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AGREEMENT OF LEASE

between

BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR  
THE SOLE SUPERVISORY DISTRICT OF ST. LAWRENCE-LEWIS COUNTIES,

as Lessor

and

DORMITORY AUTHORITY OF THE  
STATE OF NEW YORK,

as Lessee

(Dormitory Authority of the State of New York Master BOCES Program Lease Revenue Bonds  
(St. Lawrence-Lewis Issue), Series 2020A)

\_\_\_\_\_  
Dated as of April 8, 2020  
\_\_\_\_\_

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Record and Return to:  
[Frederick W. Clark, Esq.]  
Dormitory Authority of the State of New York  
515 Broadway, 6<sup>th</sup> Floor  
Albany, NY 12207  
(518) 257-[3120]

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## **AGREEMENT OF LEASE**

**THIS AGREEMENT OF LEASE** (this "Lease"), dated as of April 8, 2020, by and between (i) the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence-Lewis Counties (the "BOCES"), and (ii) the Dormitory Authority of the State of New York, a public benefit corporation of the State of New York, as lessee (the "Authority").

### **WITNESSETH**

**WHEREAS**, the BOCES is the owner of the Leased Property (defined herein); and

**WHEREAS**, the BOCES is authorized by the Act (defined herein) when authorized by the voters of the BOCES, to convey to the Authority real property, leasehold interests in real property or rights of easement, the title of which is vested in the BOCES, in relation to the Project to be erected pursuant to the Act; and

**WHEREAS**, the Authority is authorized by the Act (i) to acquire, in the name of the Authority, on terms necessary or convenient by purchase, condemnation, gift or devise, real property, leasehold interest in real property or rights of easement in relation to the Project erected pursuant to the Act and (ii) to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip or otherwise provide a Project; and

**WHEREAS**, the Authority is also authorized by the Act to lease any such Project to the BOCES for which such Project is erected; and

**WHEREAS**, the Authority has determined pursuant to the Act to lease the Leased Property from the BOCES and to provide for the financing or the refinancing of the cost of the acquisition, construction, reconstruction, rehabilitation, improvement, furnishing, and equipping of the BOCES school facility comprising or to comprise the Leased Property by leasing the same to the BOCES pursuant to the terms and conditions of the Authority Lease (defined herein); and

**WHEREAS**, pursuant to the Resolution (defined herein), the Authority has authorized the issuance of bonds; and

**WHEREAS**, the Authority will, pursuant to the Act, provide for the payment of the cost of the acquisition, construction, reconstruction, rehabilitation, improvement, furnishing, and equipping of the Project from the proceeds of the bonds issued pursuant to the Resolution, which bonds shall be payable from State funds payable to the BOCES and assigned by BOCES to the Authority and rentals to be received from the BOCES pursuant to the Authority Lease.

**NOW, THEREFORE,** the parties hereto mutually agree as follows:

## **ARTICLE I**

### **DEFINITIONS AND GENERAL PROVISIONS**

#### **Section 1.01 Definitions.**

(a) All terms which are defined in the Resolution or the Authority Lease which are not defined herein shall have the same meanings, respectively, herein as such terms are given in the Resolution or the Authority Lease.

(b) In addition, as used herein, unless a different meaning clearly appears from the context:

**"Authority Lease"** means that certain Lease and Agreement dated as of April 8, 2020 between the Authority, as lessor, and the BOCES, as lessee, as it may be from time to time amended, modified and supplemented.

**"Bonds"** means any bonds issued under the Resolution, a portion of the proceeds of which shall finance or refinance the Project.

**"BOCES"** means the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence and Lewis Counties, a body corporate created pursuant to Section 1950(6) of the State Education Law, duly created and validly existing under the Constitution and the laws of the State of New York.

**"Lease Term"** means the duration of the leasehold estate created hereby as specified in Section 2.02 hereof.

**"Leased Property"** means the real property described in Exhibit A hereto and the buildings and improvements situated thereon or from time to time hereafter erected thereon and the Personal Property now or hereafter situated on or used in connection therewith (but only to the extent such Personal Property is financed with the proceeds of Bonds) constituting "board of cooperative educational services school facilities" as defined in the Act.

