

**WEST ORANGE BOARD OF EDUCATION**  
**Public Board Meeting - 8:00 p.m. – February 23, 2015**  
**West Orange High School**  
**51 Conforti Avenue**

**Agenda**

- I. ROLL CALL OF THE MEMBERS AND PLEDGE OF ALLEGIANCE**
- II. NOTICE OF MEETING: Please take notice that adequate notice of this meeting has been provided in the following manner:**
  - A. That a written notice was sent from the Office of the Secretary of the Board at 4:00 p.m. on January 6, 2015.
  - B. That said notice was sent by regular mail to the West Orange Township Clerk and the Editors of the West Orange Chronicle and the Star-Ledger.
  - C. That said notice was posted in the lobby of the Administration Building of the Board of Education.
- III. CONSIDERATION OF THE CLOSED AND PUBLIC MEETING MINUTES OF February 9 and 12, 2015 (Att. #1)**
- IV. SUPERINTENDENT/ BOARD REPORTS**
  - A. Mt. Pleasant Elementary Students
  - B. ESIP
  - C. Honors Courses for Middle School
  - D. PARCC
  - E. Retirement Recognition
  - F. Special Education Expo
  - G. Budget Update
  - H. HIB Report
  - I. Athletic/Extracurricular Update
- V. QUESTIONS FROM THE PUBLIC ON AGENDA ITEMS**
- VI. SECOND READING OF THE FOLLOWING BOARD POLICIES:**
  - Graduation Requirements 6146.00
  - At-Risk and Title 1 6171.30

**VII. REPORTS, DISCUSSIONS, AND RECOMMENDATIONS**

**A. PERSONNEL**

**1. Resignations / Retirements**

- a. Superintendent recommends approval to the Board of Education for the following certificated staff resignation(s) / retirement(s):

Name	Location	Position	Reason	Effective Date
Kelly Hart	WOHS	Technology Education	Resignation	4/10/15 *
Barbara Kivlon	Redwood	Principal	Retirement (36 years)	7/1/15
Michael Schiavo	Mt. Pleasant	Principal	Retirement (17 years)	7/1/15

\*or sooner as determined by the Superintendent

- b. Superintendent recommends approval to the Board of Education for the following non-certificated staff resignation(s) / retirement(s):

Name	Location	Position	Reason	Effective Date
Carolynn Ernst	Redwood	Paraprofessional - General Education	Resignation	2/24/15

**2. Rescissions**

- a. Superintendent recommends approval to the Board of Education for the following substitute rescission(s)

Name	Location	Position	Effective Date
Sherome Jackson	Buildings & Grounds	Substitute Custodian	2/6/15
Michael Tate	Buildings & Grounds	Substitute Custodian	2/18/15

**3. Appointments**

- a. Superintendent recommends approval to the Board of Education for the following certificated staff appointment(s):

Name	Location	Position	Replacement / New	Guide	Step	Salary	Effective Dates
Carolynn Ernst	Redwood	Grade 2 Leave Replacement	Cozzolino	BA	2	\$259.31 per diem	2/25/15 - 6/19/15

Kristin Paul	WOHS	Special Education Leave Replacement	O'Neill	MA	2	\$276.90 per diem	2/1/15 - 4/2/15
Gail Sumpter	WOHS	Family & Consumer Science Extended Assignment Substitute	Wong-Macias	N/A	N/A	\$180 per diem	2/13/15 - 3/23/15

- b. Superintendent recommends approval to the Board of Education for the following non-certificated staff appointment(s):

Name	Location	Position	Replacement / New	Guide	Step	Salary	Effective Dates
Mercedes Castro Hidalgo	WOHS	Custodian Night Shift	Hood	B&G	8	\$35,217.83 to be prorated (includes shift differential of \$580) (amended)	2/10/15 - 6/30/15
Gustavo Contreras, Sr.	Redwood	Custodian Night Shift	Villone	B&G	8	\$35,217.83 to be prorated (includes shift differential of \$580) (amended)	2/10/15 - 6/30/15
Michelle Ferrara	Washington	Part-Time Paraprofessional	Salkin	Non Degree	2	\$22.43 per hour	2/24/15 - 6/19/15
Robert Sabino	Washington	Custodian Night Shift	Bisono	B&G	8	\$35,217.83 to be prorated (includes shift differential of \$580) (amended)	2/10/15 - 6/30/15

- c. Superintendent recommends approval to the Board of Education for training level changes to be made for certificated staff members who completed course work with passing grades retroactive to January 1, 2015:

First	Last	Location	Position	From Guide	From Step	From Salary	To Guide	To Step	To Salary
Catherine	Connors	WOHS	Biology	MA	2	\$55,380	MA+16	2	\$58,953
Derek	DePascale	Edison	Social Studies	BA	3	\$52,244	BA+32	3	\$54,917
Nicholas	Dorey	Gregory	Resource	BA	3	\$52,224	BA+16	3	\$52,827
Michelle	Ledesma	Hazel	Art	BA+32	9	\$61,347	MA+32	9	\$69,637
Rachel	Ostanski	WOHS	Social Studies	MA+32	8	\$68,357	MA+48	8	\$69,637

- d. Superintendent recommends approval to the Board of Education for the following co-curricular assignment(s):

Name	Location	Position	Rate of Pay	Effective Dates
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Michael Spadola OOD	WOHS	Track & Field Assistant Coach	\$8,481	2014 - 2015
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- e. Superintendent recommends approval to the Board of Education for the following other additional assignment(s) as assigned:

Name	Location	Position	Rate of Pay	Effective Dates
Rosemary Boyle	Roosevelt	After School Club Activities	\$73 per hour	2/25/15 (not to exceed 45 minutes)
Boris Ioshpa	Hazel	Morning Drop-Off Duty	\$35 per diem	2014-2015

- f. Superintendent recommends approval to the Board of Education for the following additional teaching assignment(s):

Name	Location	Position	Guide	Step	Salary	Effective Dates
Cynthia Critelli	WOHS	Family & Consumer Science	MA+48	14	\$559.15	2/17/15 - 3/23/15 (not to exceed 6 class periods)
Lori Graham	WOHS	Family & Consumer Science	BA+16	14	\$466.20	2/17/15 - 3/23/15 (not to exceed 6 class periods)
Susan Marshall	WOHS	Family & Consumer Science	BA+32	14	\$495.18	2/17/15 - 3/23/15 (not to exceed 6 class periods)

- g. Superintendent recommends approval to the Board of Education for the following substitute appointment(s) at the appropriate substitute rates for 2014-2015:

Name	Certification Code	Teacher	Instructional Assistant	Administrative Assistant	Lunch Aide	Nurse	Custodian
Sheyne Clark	CE	X	X				
Onisha Cole	CEAS	X	X	X			
Ebenezer Gyasi	Standard	X	X	X			
Christine Huang	Substitute	X	X				
Isabella Lombardo	CE	X					
Fatima Muhammad	Substitute	X	X	X			

#### 4. Leaves of Absence:

- a. Superintendent recommends approval to the Board of Education for the following leaves of absence for certificated staff:

Name	Location / Position	Paid Leave	Unpaid Leave with Benefits	Unpaid Leave without Benefits	Anticipated Return Date
Nicole Cozzolino Family	Redwood Grade 2	2/25/15 - 4/28/15 (amended)	4/29/15 - 6/30/15	N/A	9/1/15
Patricia Valesse Medical	Hazel / Grade 2	3/1/15 - 5/1/15	N/A	N/A	5/4/15
Krystina Villani Family	St. Cloud / Grade 5	1/9/15 - 2/6/15	2/9/15 - 10/31/15 (amended)	11/2/15 - 8/31/15 (amended)	9/1/16

