

AGREEMENT
BETWEEN OWNER AND OWNER'S REPRESENTATIVE

This Owner's Representative Agreement ("Agreement") is entered into this June 26, 2023, by and between the Town of Cape Elizabeth, acting by and through the Cape Elizabeth School Board ("Owner"), and CBRE Heery, LLC ("Owner's Representative").

For and in consideration of the payment and agreements hereinafter mentioned, the Owner's Representative and the Owner hereby agree as follows:

1. TERMS AND CONDITIONS

1.1. The Owner agrees to hire the Owner's Representative, and the Owner's Representative agrees to be hired, as an independent contractor to serve as Owner's Representative to perform the services described herein related to the Owner's construction and/or renovation of Owner's school buildings, as determined as part of the scope of work under this Agreement (the "Project"). Neither the Owner's Representative nor its officers, officials, employees, representatives, agents, volunteers or servants is entitled to any of the benefits enjoyed by employees of the Owner. The Owner shall pay the Owner's Representative in accordance with the Fee Schedule attached hereto as **Exhibit A**, provided that the Fee through referendum shall not exceed \$259,220.00 (the "Agreement Amount") without Owner's prior written approval. The parties agree to negotiate a not-to-exceed fee in accordance with **Exhibit A** Fee Schedule for services post-referendum, which shall be included in the Project budget submitted to that referendum vote. The employment of the Owner's Representative shall, unless sooner terminated by Owner, or as otherwise determined as part of the negotiation of the Owner's Representative's Fee following a successful referendum on the Project, continue through final completion and one-year warranty period of the Project.

1.2 The parties estimate that working time will be as set forth in the Fee Schedule.

1.3 The Owner's Representative shall log a monthly statement of fees and expenses in form and level of detail acceptable to Owner, which information will be included in the Owner's Representative's invoice for services submitted each month.

1.4. The Owner will reimburse the Owner's Representative for actual reasonable expenses, which reimbursement shall not exceed \$ 10,000.00 through the referendum date without Owner's prior written approval. Reimbursable expenses include only Project-related mileage including mileage to and from the job site, long distance telephone calls/fax, cellular calls, and overnight mailings. All other costs shall be reimbursed only with prior written approval by Owner. Reimbursable expenses will be billed at cost. Mileage will be billed at the prevailing mileage reimbursement rate set by the IRS. All requests for reimbursements must be to the Owner with appropriate supporting documentation in a form satisfactory to the Owner (receipts and mileage logs, etc.). Owner Representative's fees and reimbursable expenses shall be paid monthly.

1.5 The Owner's Representative will assign Chuck Adam, Vice-President to have primary responsibility for services under this Agreement, or such other individual as shall be approved by the Owner. Owner's Representative shall perform its Services in accordance with the standard of care ordinarily applicable to similarly situated professional services providers on projects of like complexity. Owner's Representative shall provide sufficient organization,

personnel and management to carry out the requirements of this Agreement in an expeditious and economical manner consistent with the interests of the Owner.

1.6 The Owner's Representative shall procure and maintain for the duration of the Project insurance issued by a company fully licensed to do business in the State of Maine as follows:

<u>Insurance</u>	<u>Limits</u>
General liability insurance	\$5,000,000 per occurrence/\$5,000,000 aggregate
Professional Liability insurance	\$2,000,000 per claim/aggregate
Automobile liability	\$5,000,000 combined single limit
Worker's compensation	statutory

General liability coverage shall name Owner as an additional insured. The limits required for General Liability and Automobile Liability insurance can be met by any combination of primary and excess/umbrella following form coverage.

1.7 A copy of the Owner's Representative's certificate of insurance shall be provided to the Owner prior to commencement of work. Coverage afforded under the insurance policies will not be canceled or materially changed unless at least fifteen (15) days' prior written notice has been given to the Owner by Owner's Representative.

1.8 The Owner's Representative shall not issue any verbal or written order for amendment to contracts between the Owner and any contractor engaged for the Project (the "Construction Contracts") unless reviewed by the Architect or Engineer (together, the "Design Team") as applicable and until approved in writing by the Owner.