**"Permitted Encumbrances"** means and includes:

(i) the lien of taxes and assessments and water and sewer rents and charges which are not yet due and payable;

(ii) rights reserved to or vested in any municipality or governmental or other public authority to control or regulate or use in any manner any portion of the Leased Property which do not materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;

(iii) minor defects and irregularities in the title to the Leased Property which do not in the aggregate materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;

(iv) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of such property for the purposes for which it is or may reasonably be expected to be held;

(v) present or future valid zoning laws and ordinances;

(vi) any purchase money security interests in any Personal Property, other than with respect to Personal Property financed with the proceeds of the Bonds and any replacements thereof;

(vii) all other matters of record and state of title at the commencement date of this Lease, rights of parties in possession and any state of facts which an accurate survey or physical inspection would show;

(viii) the Authority Lease;

(ix) those matters referred to in any title insurance policy with respect to the Lease Property and accepted by the Authority; and

(x) such other encumbrances or items to which the Authority shall have consented in writing signed by an Authorized Officer.

**"Personal Property"** means all articles of tangible personal property of every kind and description presently located or hereafter placed on or used in connection with the management or operation of the Leased Property other than those which, by the nature of their attachment to the Leased Property become real property pursuant to applicable law, including all escalators and elevators; all heating, ventilating, and air-conditioning equipment; all appliances, apparatus, machinery, motors and electrical equipment; all interior and exterior lighting equipment; all telephone, intercom, audio, music and other sound reproduction and communication equipment; all floor coverings, carpeting, wall coverings, drapes, furniture, trash containers, carts, decorative plants, planters, sculptures, fountains, artwork and other mall, common area, auditorium and office furnishings; all plumbing fixtures, facilities and equipment; all cleaning, janitorial, lawn, landscaping, disposal, firefighting, sprinkler and maintenance equipment and supplies; all books, records, files financial and accounting records relating to the ownership, operation or management of the Project; all drawings, plans and specifications relating to the improvements; and all other personal property whether similar or dissimilar to the foregoing which is now or in the future used in the ownership,

operation or management of the Project, including all additions thereto, proceeds received upon voluntary or involuntary disposition thereof, and all renewals or replacements thereof or articles in substitution therefor.

**"Resolution"** means the "Master BOCES Program Lease Revenue Bond Resolution" of the Authority, adopted August 15, 2001, as supplemented and amended, and as supplemented by the Series 2015 Resolution adopted by the Authority on March 11, 2015, and as supplemented by the Series 2020A Resolution adopted by the Authority on April 8, 2020, and as supplemented by the Series 2020B Resolution adopted by the Authority on April 8, 2020. as from time to time further amended or supplemented by Supplemental Resolutions or Series Resolutions in accordance with the terms and provisions thereof.

**"Series 2020A Bonds"** means the Authority's Master BOCES Program Lease Revenue Bonds (St. Lawrence-Lewis Issue), Series 2020A.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Lease refer to this Lease.

## **ARTICLE II**

### **LEASE; TERM OF LEASE; RENT**

**Section 2.01 Lease of Facilities.** The BOCES does hereby lease to the Authority, and the Authority does hereby lease from the BOCES, the Leased Property.

**SUBJECT ONLY TO** the Permitted Encumbrances.

**TO HAVE AND TO HOLD** the Leased Property for the Lease Term.

**Section 2.02 Term of Lease.** The Lease Term shall commence on the date on which the Bonds are first issued and delivered by the Authority, and shall terminate on the earliest of (i) the final maturity date of the Series 2020A Bonds, (ii) the date on which no Bonds are Outstanding or (iii) upon the expiration of the term pursuant to the terms of this Lease or pursuant to law.

**Section 2.03 Rent.** In consideration of the lease by the BOCES to the Authority of the Leased Property for the Lease Term, the Authority shall pay to the BOCES rent in the amount of \$1.00 per year. The BOCES hereby acknowledges the receipt of the sum

of \$25.00, as advance payment of any and all rent due hereunder. Except as aforesaid, the Authority shall not be obligated to pay any further sums as rent hereunder.

### **ARTICLE III**

#### **USE AND OPERATION**

**Section 3.01 Use and Operation.** During the Lease Term, the Authority shall have the exclusive right to occupy, use and operate the Leased Property for any lawful purpose.

**Section 3.02 Alterations.** The Authority shall have the right to alter, construct, reconstruct and otherwise modify the Leased Property.