- b. Superintendent recommends approval to the Board of Education for the following leaves of absence for non-certificated staff:

Name	Location / Position	Paid Leave	Unpaid Leave with Benefits	Unpaid Leave without Benefits	Anticipated Return Date
Maria (Carmen) Fraguas	WOHS / Administrative Assistant	1/8/15 - 3/11/15	TBD	TBD	TBD

**5. Transfer(s):**

Superintendent recommends approval to the Board of Education for the following transfer(s) of non-certificated staff:

Name	From	Position	To	Position	Effective Date
Montrisa Bradford	Edison	Administrative Assistant	WOHS	Administrative Assistant	2/17/15

**B. CURRICULUM AND INSTRUCTION**

1. Recommend approval/acceptance of Applications for School Business requests:

Name	Conference	Dates	Amount	Funded
Alicia Armendariz	Systems 3000 Payroll & HR Application Training Eatontown, NJ	3/25/15	\$0	
Laura Arredondo	Sheltered English Instruction Training of Trainers Workshop Edison, NJ	7/22/15-7/23/15	\$0	
Mercedes Asqui	FLENJ Embedded Reading: Scaffolding and Success for All Students New Brunswick, NJ	2/27/15	\$115.00	Local Funds

Francesco Composto	2015 NJMEA Convention New Brunswick, NJ	2/19/15	\$150.00	\$100.00 Local Funds \$ 50.00 Employee Funded
Nicole Handler	Transition of Student with Emotional and Behavioral Disorders Wayne, NJ	3/20/15	\$0	
Sanhita Kar	Transition of Student with Emotional and Behavioral Disorders Wayne, NJ	3/20/15	\$5.58	Local Funds
Pam Nicholais	Dealing with Difficult People Edison, NJ	3/11/15	\$109.30	Local Funds
Maria Pirovano	FLENJ Embedded Reading: Scaffolding and Success for All Students New Brunswick, NJ	2/27/15	\$165.00	Local Funds
Rossanna Santos	Redesigning the PSAT and SAT New Providence, NJ	3/9/15	\$0	
Linda Torrisi	Systems 3000 Payroll & HR Application Training Eatontown, NJ	3/25/15	\$28.52	

2. Recommend approval of the following field trips for the 2014-2015 school year:

School	Grade	Course/Group	Destination
WOHS	9-12	Skills USA Club	Gloucester County Institute of Technology, Sewell, NJ
Roosevelt	8	Italian Language	Eataly, 200 5th Avenue, New York

## C. FINANCE

### a.) Special Services

1. Recommend approval for the following out of district placements for the 2014-2015 School Year:

Student #	Classification	Old Placement	New Placement	Tuition	Budgeted/ Unbudgeted
02810077	General Ed	WOHS	ERESC Essex High School Passaic, NJ	\$9,120.22 Start Date:1/30/15)	Unbudgeted

1301032	General Ed	WOHS	ERESC Essex Campus Academy Fairfield, NJ	\$10,824 Start Date: 1/12/15	Unbudgeted
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2. Recommend approval for the following service providers for Out of District services as per IEP:

Student #	Agency	Service	Rate	Total	Budgeted/ Unbudgeted
2506098	Creative Learning Studios, LLC Morris Plains, NJ	Occupational Therapy, 1 hour per week	\$180 per week (includes therapy, travel, prep work and documentation), retroactive to 12/19/14	\$5,400	Unbudgeted

3. Recommend approval for the following Professional Developmental Program held on 2/11/15 at Central Office:

Provider	Type of Program	Cost	Budgeted/ Unbudgeted
Perry A. Zirkel	Section 504/ADA and K-12 Students	\$3,500	Budgeted

4. Recommend approval of submission of amended IDEA Basic Grant for fiscal year 2015 in the amount of \$1,773,766. Amended application includes fiscal year 2014 Basic Carryover Funds in the amount of \$59,664.
5. Recommend approval to fund the following tuitions through the FY15 IDEA Grant, \$1,434,943 in Basic Funds and \$63,263 in Preschool Funds, retroactive to July 1, 2014: These tuitions were previously Board approved without identifying the funding source.

School	IDEA BASIC FUNDS	IDEA PRESCHOOL FUNDS
Reed Academy	\$142,537	\$63,263
Calais School	\$63,263	
Banyan School	\$54,746.89	

Felician School	\$55,119.74	
Lord Stirling School	\$86,885.40	
Matheny School	\$94,600	
New Beginnings	\$123,740.40	
Ocean Academy	\$47,073.80	
Somerset Hills Learning Institute	\$199,929.60	
Princeton Child Development Institute	\$104,000	
Children's Therapy Center (Upper)	\$75,428.96	
Garden Academy	\$308,448	
ARC Kohler School	\$69,809.48	

**b.) Business Office**

1. Recommend approval of the 2/23/15 Bills List: (Att. #2)

Payroll/Benefits	\$ 132,539.87
Transportation	\$ 475,566.51
Tuition (Spec. Ed./Charter)	\$ 283,385.51
Instruction	\$ 53,439.57
Facilities	\$ 318,601.41
Capital Outlay	\$ 58,187.00
Grants	\$ 144,412.82
Food Service	\$ 314,550.52
Textbooks/Supplies/Athletics/Misc.	<u>\$ 115,920.38</u>
	\$ 1,896,603.59

2. Recommend approval of Honeywell Contract in a form acceptable to counsel:

The Board of Education hereby approves a contract with Honeywell Building Solutions for a price not to exceed \$12,446,902 to provide and install the energy conservation measures described in the School District's Energy Savings Plan approved December 15, 2014, in a form approved by Counsel, and subject to availability of funding. The Board President, Superintendent and/or the Business Administrator/Board Secretary are authorized to execute

such contract on behalf of the Board of Education, and the signature or signatures thereon are conclusive proof of the required review and approval of the contract. (Contract on file in the office of the Business Administrator. Additionally, copies will be made available for review at the public meeting.)

**3. Recommend approval of ESCO Guarantee:**

The Board of Education hereby approves the energy savings guarantee offered by Honeywell Building Solutions for the contract amount of \$25,000, and the contract with Honeywell Building Solutions approved by this Board of Education for the implementation of the Energy Savings Plan will include provisions for the guarantee.

**4. Recommend approval of professional services contract for architect: (Att. #3)**

The Board of Education hereby determines that Parette Somjen Architects, LLC, Rockaway, NJ, being a professional design architect firm with an excellent reputation in the field and having familiarity with the school district's facilities in their capacity as the School District's Architect of Record, is authorized and delegated the responsibility to prepare the required plans and specifications as Project Architect for the Energy Conservation Measures to be undertaken with Honeywell Building Solutions for the implementation of the School District's Energy Savings Plan, in consultation with and under the supervision of the Business Administrator/Board Secretary, who is hereby delegated the responsibility to work with the Project Architect for this purpose on behalf of the Board, all in accordance with the requirements of N.J.S.A. 18A:18A-16, at a cost of \$612,241, that a contract therefore for professional services in a form approved by the School District's counsel is hereby awarded pursuant to N.J.S.A. 18A:18A-5(a)(1) to be executed on behalf of the Board of Education by the Board President or the Business Administrator/Board Secretary and that the Business Administrator/Board Secretary shall publish a Notice of Contract Awarded as required by law.