1.9 The Owner's access to the Work as defined in the Construction Contract may be exercised by the Owner's Representative.

1.10 The Owner's Representative shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written instrument.

2. SCOPE OF OWNER'S REPRESENTATIVE SERVICES

2.1 Owner's Representative agrees to perform services as provided in this Section (the "Services"). The Owner's Representative acknowledges that the Cape Elizabeth School Board and the Cape Elizabeth Town Council have jointly established the Cape Elizabeth School Building Advisory Committee ("SBAC") and approved the charging document for the SBAC attached hereto as **Exhibit B**. The Owner's Representative will facilitate the SBAC in the accomplishment of its advisory function through a successful referendum, and should the School Board and Town Council jointly agree, through later stages of the Owner's Representative's Services under this agreement. This will include attendance at the Owner's SBAC meetings as requested to assist the SBAC in its advice to the School Board. The Owner may also request the Owner's Representative to attend meetings of the School Board and joint meetings of the School Board and Town Council to provide project updates and for their input in the performance of their respective roles as described in **Exhibit B**. The Parties acknowledge and agree that the Services, as they relate to the construction and design efforts of contractors, vendors, architects, engineers, consultants, design professionals and other construction personnel engaged by Owner to perform work on the Project ("Construction Professionals"), will be limited to overseeing and managing

the work of the Construction Professionals. Owner acknowledges that the work product provided by Construction Professionals will be the responsibility of such persons and that Owner's Representative does not warrant or guaranty, and will not be liable with respect to, their performance, schedule or work product. Subject to its performance in accordance with the applicable standard of care, Owner's Representative will not be liable for (i) design techniques or procedures or (ii) construction means, methods, techniques, sequences or procedures employed by any third party including Construction Professionals providing design, construction or other services in connection with the Project.

2.2 GENERAL SERVICES.

- a. Facilitate communications, teamwork and trust between the Owner, Contractor, and Architect, in conformance with Owner/Architect and Owner/Contractor agreements.
- b. Prepare for and if requested attend meetings of the Owner; participate in and keep a summary record of deliberations.
- c. Communicate with the Owner, the contractor, the design team and other project participants.
- d. Guide the Owner in the development of a budget for each phase of the project.
- e. Perform such other associated duties as are assigned by the Owner.
- f. Help Owner understand material provided by the Architect and General Contractor, including the implications of recommendations.
- g. Maintain complete organized project files consistent with professional standards and as required by Owner, including all Project design and construction documents, correspondence, meeting minutes, invoices, and approvals. The Owner's Representative acknowledges that complete, organized project files in accordance with this Agreement are critical to protect the interests of the Owner in the event of legal disputes with the contractor or design team.
- h. Develop schedule and basis of compensation of Owner's Representative's deliverables and additional services, if any.
- i. Meet as necessary with the Owner and as applicable the School Board and/or Town Council for Project updates and input.
- j. Make recommendations to the Owner and communicate with the Contractor, the design team, and other project participants in timely fashion to at all times protect the Owner's interests for the accomplishment of a successful project and in satisfaction of the Owner's project contractual obligations.

2.3 ANALYSIS OF PREVIOUS BUILDING PROJECT DESIGN PROCESS & PRODUCT.

- a. Complete an analysis of the work completed between 2015 and 2022, and subsequent recommendations to address the needs of the school facilities.
- b. Based upon the above analysis, provide recommendations to the School Building Advisory Committee for next steps, including a cost/risk/benefit consideration of alternative approaches.

