in the Certificate for Payment. The issuance of a Certificate for Payment shall further constitute a recommendation to the Architect and Owner that the Contractor be paid the amount certified.
- § 3.3.11.4 The certification of an Application for Payment or a Project Application for Payment by the Construction Manager shall not be a representation that the Construction Manager has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, procedures, or sequences for a Contractor's own Work; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate each Contractor's right to payment; or (4) ascertained how or for what purpose that Contractor has used money previously paid on account of the Contract Sum. Notwithstanding the foregoing, the Construction Manager shall have the obligation under this contract in its ordinary scope of services to provide Owner with advice and services related to (1) promoting and facilitating the quality of the Work performed by each Contractor; and (2) commenting and providing recommendations, as appropriate, on Contractor construction means and methods, consistent with the statement of the Construction Manager's and Contractors' respective responsibility for such as set forth herein.

#### § 3.3.12 The Construction Manager shall

(Paragraphs deleted)

obtain and review the safety programs developed by each Contractor solely and exclusively for purposes of coordinating the safety programs with those of the other Contractors and for making recommendations for any additional safety measures to be considered in the Work of the Contractors. The Construction Manager's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager. The Construction Manager shall bring any observed deficiencies to the attention of Contractors and the Owner by written communication.

§ 3.3.13 The Construction Manager shall utilize its professional skill and judgment to determine whether the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents understanding that it is the Construction Manager's responsibility to guard the Owner against deficiencies and defects in the Work and notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Construction Manager shall have the authority to reject Work that does not conform to the Contract Documents and shall notify the Architect about the rejection. The failure of the Construction Manager to reject Work shall not constitute acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.20.2. Upon written

User Notes:

authorization from the Owner, the Construction Manager may require and make arrangements for additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures.

- § 3.3.13.1 The Construction Manager shall monitor and advise the Owner and Architect in writing of any material deviation from the sequence of construction in accordance with the Contract Documents and any material deviation from the Project Schedule.
- § 3.3.14 The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager 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 of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents but is required to report in writing any material deviations upon discovery to the Architect and Owner. The Construction Manager shall be responsible for the Construction Manager's intentional or negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractors, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work. If, however, the Construction Manager observes any safety program or action at the site which it believes is improper (including any deviation from the Project or Construction Schedules) or in violation of applicable law or rules, it shall immediately advise the Owner, in writing.
- § 3.3.15 The Construction Manager shall transmit to the Architect requests for interpretations, and requests for information of the meaning and intent of the Drawings and Specifications, and provide its written recommendation. The Construction Manager shall assist in the resolution of questions that may arise.
- § 3.3.16 The Construction Manager shall review requests for changes, assist in negotiating Contractors' proposals, submit written recommendations to the Architect and Owner, including the impact, if any, on the cost of the Project or the Construction Schedule, and, if the proposed changes are accepted or required by the Owner, in conjunction with the Architect, prepare Change Orders or Construction Change Directives that incorporate the Architect's modifications to the Contract Documents. After Change Orders or Construction Change Directives are prepared and signed by the Construction Manager and the Contractor, the Construction Manager shall submit same to the Architect and Owner for approval and execution. The Architect shall be responsible for preparing and filing Change Order documentation with the NYSED as required.
- § 3.3.17 The Construction Manager shall assist the Initial Decision Maker in the review, evaluation, and documentation of Claims.
- § 3.3.18 Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect and Owner for written approval.
- § 3.3.19 The Construction Manager shall promptly review all Shop Drawings, Product Data, Samples, and other submittals that have been submitted by the Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Construction Manager recommends for review and processing by the Architect. The Construction Manager's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the Contractors, the Owner, or the Architect.
- § 3.3.19.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractors by the Contract Documents, the Construction Manager shall review those submittals for sequencing, constructability, and coordination impacts on the other Contractors. The

Construction Manager shall discuss its findings with the Owner and the Architect, and coordinate resolution, as necessary, of any such impacts.