**5. Approve professional services contract for McManimon, Scotland & Baumann, LLC: (Att. #4)**

The Board hereby determines that the School District's Bond Counsel, McManimon, Scotland & Baumann, LLC, Newark, NJ, a law firm with special experience and expertise in public finance and in particular with implementing and financing energy savings improvement programs, is authorized to continue to assist this Board of Education in the implementation of the Energy Savings Improvement Program and the financing of the energy conservation measures included in the School District's Energy Savings Plan, that a contract therefore for professional

services in substantially the form submitted at this meeting is hereby awarded pursuant to N.J.S.A. 18A:18A-5(a)(1) to be executed on behalf of the Board of Education by the Board President or the Business Administrator/Board Secretary and that the Business Administrator/Board Secretary shall publish a Notice of Contract Awarded as required by law.

6. Recommend approval of authorization of applications for LRFP plan amendment and project approvals:

The Board President, the Superintendent of Schools, the Business Administrator/Board Secretary, the Project Architect, the ESCO, Bond Counsel and other appropriate representatives of the Board (the "Board Representatives") are hereby authorized to submit any required educational plans and the schematic plans for the Energy Conservation Measures to be installed in the School District's facilities and undertaken in accordance with the School District's Energy Savings Plan, and such other information as may be required, to the State Department of Education for approval and to make application to the Commissioner of Education on behalf of the Board for approval of any required educational plans, the schematic plans and the Energy Savings Project and, if necessary, any required amendment to the long-range facilities plan, in accordance with the requirements of N.J.A.C. 6A:26-2.3, 2.1(f), 3.1 and 3.11. The Board Representatives are hereby further authorized and directed to submit the schematic plans and any other required information to the Planning Board and the Department of Environmental Protection for review and comment, if necessary.

7. Recommend approval of the form of resolution attached hereto authorizing the financing of the Energy Savings Plan. (Att. #5)
8. Recommend acceptance of the following donations:

Donor	Recipient	Description
Tagen Jacobus	WOHS Golf Team	Golf clubs, golf bags, golf balls, tees
Janis DeRosa	WOHS Golf Team	Golf clubs, golf bags
1st Tee of Essex County	WOHS Golf Team	Golf clubs
St.Cloud PTA	St. Cloud School	\$500 for purchase of books

9. Recommend approval of submission of amended No Child Left Behind (NCLB) Consolidated Grant for fiscal year 2015 in the amount of \$1,086,540. Amended application includes fiscal year 2014 Carryover Funds in the amount of \$3,612.

## **D. REPORTS**

1. Superintendent recommends to the Board of Education acceptance of the HIB Report ending February 19, 2015.

2. **Harassment, Intimidation and Bullying**

“Whereas, pursuant to Board Policy and the requirements of N.J.S.A. 18A:37-17(b)(6)(c), at its meeting on February 9, 2015, the Superintendent reported HIB Incident Numbers 36 and 38 to the Board; and

Whereas, on February 10, 2015 the parents and/or guardians of the students who are parties to the investigation received information about the investigation pursuant to N.J.S.A. 18A:37-17(b)(6)(d); and

Now, therefore, be it Resolved that the Board affirms the decision of the Superintendent concerning HIB Incident Numbers 36 and 38 for the 2014-2015 school year for the reasons conveyed to the Board.”

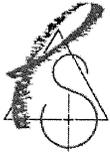
## **VIII. REPORT FROM THE BOARD PRESIDENT AND/OR BOARD MEMBERS**

- IX. **NEXT CLOSED BOARD MEETING to be held at 6:00 p.m. on March 2, 2015 at the Administration Building.**

- X. **PETITIONS AND HEARINGS OF CITIZENS**

- XI. **ADJOURNMENT**

P A R E T T E  
S O M J E N



ARCHITECTS

20 January 2015  
VIA EMAIL

John Calavano  
School Business Administrator/Board Secretary  
179 Eagle Rock Avenue  
West Orange, NJ 07052

RE: Professional Services for West Orange Board of Education  
Energy Conservation Measures associated with Energy Savings Plan  
PSA No. 5720

Dear Mr. Calavano:

Parette Somjen Architects L.L.C. appreciates the opportunity to work closely with the West Orange Board of Education ("Board") to provide the following professional services for the above referenced project ("Project"). Parette Somjen Architects L.L.C. ("PSA") has prepared the following project specific information based on our current understanding of this project and discussions with you. This document will act as a supplement to our Architect of Record Agreement.

## 1. PROJECT SCOPE

West Orange Board of Education has been embarking on an Energy Savings Improvement Plan. They have retained Honeywell Building Solutions as an Energy Services Company. Honeywell Building Solutions has developed an energy plan dated October 10, 2014 that has been submitted to a third party to review as well as to the Board of Public Utilities.

After commentary from the third party reviewer the plan was updated and dated November 13, 2014. Both the third party plan reviewer and the Board of Public Utilities have approved the plan. The Board of Education has accepted the energy plan and is interested in implementing the plan.

As part of the plan there were twenty six Energy Conservation Measures ("ECM's") reviewed and considered. Not all of the ECM's can be accomplished within the budget. The ECM's that have been identified within the final budget include but are not limited to Lighting Upgrades, controls and various mechanical upgrades. The specific ECM's are outlined in the attached matrix which is within the plan prepared by Honeywell and adopted by the district.

## PROFESSIONAL SERVICES

### 2.1 Information Gathering & Documentation of Existing Conditions

PSA will undertake a field survey of the areas that will be affected by the proposed Work. This survey will allow us to familiarize ourselves with the space(s) to be occupied and more importantly to develop a plan that we refer to as "existing conditions" on which subsequent designs will be based. Any existing documentation / drawings that exist shall be provided to PSA for review and reference. This phase includes a visit to the space to document pertinent information relevant to the areas that will be affected by the proposed Work. Our visit will only look to document basic information that is readily visible. Readily visible is defined as being easily seen without undue difficulty or effort. We do not, as part of our basic services, cut or break open walls or ceilings to examine existing conditions.

### 2.2 Schematic Design

PSA shall prepare a Schematic Design Document based on the elements outlined in the energy plan. The Schematic Design Document shall establish the conceptual design of the project illustrating the scale and relationship of the project components. The Schematic Design Documents shall be limited to preliminary floor plans.

**Principals**  
Marc R. Parette, A.I.A., P.P.\*  
Gregory J. Somjen, A.I.A.

**Partners**  
John Carton, A.I.A.\*  
Stephen D. Quick, A.I.A.

**Associates**  
Edward Neighbour, A.I.A.

439 Route 46 East  
Rockaway, NJ 07866  
Tel. 973.586.2400  
Fax. 973.586.2401  
[www.planetPSA.com](http://www.planetPSA.com)

\*LEED™AP

## 2.3 Budgeting

All construction budgeting was undertaken by Honeywell Building Solutions. These construction estimates are being guaranteed by Honeywell and will be incorporated into the Department of Education applications as well as used for financing, bidding and award.

Accordingly, PSA cannot and does not warrant or represent in any manner the actual cost of construction. As such, the Board agrees that PSA cannot be held liable for any damages claimed to have arisen out of construction costs exceeding these estimates.

## 2.4 Applications & Submissions

### 2.4.1 Department of Education

The Department of Education requires the submission of an application for various project types. This application includes a number of forms including budgeting forms, timelines, etc. In addition this submission needs to be coordinated with the Districts Long Range Facility Plan (LRFP). If the projects are not in the LRFP, PSA will complete the necessary paperwork as part of this submission to update the LRFP.

## 2.5 Design Development

Once a Schematic Design is chosen and the various approvals are in place, PSA will undertake the Design Development phase. The Design Development shall illustrate and describe the refinement of the design based on feedback from the Board. This typically includes more detail being incorporated into the drawings, and commonly continues parallel to the construction documents.