**Section 3.03 Delivery of Leased Property at End of Lease Term.** The Authority shall deliver the Leased Property to the BOCES at the end of the Lease Term in the condition in which the Leased Property is at such time, "AS IS", "WHERE IS" (including without limitation, the results of any wear and tear, loss or damage caused by condemnation, or by fire or other casualty). Without limiting the generality of the foregoing, the Authority shall have no obligation to the BOCES during the Lease Term to maintain or otherwise upkeep the Leased Property, all of the foregoing being solely at the discretion of the Authority. The BOCES hereby irrevocably waives any claim on account of waste or other claims it may have against the Authority under this Lease relating to the maintenance, repair and operation of the Leased Property during the Lease Term and the condition of the Leased Property at the expiration or earlier termination of the Lease Term.

### **ARTICLE IV**

#### **SUBLETTING; ENCUMBRANCES**

**Section 4.01 Subletting.** The parties acknowledge that the Authority will, simultaneously herewith, sublet the Leased Property to the BOCES pursuant to the Authority Lease. As provided in Section 8.06, no such subletting shall result in a merger of estates, and the BOCES hereby expressly acknowledges that none of the terms and provisions of any such subletting shall impose any further obligations on the Authority or reduce or affect any of the BOCES's rights or obligations hereunder or be deemed in any way to require any additional consent or action on the part of the BOCES.

**Section 4.02 Encumbrances.** Neither the BOCES nor the Authority shall create or suffer to be created any lien or encumbrance on the Leased Property or its rights under this Lease which would adversely affect the BOCES's obligation to make payments under the Authority Lease or could result in a termination of this Lease or the Authority Lease prior to the end of the Lease Term or the lease term under the Authority Lease.



## ARTICLE V

### COVENANT OF QUIET ENJOYMENT

**Section 5.01 Quiet Enjoyment.** The BOCES covenants that the Authority (and any sublessees of the Authority permitted herein) during the Lease Term shall lawfully, peaceably and quietly hold, occupy and enjoy the Leased Property subject to all the terms, covenants, conditions and provisions of this Lease during the Lease Term, without hindrance, ejecting, or molestation by the BOCES, or anyone claiming by, through or under the BOCES, subject only to the Permitted Encumbrances.

## ARTICLE VI

### REPRESENTATIONS AND WARRANTIES

**Section 6.01 BOCES's Representations and Warranties.** To induce the Authority to enter into this Lease and consummate the transactions contemplated hereby, the BOCES hereby represents and warrants to the Authority as of the date of execution and delivery hereof as follows:

(a) **Legal Entity.** The BOCES is a corporation, duly created and validly existing under the Constitution and laws of the State, including Section 1950(6) of the State Education Law.

(b) **Legal Authority.** The BOCES has fee simple title to the Leased Property and has good right and lawful authority and power to execute and deliver this Lease, to perform the obligations and covenants contained herein and to consummate the transactions contemplated hereby.

(c) **Due Authorization.** The BOCES has duly authorized by all necessary actions the execution and delivery hereof, the performance of its obligations and covenants hereunder, and the consummation of the transactions contemplated hereby.

(d) **Validity and Enforceability.** This Lease constitutes a legal, valid and binding obligation of the BOCES, enforceable against the BOCES in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors' rights generally or the availability of any particular remedy.

(e) **Consents and Approvals.** All consents, approvals, authorizations or orders of, or filings, registrations or declarations with any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the BOCES of its obligations hereunder or the consummation of the transactions contemplated hereby

have been duly obtained and are in full force and effect; provided, however, the BOCES makes no representation or warranty as to any consents, approvals, authorizations, orders, filings, registrations or declarations that may be required by any federal or state securities law.

(f) **Hazardous Substances.** (i) To the best of its knowledge, no lien has been attached to the Leased Property or to any revenues derived therefrom, as a result of a violation of any federal, State or local law or regulation governing hazardous waste removal and clean-up or arising from an intentional or unintentional action or omission of the BOCES or any previous owner or operator of said property.

(ii) The BOCES has not received a summons, citation, directive, letter or other communication, relating to the Leased Property or any part thereof from any federal, State or local agency charged with the enforcement of any environmental protection law or regulation concerning any intentional or unintentional action or omission on the BOCES's part resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances.

**Section 6.02 Authority's Representations and Warranties.** To induce the BOCES to enter into this Lease and consummate the transactions contemplated hereby, the Authority hereby represents and warrants to the BOCES as of the date of execution and delivery hereof as follows:

(a) **Legal Entity.** The Authority is a body corporate and politic constituting a public benefit corporation of the State, duly created and validly existing under the Constitution and laws of the State.