- § 3.3.20 The Construction Manager shall keep a daily log containing a record of weather, each Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.
- § 3.3.20.1 The Construction Manager shall collect, review for accuracy, and compile the Contractors' daily logs; and include them in the Construction Manager's reports prepared and submitted in accordance with section 3.3.20.2.
- § 3.3.20.2 The Construction Manager shall record the progress of the Project and keep the centralized electronic management system required by this Agreement current. On a monthly basis, or more frequently as required by the Owner, the Construction Manager shall submit written progress reports to the Owner, Owner's legal counsel, and Architect, showing percentages of completion and detailed corrective action plans and/or recovery schedules as appropriate, and other information identified below or as set forth in the example report included as part of the Construction Manager's proposal dated May 9, 2024:
  - .1 Work completed for the period;
  - .2 Project schedule status, including recovery schedules by Contractor, as appropriate;
  - .3 Status report of nonconforming and rejected Work with an initial or updated corrective action plan;
  - .4 Summary of all Contractors' Applications for Payment;
  - .5 Cumulative total of the Cost of the Work to date including the Construction Manager's compensation and reimbursable expenses at the job site, if any;
  - .6 Photographs to document the progress of the Project;
  - .7 Status reports on permits and approvals of authorities having jurisdiction; and
  - .8 Any other items the Owner may require:

#### § 3.3.21

(Paragraphs deleted)

Utilizing the documents provided by the Contractors, the Construction Manager shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Owner, Architect, and Contractors. Upon completion of the Project, the Construction Manager shall deliver them in an organized fashion in paper copy and electronic format to the Owner.

- § 3.3.22 The Construction Manager shall arrange for the delivery, storage, protection, and security by others of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work.
- § 3.3.23 With the Architect and Owner's maintenance personnel, the Construction Manager shall observe the Contractors' final testing and start-up of utilities, operational systems and equipment and observe any commissioning as the Contract Documents may require.
- § 3.3.24 When the Construction Manager and Architect consider each Contractor's Work or a designated portion thereof substantially complete, the Construction Manager shall, jointly with that Contractor, prepare for the Architect a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.
- § 3.3.25 When the Work of all Contractors, or designated portion thereof, is substantially complete, the Construction Manager shall prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion. The Construction Manager shall submit the executed Certificate to the Owner and Contractors. The Construction Manager shall coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager together with the Architect shall perform an inspection to confirm the completion of the Work of the Contractors and make recommendations to the Architect when the Work of all Contractors is ready for final inspection. The Construction Manager shall assist the Architect in conducting the final inspection.

- § 3.3.26 The Construction Manager shall forward to the Owner, with a copy to the Architect, the following information received from the Contractors: (1) certificates of insurance; (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (4) any other documentation required of the Contractors under the Contract Documents, including warranties and similar submittals.
- § 3.3.27 The Construction Manager shall deliver to the Owner, other items provided by the Contractors, such as keys, manuals, record drawings, and maintenance stocks. The Construction Manager shall forward to the Architect a final Project Application for Payment and Project Certificate for Payment, or a final Application for Payment and final Certificate for Payment, upon the Contractors' compliance with the requirements of the Contract Documents.
- § 3.3.28 Duties, responsibilities, and limitations of authority of the Construction Manager as set forth in the Contract Documents shall not be restricted, modified, or extended without written amendment to this Agreement signed by the Owner and Construction Manager.
- § 3.3.29 Prior to the expiration of one year from the date of Substantial Completion, the Construction Manager shall, without additional compensation, conduct a meeting with the Owner and Architect to review the facility operations and performance to determine if there are any deficiencies or non-conforming Work. In the event any deficiencies or non-conforming work is uncovered, then the Construction Manager shall contact the appropriate Contractor to have the deficiencies or non-conforming Work repaired prior to the expiration of the warranty.

#### ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

(Paragraphs deleted)

-Notwithstanding anything in this Agreement including, without limitation, this Article 4, no Additional Services shall be provided under this Agreement or subject to payment by Owner unless same are specifically approved in writing by Owner at a rate stated in such writing.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

- § 5.1 Unless otherwise provided for under this Agreement, the Owner shall, with the assistance of the Architect and Construction Manager, provide information in a timely manner regarding requirements for and limitations on the Project.
- § 5.2 The Owner shall with the assistance of the Architect and Construction Manager 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. The Construction Manager and Architect will work together and agree on the initial and all other estimates of the Cost of the Work. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.
- § 5.3 The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B132–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition as modified by the parties. The Owner shall provide the Construction Manager with a copy of the scope of services in the agreement executed between the Owner and Architect, and any further modifications to the Architect's scope of services in the agreement.
- § 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions pertaining to documents the Construction Manager submits in a timely manner to avoid unreasonable delay in the orderly and sequential progress of the Construction Manager's services. It is understood that there will be some decisions that will be beyond the authority of the designated representative and that require review and/or action by the Owner's Board of Education; in such circumstances it is understood that making the required decision may take a longer period of time.