2.4 DESIGN PHASE (Including all phases of project design).

- a. Generally assess the design to see whether it meets the Owner's needs, as established by the School Building Advisory Committee and in accordance with applicable laws, regulations, and Maine Department of Education guidelines for major capital school construction projects.
- b. Generally assist with the Project concept design, concept design documents, and concept budget (or later design stage if specified by Owner) to be presented to voters at referendum. It is understood that "concept design," although not a traditionally recognized design phase, refers to the stage of design and budget development necessary to bring a Maine school construction project to a referendum vote.
- c. Provide specific recommendations on behalf of the Owner regarding conformance with cost estimate and budget, schedule, phasing, document quality and stage of development, and other project criteria.
- d. Review project costs, including construction cost estimates, against budget and make specific recommendations for corrective action by the Design team as needed, which may include design modifications and selection of project elements to be bid as alternates.
- e. Provide specific comments and recommendations on behalf of the Owner on the design documents as developed by the Design team.
- f. Provide comments on the Design team's project schedule and monitor the same, including allowance of sufficient time for prequalification of contractors, including advertising, review of submissions, and selection of the pre-qualified contractors.

2.5 BIDDING PHASE – AT CONCLUSION OF THE DESIGN DEVELOPMENT PHASE.

- a. Assist Owner in the bidding phase, including prequalification of contractors, including advertising, review of submissions, and selection of the pre-qualified contractors.
- b. Assist the Owner in understanding filed sub-contract and General Contractor bid analysis.
- c. Assist Owner regarding bid alternates, value engineering, scope, and contract negotiation alternatives.

d. Assist with Owner with the award, notice to proceed and construction contract and payment and performance bonds.

2.6 CONSTRUCTION PHASE.

a. Be on the site as agreed with Owner and otherwise requested by Owner to monitor the progress of the work, identify and mitigate risks, to facilitate timely responses among the project team members, stakeholders, and Owner, and to assist in the smooth progression of the work.

b. Assist the Architect and Owner with review of the Construction Schedule developed by the General Contractor. Review weekly, or periodically as directed by the Owner, current critical issues, the updated schedule, and current RFI, Submittal, and Change Order logs.

c. Represent the Owner, as directed, at construction and pay requisition meetings.

d. Attend progress meetings on site with the General Contractor and Architect and advise on procedures, progress, quality of work, and schedule. Review meeting minutes and track action items, areas of responsibility, due dates, and general accuracy.

e. Issue a monthly progress report to the Owner and Architect that includes an updated schedule (based upon schedules provided by General Contractor), as well as a discussion of current critical issues, general progress and quality of the work, potential problems, overall status of the project, and suggest solutions as required. If schedule may be or has been adversely impacted, suggest a recovery schedule and work collaboratively with effected parties.

f. Meet with the Owner as requested to review and discuss construction progress and quality, and general conformance with the contract documents.

g. Work with Owner to update project budget on a monthly basis, identify variances between actual and budgeted costs. Recommend corrective action.

h. Review the Submittal Log to determine that all submittals required by the contract documents are submitted and processed in a timely fashion. Report problems to the Owner.

i. Work with the Architect and General Contractor to prioritize submittals for review based on lead times for materials addressed in given submittals.

j. Review Change Proposals and Change Orders and advise Owner.

k. Assist Architect and Owner in review, evaluations and documentation of claims and recommend actions to Owner.

l. Review log of all Requests for Information (RFI) to assure that none are overlooked and that all are responded to in a manner that preserves the schedule and the budget. Problems shall be reported to the Owner.

m. Review all Invoices for Architect Services and make recommendations prior to approval and payment by the Owner.

n. Review Monthly Progress Payments presented by the General Contractor and evaluate the Architect's recommendations whether amounts being invoiced are compatible with the progress of the Work and approved Change Orders. If the Owner's Representative believes that the invoice is inconsistent with the progress of the work he or she shall meet with the Architect to discuss the basis for the billing and propose adjustments if needed prior to making a recommendation to the Owner for approval of payment.

o. Require that record drawings are being maintained.

p. Review with the Architect proposed substitutions of significant material or equipment and make recommendations to the Owner relative to quality, durability, cost, and schedule impact.

q. Report project-related Contractor-Subcontractor relations, jobsite problems and job coordination issues to Owner.

r. Report to Owner any differences that may occur between the Architect and Contractor regarding execution of the work.

s. Generally inspect the work for the purpose of quality control and conformance with the drawings and specifications. Any deficiencies found will be discussed with the Architect for review as necessary.

t. Communicate on behalf of the Owner with the Contractor and Architect on performance and completion issues.