(b) **Legal Authority.** The Authority has the good right and lawful authority and power to execute and deliver this Lease, to perform the obligations and covenants contained herein and to consummate the transactions contemplated hereby.

(c) **Due Authorization.** The Authority has duly authorized by all necessary actions the execution and delivery hereof, the performance of its obligations and covenants hereunder, and the consummation of the transactions contemplated hereby.

(d) **Validity and Enforceability.** This Lease constitutes a legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors' rights generally or the availability of any particular remedy.

(e) **Consents and Approvals.** All consents, approvals, authorizations or orders of, or things, registrations or declarations with any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of

which would materially adversely affect the due performance by the Authority of its obligations hereunder or the consummation of the transactions contemplated hereby have been duly obtained and are in full force and effect; provided, however, the Authority makes no representation or warranty as to any consents, approvals, authorizations, orders, filings, registrations or declarations that may be required by any federal or state securities law.

## **ARTICLE VII**

### **EVENTS OF DEFAULT AND REMEDIES**

**Section 7.01 Events of Default.** An "event of default" or a "default" shall mean, whenever they are used herein, any one or more of the following events:

(a) Failure by the BOCES or the Authority to observe and perform any covenant, condition or agreement on its part to be observed or performed, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the defaulting party by the other, or such longer period, as is required to cure such default, if by reason of the nature of such failure or default the same cannot be remedied within such thirty (30) day period and the defaulting party has within such thirty (30) day period commenced to take appropriate actions to remedy such failure and is diligently pursuing such actions; or

(b) Any representation or warranty of the BOCES or the Authority contained herein shall have been at the time it was made untrue in any material respect.

**Section 7.02 Remedies.** Whenever any event of default referred to in Section 7.01 hereof shall have happened and be continuing, the non defaulting party shall have the right to seek all remedies available at law or equity, including action for damages and/or specific performance; provided however that the BOCES shall not have the right to terminate this Lease in any circumstances or be excused from performing its obligations hereunder for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title, or frustration of purpose, or any damage to or destruction of the Leased Property, or the taking by eminent domain of title to or the right of temporary use of all or any part of the Leased Property, or the failure of the Authority to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Lease, the Authority Lease or the Resolution.

**Section 7.03 No Remedy Exclusive.** Subject to Section 7.02, no remedy herein conferred upon or reserved to the parties is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to

be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**Section 7.04 Waiver and Non-Waiver.** In the event any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## **ARTICLE VIII**

### **MISCELLANEOUS**

**Section 8.01 Recording of Memorandum of Lease.** The parties may cause a Memorandum of Lease to be filed with the appropriate recording office in the County of St. Lawrence. Such Memorandum of Lease shall be in form and substance reasonably satisfactory to the Authority and to the BOCES, and otherwise in accordance with applicable legal requirements.

**Section 8.02 Estoppel Certificates.** Each party hereto agrees at any time and from time to time during the Lease Term, upon not less than 15 days prior notice by the other party, to execute, acknowledge and deliver to the party making such request a Certificate stating (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modification); (b) whether or not to the best knowledge of the signer of such Certificate the party requesting such Certificate is in default in performance of any term, covenant, or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge; and (c) as to such other customary matters as may be reasonably requested by the party requesting such Certificate, it being intended that any such statement delivered pursuant to this Section 8.02 may be relied upon by any prospective purchaser of the Leased Property or any mortgagee thereof, or any prospective assignee or lessee thereof.

**Section 8.03 Non-Recourse.** Notwithstanding anything to the contrary, there shall be absolutely no liability on the part of the Authority or any officer, director or employee of the Authority for the observance or performance of any of the terms, covenants, conditions or provisions of this Lease, and no recourse shall be had for the observance and performance of the terms, covenants, conditions or provisions of this Lease against any property, assets, or funds of the Authority, provided that the foregoing provisions of this Section 8.03 shall not constitute a waiver, release or discharge of any of the terms, covenants, conditions or provisions of this Lease, but the same shall continue until fully paid, discharged, observed or performed.

**Section 8.04 Successors and Assigns.** This Lease shall inure to the benefit of and shall be binding upon the BOCES, the Authority and their respective successors and permitted assigns.