- § 5.5 Unless provided by the Construction Manager, and as and to the extent necessary the Owner upon request from the Construction Manager 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 other 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.
- § 5.6 Unless provided by the Construction Manager, and as and to the extent necessary the Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, 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.
- § 5.7 The Owner shall provide the Supplemental Services designated as Owner's responsibility in Section 4.1.1.
- § 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E235<sup>TM</sup>–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement.
- § 5.9 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.
- § 5.10 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.
- § 5.11 The Owner shall provide prompt written notice to the Construction Manager and 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 or any fault or defect in the Construction Manager's services provided that nothing in this Agreement shall be construed so as to require the Owner to determine the technical adequacy, accuracy or sufficiency of Construction Manager's services
- § 5.12 The Owner reserves the right to perform construction and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project which are not part of the Construction Manager's responsibilities under this Agreement. The Construction Manager shall notify the Owner if any such independent action will interfere with the Construction Manager's ability to perform the Construction Manager's responsibilities under this Agreement. When performing construction or operations related to the Project, the Owner agrees to be subject to the same obligations and to have the same rights as the Contractors.
- § 5.13 The Owner shall communicate with the Contractors and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

#### § 5.14 The Owner

(Paragraphs deleted)

shall provide the Construction Manager access to the Project site prior to commencement of the Work and shall obligate the Contractors to provide the Construction Manager access to the Work wherever it is in preparation or progress, subject to strict compliance with the District's facility access procedures and infection control protocols, and all applicable NYS Education Department and NYS Department of Health regulations and guidelines dealing with the COVID-19 Public Health Emergency.

#### ARTICLE 6 COST OF THE WORK

- § 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect and Architect's consultants, compensation of the Construction Manager and Construction Manager's consultants, the costs of the land, rights-of-way, financing, and contingencies for changes in the Work (identified as such) or other costs that are the responsibility of the Owner. The Cost of the Work and total cost of the Project shall, in no event, exceed the amount of the bond for the Project (approved by referendum).
- § 6.1.1 Pursuant to the Education Law, the Owner must obtain approval of the voters of the District for the Project, and for the maximum project expenditure (sometimes referred to herein as the "Referendum Amount"). This Referendum Amount constitutes a fixed-limit maximum expenditure for the Project.
- § 6.1.2 For purposes of this Agreement, the Project Cost shall be the total cost to the Owner of the Project, including, but not necessarily limited to, the Cost of the Work, the compensation of the Architect and the Architect's Consultants, the compensation of the Construction Manager and Construction Manager's consultants, the cost of other project representation, costs of land, rights-of-way, financing costs, legal fees, and all other costs associated with the Project. The Construction Manager acknowledges that the Owner is bound by law to a maximum project expenditure not to exceed the approved Referendum Amount.
- § 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information (see Exhibit A) and may be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of the Owner's budget, preliminary estimates for the Cost of the Work and detailed estimates of the Cost of the Work prepared by the Construction Manager represent the Construction Manager's professional judgement.
- § 6.3 If a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.
- § 6.4 If the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Construction Manager, in consultation with the Architect, shall make appropriate written recommendations to the Owner to adjust the Project's size, quality, or budget (including but not limited to, design alternatives, material choices, building systems, equipment, etc.) for the Owner's consideration and approval.
- § 6.5 If the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Owner shall
  - .1 give written approval of an increase in the budget for the Cost of the Work, so long as the overall Project Cost does not exceed the Referendum Amount;
  - .2 terminate in accordance with Section 9.3;
  - .3 in consultation with the Construction Manager and Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
  - .4 implement any other mutually acceptable alternative.
- § 6.6 If the Owner chooses to revise the Project program, scope, or quality to reduce the Cost of the Work pursuant to Section 6.5.3, or if the bids or proposals received from the prospective Contractors, in the aggregate, exceed the Owner's budget for the Cost of the Work, and the Owner chooses to revise the Project program, scope, or quality to reduce the Cost of the Work, the Construction Manager shall cooperate with the Owner and Architect to develop the necessary revisions, update the cost estimate, and obtain additional bids. The Construction Manager will perform the services described in Sections 6.4 and 6.6 without additional compensation.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

The Construction Manager and the Construction Manager's consultants, if any, shall not own or claim a copyright in the Instruments of Service. The Construction Manager, the Construction Manager's consultants, if any, 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.