2.7 POST-CONSTRUCTION PHASE.

a. Observe final testing and startup of all utilities, systems and equipment. Assist with creation of punch list and coordinate punch list items to be completed or corrected with the Architect and General Contractor.

b. Assist Owner in scheduling training for maintenance personnel on mechanical and electrical systems with the General Contractor. Review submittal to Owner of warranties, keys, record documents and operating manuals.

c. Review project close-out package with the Architect to verify that all requirements are satisfied.

d. Verify receipt of Certificates of Occupancy, completion of punch list items and review of Record drawings.

- e. Review final pay application and recommend release of retainage based upon completion of the contract requirements.

2.8 WARRANTY PHASE.

- a. Coordinate requests for warranty work from Owner with Architect to aid timely completion of the required work.
- b. Assist Owner with correction of work during one-year warranty period.

2.9 In addition, the Owner's Representative shall perform any other duties relative to the Project as assigned by the Owner and fairly within the scope of services customarily performed by an Owner's Representative under the circumstances. It is anticipated that the Owner's Representative will work closely with all responsible parties on the Project.

2.10 The Owner's Representative shall give prompt notice to the Owner, and on the Owner's behalf to other concerned parties to the Project, if the Owner's Representative becomes aware of any fault in the Project or nonconformance with the Construction Contracts, including fault in or nonconformance with the plans and specifications for the Project, or any failure of performance and by the Owner.

3. OWNER'S RESPONSIBILITIES

3.1 The Owner shall provide to the Owner's Representative available information regarding requirements for the Project, including any applicable program which sets forth the Owner's objectives, schedule, constraints, and systems, and the Owner's Representative may reasonably rely upon the accuracy and completeness of such information. To the extent that the Owner has not developed a program, Project criteria or schedule, and to the extent specified in the Owner's Representative's scope of services, the Owner's Representative shall assist the Owner with development of the items set out in the prior sentence.

3.2 The Owner shall establish and update an overall budget for the Project based on consultation with and recommendations of the Owner's Representative and the Design Team, which budget shall include construction costs, all other Project costs, and reasonable contingencies relating to all of these costs.

3.3 The individual authorized to act on the Owner's behalf with respect to the Project is the Superintendent of Schools or the individual designated by the Superintendent of Schools in writing. The Owner or such authorized representative shall render approvals and decisions in a timely manner pertaining to matters submitted by the Owner's Representative in order to avoid unreasonable delay in the orderly and sequential progress of the Owner's Representative's services.

3.4 The Owner shall furnish the Owner's Representative with copies of written communications with the Architect, the general contractor, and other third parties concerning the Project, which communications the Owner's Representative shall file with other communications as required by this Agreement.

4. MISCELLANEOUS PROVISIONS

4.1 **CHANGE IN THE SCOPE OF SERVICES.** The Owner may order changes in the scope of the Owner's Representative services, the Fee Schedule being adjusted accordingly. Any monetary adjustment or any substantial change in the work shall be made only if evidenced by a Supplementary Agreement signed by both parties prior to the performance of such change.

4.2 **SUBCONTRACT.** Except as expressly provided in this Agreement, the Owner's Representative shall not make subcontract for any of the services herein contracted for without the written consent of the Owner.

4.3 **ASSIGNMENT.** The Owner's Representative shall not sell, transfer, or assign this Agreement or of its right, title or interest herein, without written consent of the Owner.

4.4 **TERMINATION.** Either party shall have the right to terminate this Agreement or suspend its performance due to substantial nonperformance of the terms hereof by the other party, after seven (7) days' written notice to the other party specifying the failure(s) of the other party to perform, which failure is not cured by the other party within said period. Termination for cause shall be in addition to all other legal and equitable remedies. Additionally, the Owner shall have the right to terminate this Agreement without cause upon thirty (30) day's written notice of termination to the Owner's Representative. In the case of termination by Owner without cause, the Owner shall compensate the Owner's Representative equitably for services completed in accordance with the terms of this Agreement.