It is possible that the Design Development phase runs parallel to the Department of Education approvals to expedite the process. However release for bidding purposes should not be undertaken until the final approvals are received.

## 2.6 Construction Documents

PSA shall provide Construction Documents based on the approved Design Development Document. The Construction Documents shall set forth the requirements for construction of the project. Specifically our Construction Documents shall include; floor plans, elevations, sections and details as well as engineering aspects of the appropriate ECM; mechanical and electrical system design.

Environmental professional services are excluded and will be coordinated with the districts environmental consultants.

## 2.7 Contract Administration Services

PSA shall provide administration of the Project as set forth below. PSA shall be a representative of the Board during the Project and shall advise and consult with the Board only as specifically delineated within this paragraph:

### 2.7.1 Construction Procurement Services

- a. PSA shall assist the team in preparing for bidding.
- b. PSA shall assist in reviewing the bids.

### 2.7.2 Contract Administration Services

- a. PSA, as a representative of the BOE, shall visit the site periodically to become generally familiar with, and to keep the Owner informed about, (1) the progress and quality of the portion of the Work when fully completed, (2) to endeavor to guard the Owner against known

- defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.
- b. PSA will conduct on-site observations periodically for the purpose of determining the amounts owed any contractor based on contractor's applications for payment compared to work completed in accordance with the Contract Documents. PSA shall make recommendations to the Board as to the appropriateness of payment to the contractors for that portion of the work that appears to have been completed in conformance with the Board approved drawings. Those recommendations shall thereafter be memorialized in writing. Thereafter, the Board shall be solely responsible for making determinations as to the appropriateness of payment to the contractors for work already performed.
  - c. PSA shall provide up to twenty (20) visits over the duration of the Project during construction. Additional visits shall be deemed Additional Services

**Parette Somjen Architects LLC and their representatives shall neither have control over nor be in charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibilities. PSA does not assume any responsibility for the implementation, discharge, or monitoring of safety standards or practices.**

## 2. COMPENSATION

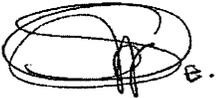
The professional fees for services outlined herein are based on a Flat Fee of **\$612,241.00**. This flat fee excludes reimbursable expenses (i.e. printing, deliveries). Billing will be in accordance with the Architect of Record agreement already in place with the district.

## 3. GENERAL CONDITIONS

General Conditions are those outlined in the attached Exhibit 1. Any services requested and / or performed beyond those outlined herein shall be considered an Additional Service and billed accordingly.

Please accept this as a formal proposal and if acceptable, please sign and return one copy with a PO reference for billing purposes. We thank you for the opportunity to be of service and we look forward to a mutually rewarding relationship. Should you have any questions now or at any time, please feel free to contact the undersigned.

Sincerely,  
PARETTE SOMJEN ARCHITECTS L.L.C.



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By: Gregory J. Somjen, AIA  
Member

The individual listed below is authorized to execute this Agreement and to bind the entity listed below in accordance with this Agreement and agrees to make payment for the Scope of Services described herein at the terms and conditions outlined herein. This agreement is entered into as of the day and year first written above. I, the undersigned have read this agreement and agree to be bound by its terms and conditions.

*agreement acceptance*

accepted by: \_\_\_\_\_ *signature*

print name: \_\_\_\_\_ title: \_\_\_\_\_

business name: \_\_\_\_\_ date: \_\_\_\_\_

**billing contact information**

printed name: \_\_\_\_\_ title: \_\_\_\_\_

phone: \_\_\_\_\_ email: \_\_\_\_\_

billing address: \_\_\_\_\_

Exhibit 1

1. Provider Responsibilities.

- A. The Provider and the Board enter into this Agreement for the express and sole purpose of having the Provider perform its professional services on multiple Energy Conservation Measures for the Board
- B. The Provider and anyone providing the Services on behalf of the Provider shall provide the Services in accordance with the generally accepted standards of members of the same profession.
- C. The Provider shall provide the Board, if requested, with copies of documentation confirming that anyone providing the Services on behalf of the Provider has the certifications, licenses, skills and experience necessary to provide the Service. The documents shall be current, valid and issued by the State of New Jersey and any other authority with jurisdiction over the Services.
- D. The Architect shall review laws, regulations, codes and standards in effect as of the date of the project that are applicable to the Architect's services and shall exercise professional care and judgment to design in compliance with requirements imposed by governmental authorities having jurisdiction over the project. Should laws, codes and standards change after the Owner has approved the Construction Documents for a project, during the project requiring the Architect to make changes, such changes will be provided as an additional service. The Provider and anyone providing the Services on behalf of the Provider shall, without limitation of the aforementioned, comply with the anti-discrimination provisions of N.J.S.A. 10:2-1 et seq., the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27-1.1 et seq., N.J.A.C. 6:4-1.6, as recodified in N.J.A.C. 6A:7-1 et seq., Title VII of the Civil Rights Act of 1964 and Title 11 of the American With Disabilities Act of 1990.

2. Board Responsibilities.

- A. The Board shall compensate the Provider in accordance with the Compensation provisions of this Agreement.
- B. The Board shall provide information in a timely manner. For purposes of this Agreement, a decision by the Board shall be timely if made by the Board at its next regularly scheduled meeting after receipt of notice of the need to provide the information in sufficient time to be placed on the Board's agenda for the next regularly scheduled meeting.
- C. Unless designated otherwise in writing, the Business Administrator shall be designated as the Board's representative authorized to act on the Board's behalf, except for those matters requiring approval by the Board.

3. Compensation.

- A. The Provider shall not be entitled to compensation unless the Provider actually provides the Services, e.g., the Provider shall not be entitled to compensation if the Provider is scheduled to provide the Services and the Services are not provided as a result of the action or inaction of the Provider, the Board, its officers, agents, contractors or students. The Board shall use its best efforts to avoid cancellations. The Board shall not be subject to a fee or a fine or penalty or prejudice in the event it is required to cancel the requested or scheduled services. However, in the event the Board requests services and the Provider performs those services before receiving any written notice of cancellation by the Board, then the Provider shall be compensated for those such services actually performed in accordance with this Agreement.
- C. The Provider shall submit duly verified monthly invoices to the Board. The Board shall approve the Provider's invoice at the next regularly scheduled Board meeting following the Administration's payment recommendation. The Board shall make payment to the Provider on the approved invoice during the next payment cycle following its approval of the invoice.
- D. If an invoice is disputed, notification of such dispute will be made in writing within fourteen (14) calendar days following the Board's next regularly scheduled meeting. The Provider will expect payment of all non-disputed, invoiced amounts in order for services not to be suspended or terminated.
- E. Should the Board fail to make payment of undisputed sums as set forth in Paragraph 4 (D) of this Agreement, the Board shall be liable for the amount of money owed under the Agreement, plus an annual interest rate equal to the prime rate plus 1%.

Disputes regarding whether a party has failed to make payment required hereunder may, at the determination of both parties, be submitted to a process of alternative dispute resolution notwithstanding anything to the contrary herein.

5. Suspension and Termination.

- A. On ten (10) calendar days written notice, the Board may suspend or terminate this Agreement, with or without cause, for any and all reasons and without penalty or prejudice. In the event of such termination, the Provider shall be paid any undisputed charges for work performed prior to the effective date of termination in accordance with the payment terms of this Agreement.
- B. The Board's suspension or termination of this Agreement shall be without prejudice to, and with full reservation of, all other rights and remedies of the Board pursuant to this Agreement or as may exist at law or in equity, including but not limited to claims of errors and omissions and specific performance.
- C. Should the Board suspend or terminate this Agreement, the Provider agrees to cooperate and provide all information requested by the Board in connection with the completion of

the Services. Notwithstanding anything to the contrary herein, the Provider shall only be obligated to cooperate with the Board and provide information to the Board to the extent that payment for said reasonably undisputed services has been made by the Board. In addition, while the Provider shall maintain liability for the services provided, any changes to the documents provided to the Board are the responsibility of the Board or others and the Board agrees to indemnify the Provider for changes to those documents that are made without the Provider's consent.