**Section 8.05 Severability.** In the event any one or more of the covenants, stipulations, promises, obligations and agreements herein on the part of the Authority or the BOCES to be performed should be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, obligation or obligations, or agreement or agreements shall be null and void, shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, obligations and agreements herein contained and shall in no way affect the validity or enforceability of the other provisions hereof

**Section 8.06 No Merger.** There shall be no merger of this Lease or the leasehold estate created by this Lease with the fee or any leasehold interest in the Leased Property or with any leasehold mortgage by reason of the fact that the same entity may acquire, own, or hold, directly or indirectly, this Lease or the leasehold estate created by this Lease and the fee estate in the Lease Property or any leasehold mortgage unless and until such entity and all other entities having any interest in the Lease Property shall join in a written instrument affecting such merger and shall duly record the same.

**Section 8.07 Amendments, Changes and Modifications.** This Lease may be amended, changed or modified in any respect provided that each amendment, change or modification is in writing signed by an Authorized Officer of the Authority and the BOCES.

**Section 8.08 Disclaimer of Personal Liability.** No recourse shall be had against or liability incurred by any member of the Authority or the BOCES or any officer or employees of the Authority or of the BOCES, or any person executing this Lease for any covenants and provisions hereof or for any claims based thereon.

**Section 8.09 Counterparts.** This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 8.10 Headings.** The headings preceding the text of the several Articles and Sections hereof and the exhibits appended hereto and any table of contents appended hereto or to copies hereof shall be solely for convenience or reference and shall not constitute a part hereof nor shall they affect its meaning, construction or effect.

**Section 8.11 Notices.** Any notices or other instruments required to be given or delivered pursuant hereto shall be in writing and shall be delivered by hand against the written receipt therefor or sent by registered or certified mail, or by nationally recognized overnight courier, in the case of the Authority, addressed to it to the attention of the Authority's Executive Director with a copy to the Authority's General Counsel, at 515 Broadway, Albany, New York 12207; in the case of the BOCES, addressed to it to

the attention of the Superintendent, St. Lawrence-Lewis BOCES, [40 West Main Street, P.O. Box 231, Canton, New York 13617, with a copy to Douglas Goodfriend, Esq., Orrick, Herrington & Sutcliffe LLP, 51 West 52<sup>nd</sup> Street, New York, New York 10019]. Each party may change its address for giving of notices by a written notice to the other party.

**Section 8.12 Agreement to Pay Attorneys' Fees and Expenses.** In the event the BOCES should default under any of the provisions of this Lease and the Authority should employ attorneys or incur other expenses in the enforcement of performance or observance of any obligation or agreement on the part of the BOCES herein contained, the BOCES agrees that it will on demand therefor pay to the Authority the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred.

**Section 8.13 Survival.** The termination and expiration of the Lease Term shall in no way release or relieve the BOCES from any of its obligations hereunder arising or accruing prior to the date of such termination or expiration and the provisions of Article VI shall survive the termination or expiration hereof.

**Section 8.14 Governing Laws.** This Lease shall be governed and construed in accordance with the laws of the State of New York applicable to agreements executed and to be performed entirely within such State.

**Section 8.15 Intent of the Parties.** It is the intent of the Authority and the BOCES that in accordance with the Act this Agreement is entered into for the purpose of facilitating the financing or refinancing of the acquisition or construction, as applicable, of the Project financed or refinanced with the Series 2020A Bond proceeds and the payment of such Series 2020A Bonds. Further, it is also the intent of the Authority and the BOCES to execute this Agreement prior to the issuance of such Series 2020A Bonds in order for the parties to avail themselves of the protections afforded by subdivision 12 of Section 1689 of the Public Authorities Law

IN WITNESS WHEREOF, the Authority and the BOCES have caused this instrument to be executed by their duly authorized officers, all as of the day and year first above written.

DORMITORY AUTHORITY OF THE STATE  
OF NEW YORK

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

Authorized Officer

BOARD OF COOPERATIVE  
EDUCATIONAL SERVICES FOR THE  
SOLE SUPERVISORY DISTRICT OF ST.  
LAWRENCE-LEWIS COUNTIES

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

Authorized Officer

COUNTY OF \_\_\_\_\_ )

Notary Public



STATE OF NEW YORK     )  
                                     )ss:  
COUNTY OF \_\_\_\_\_)

On the \_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

**EXHIBIT A**

**Description of Leased Property**

**SCHEDULE A**

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AGREEMENT OF LEASE

between

BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR  
THE SOLE SUPERVISORY DISTRICT OF ST. LAWRENCE-LEWIS COUNTIES,

as Lessor

and

DORMITORY AUTHORITY OF THE  
STATE OF NEW YORK,

as Lessee

(Dormitory Authority of the State of New York Master BOCES Program Lease Revenue Bonds  
(St. Lawrence-Lewis Issue), Series 2020B)