4.6 **GOVERNMENTAL REQUIREMENTS.** The Owner's Representative warrants and represents that it will comply with all applicable governmental ordinances, laws and regulations.

4.7 **GOVERNING LAW.** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against Owner regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Owner's Representative consents to personal jurisdiction in the State of Maine.

4.8 **DISPUTE RESOLUTION.** If, in the performance of this Agreement, there arises a dispute between the Owner's Representative and the Owner that cannot be resolved by the parties to the contract, the dispute may in Owner's sole discretion be submitted to mediation or binding arbitration. The parties shall jointly select the mediator or arbitrator. If the parties in dispute are not satisfied with the results of mediation, the Owner may elect arbitration or may pursue judicial action in a court of law.

4.9 **HOLD HARMLESS.** The Owner's Representative agrees to indemnify, defend and hold harmless the Owner and its directors, officers, agents and employees in their individual and official capacities (individually and collectively "Indemnitees") from and against any and all third party claims, costs, expenses (including reasonable attorneys' fees and court costs), injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "Claims") to the extent caused by the Owner's Representative, its employees, its agents, or subcontractors, and (i) made or asserted by any contractor, subcontractor, materialman, laborer,

and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") claiming by, through or under the Owner's Representative; (ii) arising out of violation or infringement or any proprietary right, copyright, trademark, right of privacy, or other right arising out of publication, translation, development, reproduction, delivery, use or disposition of any data, information, or other matter furnished or used in connection with this Agreement by the Owner's Representative, its agents or contractors; (iii) arising out of libelous or other unlawful material used or developed in connection with this Agreement by the Owner's Representative, its agent or contractor; or (iv) in which bodily injury or death is suffered or asserted by any person due to any negligent act or omission by Owner's Representative under this Agreement or by any person employed by Owner's Representative in conjunction with this Agreement. This indemnity and hold harmless agreement includes all attorneys' fees and court costs incurred by Indemnitees in enforcing this provision.

This provision shall apply, without limitation, to all claims made by employees of the Owner's Representative or of any supplier or subcontractor of any tier, in contractual privity with the Owner's Representative regardless of any provisions of the applicable Workers Compensation laws, and in particular regardless of the exclusive remedy and/or employer immunity provisions of those laws, all of which are expressly waived.

4.10 NOTICE OF CLAIMS. The Owner's Representative shall give the Owner immediate notice in writing of any legal action or suit related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Owner's Representative by any person which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement.

4.11 TIME IS OF THE ESSENCE. Time is of the essence in the performance of the Owner's Representative's obligations and services under this Agreement.

4.12 SEVERABILITY. The invalidity or unenforceability of any particular provision or part of this Agreement shall not affect the remainder of said provision, or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions or part thereof had been omitted.

4.13 INTEGRATION. All terms of this Agreement are to be interpreted in such a way as to be internally consistent.

4.14 SET-OFF RIGHTS. The Owner shall have all of its common law, equitable and statutory rights of setoff. These rights shall include, but not be limited to, the Owner's option to withhold for the purposes of setoff any moneys due to the Owner's Representative under this Agreement.

4.15 ENTIRE AGREEMENT. This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein.

4.16 WAIVER. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment

for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

4.17 AMENDMENT. This Agreement may be amended further only by written instrument signed by both the Owner and Owner's Representative.

4.18 THIRD PARTY CLAIMS 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 the Owner's Representative.

4.19 STATUTE OF LIMITATIONS 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 either the date of Substantial Completion for acts occurring prior to Substantial Completion, or the date of issuance of the final Project Certificate for Payment for acts or failures to act occurring after Substantial Completion.