- D. The drawings, specifications, plans and other related documents prepared by the Provider in the course of its performance under the terms of this Agreement, including those in electronic media form, hard copy or otherwise, shall be the property of the Provider. However, the Provider grants a license to the Board to use such documents without the Provider's further consent for the design or completion of the project(s) for which they are intended. Accordingly, the Provider shall provide copies of same to the Board, upon the Board's request, in the event of this Agreement's termination and once payment to the Provider is made in full for all services. Any such payment to the Provider shall be without prejudice to the Board's ability to recover disputed fees. Any changes to the documents provided to the Board are the responsibility of the Board or others and the Board agrees to indemnify the Provider for changes to those documents that are made without the Provider's consent.
- E. If the Board fails to make payments to the Architect in accordance with this Agreement, the Architect may, at its option, upon providing the Board with seven (7) business day's written notice, suspend or terminate performance under this Agreement.

- 6. Indemnification. The Provider shall indemnify and hold harmless the Board, collectively and individually, and its agents, officials, representatives and employees from and against any and all damages, losses, or claims, including, but not limited to, reasonable attorney's fees, that arise as a result, in whole or in part, from (a) any intentional or negligent act, error, or omission or failure to perform the Services by the Provider or anyone performing the Services on behalf of the Provider or (b) any breach of this Agreement or a breach of the implied covenant of good faith and fair dealing, by the Provider or anyone performing the Services on behalf of the Provider.
- 7. Insurance. The Provider shall maintain or cause to be maintained, in full force and effect, insurance in such amounts and against such risks as follows:
  - (a) Broad form, comprehensive, or commercial General Liability Insurance coverage, including contractual liability, against claims for personal injury, death or property damage in an amount of not less than One Million Dollars and Zero Cents (\$1,000,000.00) with respect to injury or death of a single person and in the aggregate, and One Million Dollars and Zero Cents (\$1,000,000.00) with respect to property damage, together with Excess/Umbrella Liability Insurance in an amount of not less than One Million Dollars and Zero Cents (\$1,000,000.00); the General Liability Insurance Policy and the Excess/Umbrella Liability Insurance shall name Board of Education as an additional insured.

- (b) Workers Compensation Insurance coverage in the statutory amount.

Employer's Liability Insurance coverage in an amount not less than Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) each accident; and

- (c) Professional Liability Insurance coverage in an amount of not less than One Million Dollars and Zero Cents (\$1,000,000.00) for each claim.

No later than the execution of this Agreement, and upon the Board's request from time to time, the Provider shall provide to the Board a certificate of insurance evidencing the coverage set forth above in (a) (b) and (c) from an insurance company authorized to do business in New Jersey and having an A.M. Best Rating of at least an "A-". The Provider shall also provide, upon the Board's reasonable request, full and complete copies of the insurance policies required by (a) (b) and (c) above.

- 8. Conflict of Interest. The Provider represents that, to the best of its knowledge, information and belief, none of its employees nor anyone providing the Services on behalf of the Provider are engaged in conduct that constitutes a conflict of interest under, or a violation of, the School Ethics Law, N.J.S.A. 18A:12-21 et seq. and N.J.A.C. 6A:28-1.1 et seq.
- 9. Inconsistency. In the event any provision of this Agreement conflicts in whole or in part with the Proposal regarding the services to be provided, the Provider shall provide the Services that require the greater level of service. For all other conflicting provisions not involving the provisions of Services, e.g., indemnification, dispute resolution, payments, etc., then the provisions of this Agreement shall control. The Proposal shall not be construed to impose duties or obligations on the Board beyond those set forth in this Agreement.
- 10. Entire Agreement. This Agreement represents the entire Agreement between the parties and shall serve as the general conditions of this Architect of Record Agreement. Any modifications to this Agreement must be set forth in writing and signed or acknowledged via email by an authorized representative of both parties. The Provider and the Board enter into this Agreement for the express and sole purpose of having the Provider perform its professional services on multiple projects for the Board. It is understood that requests for these multiple projects will be made from time to time by the Board. Such requests will be formalized in writing and identify the project scope, professional services to be provided and applicable professional fees (if other than the hourly rates outlined herein). These requests will be considered supplements to this Agreement.
- 11. Dispute Resolution.
  - A. Any and all claims, disputes or other matters in question between the Board and Provider arising out of or relating to the Agreement or alleged breach thereof, shall be subject to and determined by a court of competent jurisdiction venued in **Essex County, New Jersey. The Provider hereby knowingly irrevocably waives its right to trial by jury in any action arising out of or relating to the Agreement. This waiver does not apply to personal injury actions or to any action in which another party, not bound by such a waiver, demands trial by jury. This waiver is knowingly, intentionally and**

**voluntarily made by the Provider.** If a dispute arises between the Board and any entity or individual as to which the Board is bound to the arbitration or other dispute resolution method of such disputes and the dispute directly or indirectly relates to the Agreement, then the Provider agrees that the Provider can be joined as a party to such an arbitration with respect to matters related to such arbitration or other dispute resolution method. Any and all disputes which exist only between the Board and Provider, or among the Board, Provider and others as to which the Board is not bound to the arbitration of disputes, shall be subject to the provisions of this Section 11.

- B Prior to the commencement of any litigation in accordance with the provisions set forth in Paragraph 11(A) of this Agreement, the parties agree to meet in an effort to resolve the dispute.
- C. In the event that the Owner concludes it has a claim against the Provider arising out of a services provided and/or this agreement, the Board shall place the Provider on notice of the claim in writing setting forth a description of the claim and the damages incurred or expected to be incurred as a result thereof (which is neither admissible nor binding in any legal proceeding). **The Board may not withhold** any fees from the Provider if within 60 days of receipt the aforesaid notice, the Provider provides the Board with written confirmation from its professional liability carrier that: 1) there is coverage for the claim as described in the aforesaid notice, and 2) that available remaining limits in the policy exceed the amount of the claim. Nothing contained herein shall preclude the Board from supplementing and/or amending the aforesaid notice as needed. Likewise, the Provider has a continuing obligation to advise the Board of any changes in the coverage available for the claim at issue, if any.
12. Independent Contractor. The parties agree that the Provider and anyone providing the Services on behalf of the Provider are an independent contractor and nothing in the Agreement shall be construed to establish an employer/employee, agency, joint venture or partnership arrangement between the parties. In discharging all duties and obligations hereunder, the Provider and anyone providing the Services on behalf of the Provider shall at all times remain in an independent contractor relationship with the Board. The Board assumes no responsibility for the payment of compensation, wages, benefits or taxes of any employees of the Provider.
13. Assignment. The rights of the parties under this Agreement are personal to each party, and neither party may assign, transfer, hypothecate or otherwise assign its rights or delegate its duties under the Agreement whether voluntarily, involuntarily or by operation of law, without the prior written consent of the other party to the Agreement, which shall not be unreasonably withheld.
14. Business Registration. Pursuant to N.J.S.A. 52:32-44, the Provider shall remit a copy of its Business Registration Certificate to the Board no later than the execution of this Agreement. The Provider shall provide written notice to anyone providing the Services on behalf of the Provider of the responsibility to submit proof of Business Registration to the Provider, if applicable. The requirement of proof of Business Registration extends down through all levels (tiers) of the Services.