#### ARTICLE 8 CLAIMS AND DISPUTES

#### § 8.1 General

- § 8.1.1 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than as provided by law.
- § 8.1.2 Notwithstanding the limits of any insurance coverage required by this Agreement, to the fullest extent permitted by law, the Construction Manager shall indemnify and hold the Owner and the Owner's Board of Education, officers, administrators, volunteers, and employees harmless from and against damages, losses and judgments arising from claims by third parties, including, but not limited to, reasonable attorneys' fees and expenses recoverable under applicable law, arising out of or in any way connected with the performance or lack of performance of the services under this Agreement, but only to the extent they are caused by a negligent act or omission of the Construction Manager, its employees and/or its consultants in the performance of services under this Agreement. This obligation shall survive the termination or expiration of this Agreement.
- § 8.1.3 Pending the resolution of any disputes, Construction Manager shall continue to perform its obligations pursuant to this Agreement.

#### § 8.2 Mediation

- § 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to commencing litigation. If either party will be prejudiced by waiting until the mediation has concluded, then either party may proceed in accordance with applicable law to comply with filing deadlines prior to resolution of the matter by mediation.
- § 8.2.2 The Owner and Construction Manager shall endeavor to resolve claims, disputes, and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be governed by the American Arbitration Association's Construction Industry Mediation Procedures in effect on the date of this Agreement, but unless the parties mutually agree, the American Arbitration Association shall not administer or oversee the mediation. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with a mutually agreeable 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 with exclusive jurisdiction and venue in New York State Supreme Court for the County where the project is located. The prevailing party shall be entitled to recover its reasonable attorneys' fees and expenses recoverable under applicable law.

#### § 8.3

(Paragraphs deleted)

The provisions of this Article 8 shall survive the termination of this Agreement.

#### ARTICLE 9 TERMINATION OR SUSPENSION

- § 9.1 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Construction Manager, the Construction Manager may terminate this Agreement by giving not less than fourteen (14) calendar days' written notice.
- § 9.2 Either party may terminate this Agreement for cause upon not less than seven (7) calendar days' written notice to the other party 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.

- § 9.3 The Owner may terminate this Agreement upon not less than seven (7) calendar days' written notice to the Construction Manager for the Owner's convenience and without cause.
- § 9.4 If the Owner terminates this Agreement for its convenience pursuant to Section 9.3, or the Construction Manager terminates this Agreement pursuant to Section 9.1, the Owner shall compensate the Construction Manager for services performed and Reimbursable Expenses incurred prior to the date of termination provided the Construction Manager delivers all existing Project records held in its files or under its control, in hardcopy and electronic format, to the Owner in a useful and organized manner..
- § 9.5 If, after notice of termination for cause by the Owner, it is determined for any reason that Construction Manager was not in default or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued without cause by the Owner pursuant to Section 9.3.

#### § 9.6

(Paragraphs deleted)

Construction Manager represents and warrants to Owner that its services, the Project Schedule, and its compensation set forth herein contemplate compliance with all current and reasonably foreseeable federal, state, and local orders.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

- § 10.1 This Agreement shall be governed by the law of the state of New York, without regard to conflict of law principles.
- § 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232–2019, General Conditions of the Contract for Construction as revised by the Owner and contained in the Contract Documents, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager and the Architect.
- § 10.3 The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Construction Manager by the Owner prior to the assignment.
- § 10.4 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 Construction Manager.
- § 10.5 Unless otherwise required in this Agreement, the Construction Manager 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, unless the hazardous materials or toxic substances were brought to the Project site by the Construction Manager or its employees. Notwithstanding the above limitations, the Construction Manager shall provide the same services for the Owner with respect to any asbestos removal activities or other environmental activities as are provided by the Construction Manager with respect to all other activities of the Project.
- § 10.6 If the Construction Manager or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.6.1. or 10.6.2. This Section 10.6 shall survive the termination of this Agreement.
- § 10.6.1 The receiving party may disclose "confidential" or "business proprietary" information after seven (7) days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.6.

§ 10.6.2 Construction Manager acknowledges that Owner is subject to the disclosure requirements imposed by New York State law, including but not limited to the NYS Freedom of Information Law, and that subject to any applicable exceptions which may apply, Owner may be obligated to disclose information and produce copies of documents that are deemed "confidential" or "business proprietary" under the terms of this Agreement.