4.20 LIMITATIONS OF LIABILITY Neither Party shall be liable for any lost or prospective profits or any other indirect, consequential, special, incidental, punitive, or other exemplary losses or damages, whether based in contract, warranty, indemnity, negligence, strict liability or other tort or otherwise, regardless of the foreseeability or the cause thereof. For purposes of this limitation, damage to the Owner's buildings or facilities or the Project are deemed to be direct damages. In no event shall Owner's Representative incur liability under this Agreement or otherwise relating to the Services in excess of the limits of insurance required herein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Owner and the Owner's Representative, by their duly authorized representatives, agree to the performance of the covenants contained herein and have executed this Agreement as of the day and year first above written.

Man-E Skj
Town Manager June 29, 2023.

**Owner: Town of Cape Elizabeth, a
municipal school unit acting by and
through its School Board**

By: *C. Neenan* 6/29/23
Its: Superintendent of Schools

**Owner's Representative:
CBRE Heery, LLC**

By: *Robert C...* June 26, 2023

By: *Chuck Adam* June 26, 2023
Chuck Adam, Vice-President

EXHIBIT A
FEE SCHEDULE

(to be added)

Cape Elizabeth Public Schools Program
 Owners Project Management Services - Scope of Work – Phase 1
 Assumed Contract Start Date: July 1, 2023 – Referendum assumed November 5, 2023

Fee Proposal

	months			
Task 1 - Analysis of Previous Work	1	total hrs	rate	cost
Project Executive - Chuck Adam		30	240.00	7,200.00
Sr. Project Manager - Brian Hromodka		60	150.00	9,000.00
Project Manager - Mike Ensminger		60	140.00	8,400.00
Educational Planner(s)		12	265.00	3,180.00
		162		27,780.00
Task 2 - Designer Selection	2			
Project Executive - Chuck Adam		12	240.00	2,880.00
Sr. Project Manager - Brian Hromodka		30	150.00	4,500.00
Project Manager - Mike Ensminger		50	140.00	7,000.00
		92		14,380.00
Task 3 - Design Phase Management through Schematic Design	10			
Project Executive - Chuck Adam		100	240.00	24,000.00
Sr. Project Manager - Brian Hromodka		300	150.00	45,000.00
Project Manager - Mike Ensminger		500	140.00	70,000.00
Educational Planner(s)		24	265.00	6,360.00
		924		145,360.00
Task 4 - Community Engagement				incl w/above
Task 5 - Exploring Funding Options				incl w/above
Task 6 - Development of Recommendation / Referendum Support	2			
Project Executive - Chuck Adam		30	240.00	7,200.00
Sr. Project Manager - Brian Hromodka		50	150.00	7,500.00
Project Manager - Mike Ensminger		50	140.00	7,000.00
		130		21,700.00
Estimating	2 Full Estimates			50,000.00

Total Fee for tasks 1-6 - Through Schematic Design 259,220.00

EXHIBIT B

School Building Advisory Committee

Committee Created: There is hereby created a School Building Advisory Committee (SBAC) to consist of nine members. The Committee shall be a joint ad hoc advisory committee of the School Board and Town Council, assisting them in their respective responsibilities for development of a school building project and funding which meets the Department of Education guidelines for major capital school construction projects and submit to the Town voters.

Committee Charge: The Committee shall work with professionals to assess the previous school building referendum proposal and to advise the School Board and the Town Council on a Building Plan and funding to address our school building needs. The work should develop the project concept sufficiently to propose the general project(s) solution and estimate the cost for referendum purposes. This work will include but is not limited to the following:

- 1) Recommending a budget for this committee's work to the Town Manager;
- 2) Recommending a project plan and scope to address the school building needs to the School Board and Town Council;
- 3) Recommending a target referendum dollar range to the Town Council and School Board;
- 4) Conducting public outreach and engagement; and
- 5) Recommending a target referendum date and timeline for deliverables to meet that deadline, and report deliverable timeline back to the school board and town council.