15. Pay-to-Play. The Provider shall comply with the provisions of the New Jersey Pay-to-Play Law, N.J.S.A. 19:44A-20.4 et seq. and shall submit the required Disclosure forms to the Board prior to the award of this Agreement.
15. Default. The Provider may not maintain any action or effect any remedies for default against the Board unless and until the Board has failed to cure the breach within fifteen (15) business days of written notice of such breach; or if the nature of the cure is such that it reasonably requires more than fifteen (15) business days, if the Board commences the cure within the fifteen (15) business day period and thereafter continuously and diligently pursues by all reasonable means the cure to completion.
17. The Provider shall comply with the requirements of N.J.S.A. 10:5-31, et seq., and N.J.A.C. 17:27, which are set forth in *Exhibit B* hereof.
18. N.J.A.C. 13:6-1.3 MANDATORY LAW AGAINST DISCRIMINATION LANGUAGE PROCUREMENT, PROFESSIONAL AND SERVICE CONTRACTS

Pursuant to the provisions of N.J.S.A. 10:2-1 through 10:2-4, during the performance of this Agreement, the Provider agrees as follows:

In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

No contractor, sub-contractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

There may be deducted from the amount payable to the contractor by the, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

This contract may be canceled or terminated by the Board, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the Board of any prior violation of this section of the contract.

19. Audit and Inspection.

The Provider agrees that the Board and its auditor shall have the right to examine books, records and documents pertaining to the Services provided under this Agreement and shall agree to retain all such books, records and documents for a period of six (6) years after the termination of the Agreement.

20. Miscellaneous Provisions.

- A. Any notices required or permitted to be given pursuant to the terms of this Agreement shall be sufficiently given when delivered personally, by courier services (such as Federal Express), certified mail, return receipt requested, or by facsimile, with transmission confirmation, addressed to each party as follows:

As to the Provider:

Parette Somjen Architects, LLC  
439 Route 46 East  
Rockaway, New Jersey 07866  
Phone: 973-586-2400  
Fax: 973-586-2401  
Attention: Gregory Somjen, AIA

As to the Board:

West Orange Board of Education  
179 Eagle Rock Avenue  
West Orange, NJ 07052  
Phone: (973) 669-5400 x. 20520  
Facsimile: (973) 669-5301  
Attention: John Calavano, Business Administrator/Board Secretary

- B. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original.
- C. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and their assigns.
- D. In all references in this Agreement to any parties, persons, entities or corporation, the use of any particular gender or the plural or singular number shall be intended to include the appropriate gender or number as the text of this Agreement may require.
- E. If any provision of this Agreement shall be finally adjudged illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of the remaining provisions of this Agreement.
- F. Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provision or condition, nor a waiver of a

subsequent breach of the same provision or condition, unless such waiver is expressed in writing signed by the party to be bound.

- G. In the event that any of the Projects under this Agreement are eligible to be funded in part by grants from the NJSDA or other source, Provider agrees to revise this Agreement so that same complies with the terms of the applicable grant agreement. Provider further agrees to provide Services consistent with said grant agreement.
- H. The Architect shall have the right to include photographic or artistic representations of the Projects among the Architect's promotional and professional materials without further consent. The Architect shall be given reasonable access to the completed Project to make such representations. The Board shall provide professional credit for the Architect in the Board's materials for the Project.
- I. This Architect of Record Agreement applies to all projects that do not have another separately executed agreement. If a project has a separately executed agreement, that will be the agreement in effect for that project.
- J. Pursuant to N.J.A.C. 17:44-2.2, the Architect shall maintain all documentation related to products, transactions or services under this Contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals as of the day and year above written.

**ATTEST: WEST ORANGE BOARD OF EDUCATION**

By: \_\_\_\_\_  
John Calavano

By: \_\_\_\_\_

**ATTEST/WITNESS: PARETTE SOMJEN ARCHITECTS, LLC**

By: \_\_\_\_\_  
Gregory J. Somjen, AIA

By: \_\_\_\_\_

ECM		West Orange High School	Liberty Middle School	Roosevelt Middle School	Edison Middle School	Gregory Elementary School	Hazel Elementary School	Mt. Pleasant Elementary School	Pleasantdale Elementary School	Redwood Elementary School	St. Cloud Elementary School	Washington Elementary School	Administration Building	Bus Garage
1A	Lighting Upgrades – LED Retrofit	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1B	Lighting Controls	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
1C	Vending Misers	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
1D	De-stratification Fans	✓		✓	✓				✓	✓				
1E	Plug Load Management via Wi-Fi	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
2A	Domestic Hot Water System Retrofit	✓			✓					✓			✓	
2B	Roof Top Unit Replacement	✓		✓										
2C	Condenser Unit Replacement	✓				✓								
2D	Premium Efficiency Motors and VFDs	✓		✓	✓	✓								
2E	AHU Refurbishment	✓												
2H	Walk-in Refrigeration Control	✓												
2I	Boiler Burner Controls	✓												
3A	Building Management System Upgrades	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3B	Demand Control Ventilation	✓		✓	✓	✓								
3C	Occupancy Controlled Air Handling Systems	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3E	Convert UVs to DDC	✓				✓	✓	✓	✓	✓	✓	✓		
4A	Building Envelope Improvement	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
4B	Spray Foam Roof Insulation			✓				✓						
5A	High Efficiency Transformers	✓												
5B	Power Factor Correction	✓		✓	✓	✓	✓							
6A	Combined Heat and Power/Generation	✓												
6B	Emergency Generator	✓	✓											
7A	Water Conservation	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

**Alternates included in PSA Fee**

- 2C Condensing Units,
- 4B Roofs
- 7A Water

## A G R E E M E N T

THIS AGREEMENT, made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between THE BOARD OF EDUCATION OF THE TOWNSHIP OF WEST ORANGE IN THE COUNTY OF ESSEX, hereinafter designated as the "Board of Education" and sometimes referred to herein as the "School District," party of the first part, and McMANIMON, SCOTLAND & BAUMANN, LLC, Attorneys at Law with offices at 75 Livingston Avenue, Roseland, New Jersey, hereinafter designated as "Bond Counsel," party of the second part:

### WITNESSETH:

1. The Board of Education desires to authorize the issuance of School District obligations for various capital projects and other purposes and to provide for the terms and the security of such bonds and notes in accordance with Title 18A, Education, of the New Jersey Statutes and other applicable laws or to provide for its capital projects and financings by some alternative means. The Board of Education desires to undertake such transactions at the most advantageous terms available to it.

2. Bond Counsel, in consideration of the making and the signing of the within Agreement, agrees to render the following services to the School District:

A. Bond Counsel will advise the School District as to the alternate methods of financing capital projects and other purposes.

B. Bond Counsel will prepare a tentative time-table for the steps to be taken for any financing and will submit it for review to the appropriate Board representatives.

C. Bond Counsel will draft the resolution authorizing any proposal to be submitted to the voters at a special or annual school district election.

D. Bond Counsel will help make necessary applications to appropriate State agencies.

E. Upon approval by the voters, Bond Counsel will work, together with the appropriate representatives of the Board, to assemble and to review a record of proceedings.