#### § 10.7 The

(Paragraphs deleted)

invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

- **§10.8** This Agreement, including any obligations hereunder, may not be assigned to any other party without the express written permission of the other party to this Agreement. A sale of all or a majority interest in the Construction Manager, a material change in the executive leadership of the Construction Manager, or a change in the Construction Manager's on-site representative without the prior written consent of the Owner shall be deemed an assignment in violation of the terms and conditions of this Agreement, at the option of the Owner.
- **§10.9** The notice requirements set forth in this Agreement dealing with Claims and Disputes are in addition to and not a substitution or replacement of any notice requirements contained in applicable law.
- § 10.10 The parties agree that when satisfactorily identified, a copy of this entire Agreement accurately reproduced from an electronically stored executed version hereof shall be admissible in evidence as an original in all legal proceedings between them regardless of whether a paper original is available. The introduction of a reproduction does not preclude admission of the original.
- § 10.11 The Construction Manager and the Owner agree that this Agreement shall automatically terminate without notice if the voters of the Owner (School District) reject a referendum seeking authorization to proceed with the Project and the Owner will not be liable for any expenses or fees except as specifically set out herein.

#### ARTICLE 11 COMPENSATION

§ 11.1 For the Construction Manager's Basic Services described herein, the Owner shall compensate the Construction Manager as follows:

(Paragraphs deleted)

as set forth in Exhibit A.

(Table deleted)

- § 11.6 Compensation for Reimbursable Expenses
- § 11.6.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Construction Manager and the Construction Manager's consultants directly related to the Project,

(Paragraphs deleted)

authorized by the Owner in writing, in advance.

- § 11.6.2 For Reimbursable Expenses the compensation shall be the actual expenses incurred by the Construction Manager and the Construction Manager's consultants.
- § 11.6.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed based on hourly rates shall be available for audit by Owner at mutually convenient times. . Said records shall be available to the Owner or its authorized representative for inspection and copying during regular business hours for three (3) years after the date of the completion of the Project.

#### § 11.7 Payments to the Construction Manager

(Paragraphs deleted)



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§ 11.7.1 Exhibit A – Construction Management Services Proposal, Dated May 9, 2024
The Owner shall pay the Construction Manager a fixed total lump sum Base Fee of One-Million Six Hundred
Forty-Two Thousand Five Hundred Dollars and Zero Cents (\$1,642,500.00) for providing its Basic Services as set forth in Exhibit A.

#### ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows: (Paragraph deleted)

§ 12.1 It is understood that the use of an Architect by Owner shall not diminish the responsibilities and obligations of the Construction Manager.

#### ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations, or agreements, either written or oral, dealing with the subject matter hereof, including but not limited to any consulting or pre-referendum agreements related to the Project defined herein. This Agreement may be amended only by written instrument signed by both the Owner and Construction Manager.

- § 13.2 This Agreement is comprised of the following documents identified below:
  - AIA Document C132<sup>TM</sup>\_2019, Standard Form Agreement Between Owner and Construction Manager as Adviser, as modified by the Parties.
  - .2 AIA Document E203<sup>TM</sup>\_2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below, if applicable:

    (Insert the date of the E203-2013 incorporated into this Agreement.)

NA

.3 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ NA ] AIA Document E235<sup>TM</sup>\_2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:

(Insert the date of the E235-2019 incorporated into this agreement.)

[ XX ] Other Exhibits incorporated into this Agreement: if a listed exhibit is not attached, Owner and Construction Manager agree to add the exhibit as an amendment, subject to Owner's prior written approval.

(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.2.)

Exhibit A – Construction Management Services Proposal, Dated May 9, 2024Each and every reference in this Agreement and in the Contract Documents to AIA Document A232-2019, General Conditions of the Contract for Construction shall be deemed to refer to AIA Document A232-2019, General Conditions of the Contract for Construction as amended by the parties.

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User Notes:

This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement. Delivery of a signature page attached to this Agreement containing one or more signatures by facsimile or other electronic means shall be as effective as delivery of the original signature page to this Agreement. This Agreement shall not be binding until all Parties have signed.

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

**OWNER** (Signature)

Geoffrey Kirkpatrick Superintendent of Schools

(Printed name and title)

**CONSTRUCTION MANAGER** (Signature)

Eric P. Robert, President

(Printed name and title)

**User Notes:**