\_\_\_\_\_  
Dated as of April 8, 2020  
\_\_\_\_\_

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Record and Return to:  
[Frederick W. Clark, Esq.]  
Dormitory Authority of the State of New York  
515 Broadway, 6<sup>th</sup> Floor  
Albany, NY 12207  
(518) 257-[3120]

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## **AGREEMENT OF LEASE**

**THIS AGREEMENT OF LEASE** (this "Lease"), dated as of April 8, 2020, by and between (i) the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence-Lewis Counties (the "BOCES"), and (ii) the Dormitory Authority of the State of New York, a public benefit corporation of the State of New York, as lessee (the "Authority").

### **WITNESSETH**

**WHEREAS**, the BOCES is the owner of the Leased Property (defined herein); and

**WHEREAS**, the BOCES is authorized by the Act (defined herein) when authorized by the voters of the BOCES, to convey to the Authority real property, leasehold interests in real property or rights of easement, the title of which is vested in the BOCES, in relation to the Project to be erected pursuant to the Act; and

**WHEREAS**, the Authority is authorized by the Act (i) to acquire, in the name of the Authority, on terms necessary or convenient by purchase, condemnation, gift or devise, real property, leasehold interest in real property or rights of easement in relation to the Project erected pursuant to the Act and (ii) to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip or otherwise provide a Project; and

**WHEREAS**, the Authority is also authorized by the Act to lease any such Project to the BOCES for which such Project is erected; and

**WHEREAS**, the Authority has determined pursuant to the Act to lease the Leased Property from the BOCES and to provide for the financing or the refinancing of the cost of the acquisition, construction, reconstruction, rehabilitation, improvement, furnishing, and equipping of the BOCES school facility comprising or to comprise the Leased Property by leasing the same to the BOCES pursuant to the terms and conditions of the Authority Lease (defined herein); and

**WHEREAS**, pursuant to the Resolution (defined herein), the Authority has authorized the issuance of bonds; and

**WHEREAS**, the Authority will, pursuant to the Act, provide for the payment of the cost of the acquisition, construction, reconstruction, rehabilitation, improvement, furnishing, and equipping of the Project from the proceeds of the bonds issued pursuant to the Resolution, which bonds shall be payable from State funds payable to the BOCES and assigned by BOCES to the Authority and rentals to be received from the BOCES pursuant to the Authority Lease.

NOW, THEREFORE, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND GENERAL PROVISIONS

#### Section 1.01 Definitions.

(a) All terms which are defined in the Resolution or the Authority Lease which are not defined herein shall have the same meanings, respectively, herein as such terms are given in the Resolution or the Authority Lease.

(b) In addition, as used herein, unless a different meaning clearly appears from the context:

**"Authority Lease"** means that certain Lease and Agreement dated as of April 8, 2020 between the Authority, as lessor, and the BOCES, as lessee, as it may be from time to time amended, modified and supplemented.

**"Bonds"** means any bonds issued under the Resolution, a portion of the proceeds of which shall finance or refinance the Project.

**"BOCES"** means the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence and Lewis Counties, a body corporate created pursuant to Section 1950(6) of the State Education Law, duly created and validly existing under the Constitution and the laws of the State of New York.

**"Lease Term"** means the duration of the leasehold estate created hereby as specified in Section 2.02 hereof.

**"Leased Property"** means the real property described in Exhibit A hereto and the buildings and improvements situated thereon or from time to time hereafter erected thereon and the Personal Property now or hereafter situated on or used in connection therewith (but only to the extent such Personal Property is financed with the proceeds of Bonds) constituting "board of cooperative educational services school facilities" as defined in the Act.

**"Permitted Encumbrances"** means and includes:

(i) the lien of taxes and assessments and water and sewer rents and charges which are not yet due and payable;

(ii) rights reserved to or vested in any municipality or governmental or other public authority to control or regulate or use in any manner any portion of the Leased Property which do not materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;

(iii) minor defects and irregularities in the title to the Leased Property which do not in the aggregate materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;

(iv) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of such property for the purposes for which it is or may reasonably be expected to be held;

(v) present or future valid zoning laws and ordinances;

(vi) any purchase money security interests in any Personal Property, other than with respect to Personal Property financed with the proceeds of the Bonds and any replacements thereof;

(vii) all other matters of record and state of title at the commencement date of this Lease, rights of parties in possession and any state of facts which an accurate survey or physical inspection would show;

(viii) the Authority Lease;

(ix) those matters referred to in any title insurance policy with respect to the Lease Property and accepted by the Authority; and

(x) such other encumbrances or items to which the Authority shall have consented in writing signed by an Authorized Officer.