F. When the Board of Education determines to issue bonds, Bond Counsel will prepare the necessary resolutions or other operative documents to set up the bond sale. Bond Counsel will see to the printing and to the distribution of the Official Statement to those financial institutions that customarily submit bids for new bond issues of that type. Bond Counsel will arrange for the publication of the notice of sale in The Bond Buyer and other required places and will answer inquiries made by the investment community concerning the bond sale. Bond Counsel will attend the bond sale and will render legal advice as necessary concerning the submission of bids for the bonds in accordance with the notice of sale and the requirements of law. After the bond sale, Bond Counsel will prepare the bonds for execution, will prepare and will see to the execution of the necessary closing certificates and will establish the time and the place for the delivery of the bonds to the successful bidder. Bond Counsel will attend the closing, at which time the bonds will be delivered, payment will be made for the bonds and Bond Counsel will issue a final approving legal opinion with respect to the validity of the bonds.

G. Should the Board of Education determine to engage in short-term financing through the issuance of temporary notes or other obligations, Bond Counsel will prepare the necessary resolutions or other operative documents to authorize the sale of such notes or obligations. When the purchaser and the details of the obligations have been determined, Bond Counsel will prepare the obligations for execution and will prepare the appropriate closing papers and an approving legal opinion with respect to the obligations. Generally it is not necessary for Bond Counsel to attend the closing for notes. The School District will be authorized to release the approving legal opinion of Bond Counsel when the appropriate closing documents are executed and delivered and payment for the notes has been received. Unless requested otherwise, Bond Counsel will forward notes, closing papers and the approving legal opinion to the Business Administrator for execution and delivery.

H. Bond Counsel will provide advice in regard to the effect of arbitrage regulations on the issuance of bonds, temporary notes or other obligations and the investment of the proceeds thereof.

I. In the event the School District decides to enter into a capital lease, equipment lease or energy savings improvement program financing, Bond Counsel will advise the School District as to alternatives and the appropriate procedures, will draft all necessary documents and instruments, will assist in the application for any necessary State approvals and will deliver an opinion as to the validity and the enforceability of the lease or other obligations and the exemption from federal income taxes of the portion of any payment deemed to be interest on the obligation.

3. The School District will make payment to Bond Counsel for services rendered in accordance with the following schedule:

A. For basic services rendered in connection with the preparation for a bond referendum through the review of the record of proceedings in connection therewith, the fee will be \$5,000.

B. For basic services rendered in connection with a permanent bond sale, the fee will be \$3,500, plus \$1.00 per thousand dollars of bonds issued for the first \$15,000,000 and \$.75 per thousand dollars of any bonds in excess of \$15,000,000.

C. The base fee for each temporary financing issue not involving preparation of an Official Statement or attendance at the closing shall be \$.50 per thousand dollars of notes for the first \$15,000,000 notes issued and \$.40 per thousand dollars of notes for any notes issued over the first \$15,000,000, with a minimum fee of \$1,000 for temporary notes.

D. The following services will be rendered at an hourly rate of \$215 for attorney time and \$135 per hour for legal assistants: services rendered in connection with arbitrage compliance and related tax analysis, services involving offering, disclosure, official statement or private placement due diligence assistance work in connection with the issuance of obligations, attendance at meetings, attention to any litigation that may occur, construction contract drafting or negotiations and procurement advice, including review or drafting of power purchase agreements, negotiation or drafting of applications for financial assistance including BPU grants, energy rebates, tax credits, solar renewal energy certificates or similar financial programs, applications to State agencies, including the State Department of Education, the Local Finance Board, the Schools Development Authority or other agencies, review of documents and rendering of legal opinions required in connection with the issuance of a credit support such as bond insurance or a letter of credit, applications to the Federal Reserve Bank for investments of proceeds of obligations in State and Local Government Series Obligations and unique research and analysis and services rendered beyond the scope of the services described in this Agreement. In the event any transaction cannot be completed except for a refunding issue as set forth below, the fee to be charged will be a reasonable one, based on the services performed and the hourly rates set forth in this subsection.

E. For services rendered in connection with energy savings obligation refunding bonds or equipment lease purchase agreements under an Energy Savings Improvement Program, an energy savings equipment lease or a capital facilities lease, the base fee will be \$15,000 plus \$1.00 per thousand dollars of securities issued.

F. For services rendered in connection with an ordinary equipment lease in an amount not exceeding \$1,000,000, our fee will be \$3,500; in an amount not exceeding \$2,000,000, our fee will be \$4,500; in an amount not exceeding \$3,000,000, our fee will be \$5,500; in an amount not exceeding \$4,000,000, our fee will be \$6,500; and in an amount not exceeding \$5,000,000, our fee will be \$7,500.

G. In the event of a refunding issue, which may provide for an escrow agreement and the investment of the proceeds consistent with the restrictions of the Internal Revenue Code, to provide for the payment of a prior issue of bonds, a fee will be quoted based upon the structure of the proposed financing and the services required. Services rendered for such a transaction are performed on a contingency basis. That is, payment will be made to Bond Counsel by the Board of Education only in the event that the refunding transaction closes.

H. In the event that a bond sale is held but all bids are rejected or the sale is cancelled, or a transaction is abandoned prior to completion, or this Agreement is terminated prior to the sale of bonds or completion of a transaction, the fee to be charged shall be a reasonable one, based on the services performed at the hourly rates set forth herein.

I. Customary disbursements shall be added to the fees referred to in this Agreement. These may include photocopying, express delivery charges, travel expenses, telecommunications, filing fees, computer assisted research, book binding, messenger service or other costs advanced on behalf of the Board of Education.

4. This Agreement shall be in full force and effect until such time as either party gives written notice to the other of termination. It is anticipated that it will remain in effect until completion of the District's capital project.

5. Bond Counsel and the Board of Education incorporate into this contract the mandatory language of N.J.A.C. 17:27-3.5(a) and N.J.A.C. 17:27-3.7 promulgated pursuant to N.J.S.A. 10:5-31 to 38 (P.L. 1975, c. 127, as amended and supplemented from time to time), and Bond Counsel agrees to comply fully with the terms, the provisions and the conditions of N.J.A.C. 17:27-3.5(a) and N.J.A.C. 17:27-3.7.

6. Bond Counsel and the Board of Education hereby incorporate into this contract the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 USC S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulations promulgated thereunder.



**RESOLUTION OF THE BOARD OF EDUCATION OF THE TOWNSHIP OF WEST ORANGE IN THE COUNTY OF ESSEX, NEW JERSEY DETERMINING TO ACQUIRE AND TO FINANCE CERTAIN ENERGY CONSERVATION MEASURES AND EQUIPMENT BY MEANS OF A LEASE PURCHASE FINANCING IN AN AMOUNT NOT EXCEEDING \$13,225,000, AUTHORIZING THE ADVERTISEMENT FOR BIDS TO FINANCE THE ENERGY CONSERVATION MEASURES AND EQUIPMENT, DELEGATING THE AUTHORITY TO AWARD THE BID, AUTHORIZING THE EXECUTION OF THE LEASE PURCHASE AGREEMENT AND RELATED DOCUMENTS AND AUTHORIZING OTHER ACTIONS NECESSARY TO COMPLETE THE TRANSACTION**

**WHEREAS**, The Board of Education of the Township of West Orange in the County of Essex, New Jersey (the "School District") is a political subdivision created by law, and the Board of Education (the "Board of Education") of the School District is charged by law with the responsibility of providing a system of public education within the School District over which it has jurisdiction and has the authority to provide Energy Conservation Measures and Equipment for the School District and financing for it in accordance with the Energy Savings Improvement Program Law, N.J.S.A. 18A:18A:4.6 and as otherwise permitted and authorized by law; and