The Committee shall consult with both bodies regarding its work and recommendations. Final approval of any Building Plan, and of building design and construction decisions, including award of project contracts, shall be by the School Board and final approval of any referendum amount, and bond sale matters and other bond-related financial decisions shall be by Town Council. Further, approval of construction funding is subject to a referendum vote of the citizens of Cape Elizabeth.

Scope of Work: The Committee shall:

- Issue a Request for Qualifications (RFQ) for a third-party owner's representative (Owner's Rep) for the Project, including the activities of this Committee, interview interested firms, and make a recommendation for selection of the Owner's Rep.
- Assess previously completed building needs work.
- Recommend the design team based on assessment of completed work for all three schools
- Develop a range of options for the Building Plan, including analysis of the financial impact and benefit of each Building Plan option.
- Seek public input throughout the process, and educate and inform the public throughout the process.
- Engage a consultant to create and conduct a community survey(s).
- Explore funding options and alternative funding sources.

With feedback from the Town financial team and community, make a Building Plan recommendation for selection, further development, and referendum submission.

Voting Members: The Committee shall have co-chairs, with one chairperson being a School Board member and one being a Town Council member. Two members, including the co-chair,

will be from the membership of the Cape Elizabeth School Board and shall be appointed by the School Board Chair. Two members, including the co-chair, will be from among the membership of the Cape Elizabeth Town Council and shall be appointed by the Town Council.

Five public members shall be recommended by a joint appointments committee consisting of three members of the Town Council Appointments Committee and three members of the School Board, selected by the School Board Chair, with appointment confirmation votes by the School Board and Town Council affirming.

Non-Voting Members and Advisers: The Superintendent of Schools and the Town Manager shall be non-voting ex-officio members and shall serve as the staff liaisons to the Committee. The Facilities Manager, the school Business Manager, and town Finance Director shall be invited to participate in Committee meetings to serve as a non-voting staff resource.

The Owner's Rep will participate in meetings in a non-voting capacity.

The Superintendent of Schools shall be invited to designate school staff members as needed to advise the Committee on opportunities and issues arising from the current school facilities and how to address those issues with any future building design.

The Town Manager shall be invited to designate finance staff and the Town's financial advisor as needed to advise the Committee on funding sources and debt structure, financial costs and impacts, and mitigation of budgetary impacts.

The Architectural Design Team will also be invited to meetings as warranted to update the Committee.

The Committee shall also establish subcommittees as deemed necessary to advise the Committee such as but not limited to school design, finance, and communication.

Other third-party consultants such as Financial Advisors, Survey Firms and Communications Specialists may be engaged to advise and assist the Committee as required.

Public Input and Outreach: The Committee shall seek public engagement and input in its deliberations through a multi-channel public outreach campaign, which may include websites, social media, e-mail, public signage, notices in the newspaper and direct mail. All public correspondence relevant to the SBAC received by the Committee, Town Council and School Board will be made available to the public via the town website.

Committee Budget: The Town Manager, in consultation with the Superintendent, is responsible for the Committee budget for Town Council approval, and to manage the approved Committee budget. This budget includes estimated costs of the Committee through referendum, including the estimated costs for the Owner's Rep, the Design Team, and the Committee's consultants. The costs of the School Committee's proposed contracts with the Owner's Rep and Design Team payable under this budget, as well as the costs of the Committee's contracts with other consultants for its activities, must be submitted to the Town Manager for budgetary control approval.

Committee Reports: The Committee chairs will regularly update the School Board and Town Council on the progress of the Committee.

Definitions:

Building Plan - Proposal(s) to address educational and physical building needs at Pond Cove Elementary, Cape Elizabeth Middle School, and Cape Elizabeth High School, including, but not limited to new construction, addition, and or renovation of existing buildings.

Design Team - Architectural and Engineering Firm(s)

Owner's Rep(representative) - The individual or firm tasked with representing the interests of the owner (Town of Cape Elizabeth) throughout the duration of the project and reporting to, as applicable, the committee, the Superintendent of Schools and/or Town Manager.

Consultants - Third party professionals engaged to advise and assist the committee.