**"Personal Property"** means all articles of tangible personal property of every kind and description presently located or hereafter placed on or used in connection with the management or operation of the Leased Property other than those which, by the nature of their attachment to the Leased Property become real property pursuant to applicable law, including all escalators and elevators; all heating, ventilating, and air-conditioning equipment; all appliances, apparatus, machinery, motors and electrical equipment; all interior and exterior lighting equipment; all telephone, intercom, audio, music and other sound reproduction and communication equipment; all floor coverings, carpeting, wall coverings, drapes, furniture, trash containers, carts, decorative plants, planters, sculptures, fountains, artwork and other mall, common area, auditorium and office furnishings; all plumbing fixtures, facilities and equipment; all cleaning, janitorial, lawn, landscaping, disposal, firefighting, sprinkler and maintenance equipment and supplies; all books, records, files financial and accounting records relating to the ownership, operation or management of the Project; all drawings, plans and specifications relating to the improvements; and all other personal property whether similar or dissimilar to the foregoing which is now or in the future used in the ownership, operation or management



of the Project, including all additions thereto, proceeds received upon voluntary or involuntary disposition thereof, and all renewals or replacements thereof or articles in substitution therefor.

**"Resolution"** means the "Master BOCES Program Lease Revenue Bond Resolution" of the Authority, adopted August 15, 2001, as supplemented and amended, and as supplemented by the Series 2015 Resolution adopted by the Authority on March 11, 2015, and as supplemented by the Series 2020A Resolution adopted by the Authority on April 8, 2020, and as supplemented by the Series 2020B Resolution adopted by the Authority on April 8, 2020. as from time to time further amended or supplemented by Supplemental Resolutions or Series Resolutions in accordance with the terms and provisions thereof.

**"Series 2020B Bonds"** means the Authority's Master BOCES Program Lease Revenue Bonds (St. Lawrence-Lewis Issue), Series 2020B.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Lease refer to this Lease.

## **ARTICLE II**

### **LEASE; TERM OF LEASE; RENT**

**Section 2.01 Lease of Facilities.** The BOCES does hereby lease to the Authority, and the Authority does hereby lease from the BOCES, the Leased Property.

**SUBJECT ONLY TO** the Permitted Encumbrances.

**TO HAVE AND TO HOLD** the Leased Property for the Lease Term.

**Section 2.02 Term of Lease.** The Lease Term shall commence on the date on which the Bonds are first issued and delivered by the Authority, and shall terminate on the earliest of (i) the final maturity date of the Series 2020B Bonds, (ii) the date on which no Bonds are Outstanding or (iii) upon the expiration of the term pursuant to the terms of this Lease or pursuant to law.

**Section 2.03 Rent.** In consideration of the lease by the BOCES to the Authority of the Leased Property for the Lease Term, the Authority shall pay to the BOCES rent in the amount of \$1.00 per year. The BOCES hereby acknowledges the receipt of the sum of

\$25.00, as advance payment of any and all rent due hereunder. Except as aforesaid, the Authority shall not be obligated to pay any further sums as rent hereunder.

### **ARTICLE III**

#### **USE AND OPERATION**

**Section 3.01 Use and Operation.** During the Lease Term, the Authority shall have the exclusive right to occupy, use and operate the Leased Property for any lawful purpose.

**Section 3.02 Alterations.** The Authority shall have the right to alter, construct, reconstruct and otherwise modify the Leased Property.

**Section 3.03 Delivery of Leased Property at End of Lease Term.** The Authority shall deliver the Leased Property to the BOCES at the end of the Lease Term in the condition in which the Leased Property is at such time, "AS IS", "WHERE IS" (including without limitation, the results of any wear and tear, loss or damage caused by condemnation, or by fire or other casualty). Without limiting the generality of the foregoing, the Authority shall have no obligation to the BOCES during the Lease Term to maintain or otherwise upkeep the Leased Property, all of the foregoing being solely at the discretion of the Authority. The BOCES hereby irrevocably waives any claim on account of waste or other claims it may have against the Authority under this Lease relating to the maintenance, repair and operation of the Leased Property during the Lease Term and the condition of the Leased Property at the expiration or earlier termination of the Lease Term.