**WHEREAS** this Board of Education hired CDM Smith to perform an energy audit of its school facilities in accordance with the Board of Public Utilities Local Government Energy Audit Grant Program and thereafter determined to consider the adoption and implementation of an energy savings improvement program pursuant to N.J.S.A. 18A:18A-4.6 and to seek the assistance of an energy services company through competitive contracting pursuant to N.J.S.A. 18A:18A-4.6(b)(1) and N.J.S.A. 18A:18A-4.1 for assistance with the development and implementation of an energy savings plan; and

**WHEREAS** this Board of Education advertised on September 27, 2013 for receipt of proposals by December 20, 2013 through competitive contracting in accordance with N.J.S.A. 18A:18A-4.1 *et seq.* to select an Energy Services Company in order to prepare an energy savings plan with the intent to later enter into a contract to implement energy conservation measures selected by the Board of Education and described in the plan: and

**WHEREAS** after receipt and review of proposals this Board of Education selected Honeywell Building Solutions as its Energy Services Company to assist the Board of Education with its energy savings program in accordance with the requirements of the competitive contracting process set forth in N.J.S.A. 18A:18A-4.1 *et seq.*; and

**WHEREAS** Honeywell Building Solutions has worked with the representatives of the Board of Education to develop an energy savings plan and has presented the proposed plan to this Board of Education; and

**WHEREAS** this Board of Education hired DLB, a qualified independent third party, to verify that the projected energy savings to be realized from the proposed program has been calculated as required by law, DLB has issued its report to this effect and the report and proposed plan have been submitted to BPU for review; and

**WHEREAS**, after reviewing the proposed plan, this Board of Education determined that it is in the best interest of the School District to approve and adopt the Energy Savings Plan for the School District and adopted the Energy Savings Plan on December 15, 2014; and

**WHEREAS** the Energy Savings Plan has been posted on the Board of Education's website and submitted to the Board of Public Utilities for posting on its website; and

**WHEREAS** the Board of Education has determined to finance the program through a lease purchase agreement pursuant N.J.S.A. 18A:18A-4.6(c); and

**WHEREAS**, the Board has selected McManimon, Scotland & Baumann, LLC, as special counsel (the "Special Counsel") and, Phoenix Advisors as Financial Advisor (the "Financial Advisor") for the purpose of advising and assisting with the proposed lease purchase financing of the Energy Conservation Measures and Equipment; and

**WHEREAS**, in accordance with the procedures set forth in N.J.S.A 18A:18A-1 *et. seq.* ("Public School Contract Law") and the regulations promulgated thereunder, the Business Administrator/Board Secretary with the assistance of the Financial Advisor and Special Counsel will develop bid specifications (the "Request for Bids") for the financing and publish a notice of the bid as required by law, and bids will be scheduled to be returned to the Business Administrator/Board Secretary, who, with the assistance of the Special Counsel and the Financial Advisor, will determine the lowest responsive and responsible bidder to purchase the lease purchase agreement from the Board of Education (hereinafter referred to as the "Purchaser"); and

**WHEREAS**, the Board desires to authorize the delegation of the award of the bid to the Business Administrator/Board Secretary and further authorizes the Board President, the Superintendent and/or the Business Administrator/Board Secretary, with the assistance of the Financial Advisor and Special Counsel, to prepare and to execute on behalf of the School District a lease purchase agreement and certain other documents and agreements necessary or incidental to the transactions contemplated hereby; and

**WHEREAS**, the Board of Education will enter into the lease purchase agreement (the "Lease") and other related documents with the Purchaser in an amount not to exceed \$13,225,000 to finance the Energy Conservation Measures and the Equipment, including financing and incidental costs; now therefore

**BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE TOWNSHIP OF WEST ORANGE IN THE COUNTY OF ESSEX, NEW JERSEY** as follows:

Section 1. The Board of Education hereby determines to finance the Energy Conservation Measures and Equipment, including financing and incidental costs, by means of a lease purchase financing in the principal amount not to exceed \$13,225,000 pursuant to and in accordance with the requirements of N.J.S.A. 18A:4.6(c) the Public School Contracts Law. The Superintendent, the Business Administrator/Board Secretary, the Special Counsel, the Financial Advisor and other appropriate representatives of the Board of Education (the "Professionals") are hereby authorized to prepare the necessary timetables, Request for Bids, notices and other related documents and to take other steps necessary to prepare for and to implement the proposed financing.

Section 2. The Board of Education hereby authorizes, approves and/or ratifies, as the case may be, the publication of the notice of the Request for Bids in accordance with the requirements of the Public School Contracts Law in order to prepare for the proposed transaction.

Section 3. The Business Administrator/Board Secretary is authorized to award the bid and the Lease to the lowest bidder in accordance with the Request for Bids and the bid proposals submitted to the Business Administrator/Board Secretary, which winning bid proposal will be retained on file in the Business Administrator/Board Secretary's office. The Purchaser's interest rate will be held fixed for a period of thirty (30) days from the date of the bid. If the closing does not occur within thirty (30) days for the date of the bid, the interest rate will be calculated in accordance with the index rate established by the Financial Advisor and set forth in the Request for Bids.

Section 4. The Board President, the Superintendent and/or the Business Administrator/Board Secretary are hereby authorized to negotiate, execute and deliver, subject to the review of Special Counsel, the Lease, an agent or an escrow agreement, an assignment agreement, if necessary, and such other documents as may be necessary to consummate the transaction. The Board of Education authorizes the Business Administrator/Board Secretary to establish an escrow account for the deposit of the lease proceeds and to direct the deposit and investment of the lease proceeds in the escrow for the construction period in accordance with the requirements of law. The Business Administrator/Board Secretary is also authorized to pay any agreed upon fees of the escrow agent and others necessary for the financing. The Board President and/or the Business Administrator/Board Secretary are also authorized and directed to take on behalf of the Board of Education such other actions as shall be necessary and appropriate to accomplish the lease purchase financing for the Energy Conservation Measures and the Equipment in accordance with the terms of the Lease and this resolution and pursuant to the terms of the agreements and instruments authorized to be prepared hereby and to accomplish the performance of the obligations of the Board of Education in respect thereto. The signatures of such officers on documents shall be deemed to create a conclusive presumption of the review of the form thereof by Special Counsel and the authorization to act on behalf of this Board of Education with respect thereto.

Section 5. The payment of rent or other monies due under the Lease shall be made only from the General Fund of the Board of Education. The obligations of the Board of Education shall not constitute indebtedness of the Board of Education, the Township of West Orange or of any department, agency or political subdivision thereof. The Lease shall set forth the term of the Lease, the rental payments to be paid by the Board of Education in respect

thereof, the dates on which such rent shall be due and payable and all other terms and conditions thereof.

Section 6. The Board of Education hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of the interest portion of rent paid under the Lease, including the requirement to rebate all net investment earnings on the gross proceeds above the yield on the Lease, if applicable.

Section 7. The Board of Education hereby declares its intent to issue the Lease in the expected maximum principal amount set forth herein and to use the proceeds of the Lease to pay or reimburse expenditures for the costs of the purpose for which the Lease is authorized herein. This resolution is a declaration of intent within the meaning and for the purposes of Treasury Regulations Section 1.150-2 or any successor provisions of federal income tax law.

Section 8. The Board of Education hereby reaffirms and ratifies its determination that the energy savings generated from reduced energy use from the Energy Conservation Measures set for in the Energy Savings Plan will be sufficient to cover the cost of the program's Energy Conservation Measures, that it is in the best interest of the School District to implement the Energy Savings plan pursuant to N.J.S.A. 18A:18A-4.6 and that it reaffirms and ratifies its approval of the Energy Savings Plan in the form submitted to and approved by the BPU.

Section 9. This resolution shall take effect immediately.