### **ARTICLE IV**

#### **SUBLETTING; ENCUMBRANCES**

**Section 4.01 Subletting.** The parties acknowledge that the Authority will, simultaneously herewith, sublet the Leased Property to the BOCES pursuant to the Authority Lease. As provided in Section 8.06, no such subletting shall result in a merger of estates, and the BOCES hereby expressly acknowledges that none of the terms and provisions of any such subletting shall impose any further obligations on the Authority or reduce or affect any of the BOCES's rights or obligations hereunder or be deemed in any way to require any additional consent or action on the part of the BOCES.

**Section 4.02 Encumbrances.** Neither the BOCES nor the Authority shall create or suffer to be created any lien or encumbrance on the Leased Property or its rights under this Lease which would adversely affect the BOCES's obligation to make payments under the Authority Lease or could result in a termination of this Lease or the Authority Lease prior to the end of the Lease Term or the lease term under the Authority Lease.

### **ARTICLE V**

## COVENANT OF QUIET ENJOYMENT

**Section 5.01 Quiet Enjoyment.** The BOCES covenants that the Authority (and any sublessees of the Authority permitted herein) during the Lease Term shall lawfully, peaceably and quietly hold, occupy and enjoy the Leased Property subject to all the terms, covenants, conditions and provisions of this Lease during the Lease Term, without hindrance, ejecting, or molestation by the BOCES, or anyone claiming by, through or under the BOCES, subject only to the Permitted Encumbrances.

## ARTICLE VI

### REPRESENTATIONS AND WARRANTIES

**Section 6.01 BOCES's Representations and Warranties.** To induce the Authority to enter into this Lease and consummate the transactions contemplated hereby, the BOCES hereby represents and warrants to the Authority as of the date of execution and delivery hereof as follows:

(a) **Legal Entity.** The BOCES is a corporation, duly created and validly existing under the Constitution and laws of the State, including Section 1950(6) of the State Education Law.

(b) **Legal Authority.** The BOCES has fee simple title to the Leased Property and has good right and lawful authority and power to execute and deliver this Lease, to perform the obligations and covenants contained herein and to consummate the transactions contemplated hereby.

(c) **Due Authorization.** The BOCES has duly authorized by all necessary actions the execution and delivery hereof, the performance of its obligations and covenants hereunder, and the consummation of the transactions contemplated hereby.

(d) **Validity and Enforceability.** This Lease constitutes a legal, valid and binding obligation of the BOCES, enforceable against the BOCES in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors' rights generally or the availability of any particular remedy.

(e) **Consents and Approvals.** All consents, approvals, authorizations or orders of, or filings, registrations or declarations with any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the BOCES of its obligations hereunder or the consummation of the transactions contemplated hereby have been duly obtained and are in full force and effect; provided, however, the BOCES makes no representation or warranty as to any consents, approvals, authorizations, orders, filings, registrations or declarations that may be required by any federal or state securities law.

(f) **Hazardous Substances.** (i) To the best of its knowledge, no lien has been attached to the Leased Property or to any revenues derived therefrom, as a result of a violation of any federal, State or local law or regulation governing hazardous waste removal and clean-up or arising from an intentional or unintentional action or omission of the BOCES or any previous owner or operator of said property.

(ii) The BOCES has not received a summons, citation, directive, letter or other communication, relating to the Leased Property or any part thereof from any federal, State or local agency charged with the enforcement of any environmental protection law or regulation concerning any intentional or unintentional action or omission on the BOCES's part resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances.

**Section 6.02 Authority's Representations and Warranties.** To induce the BOCES to enter into this Lease and consummate the transactions contemplated hereby, the Authority hereby represents and warrants to the BOCES as of the date of execution and delivery hereof as follows:

(a) **Legal Entity.** The Authority is a body corporate and politic constituting a public benefit corporation of the State, duly created and validly existing under the Constitution and laws of the State.

(b) **Legal Authority.** The Authority has the good right and lawful authority and power to execute and deliver this Lease, to perform the obligations and covenants contained herein and to consummate the transactions contemplated hereby.

(c) **Due Authorization.** The Authority has duly authorized by all necessary actions the execution and delivery hereof, the performance of its obligations and covenants hereunder, and the consummation of the transactions contemplated hereby.

(d) **Validity and Enforceability.** This Lease constitutes a legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors' rights generally or the availability of any particular remedy.

(e) **Consents and Approvals.** All consents, approvals, authorizations or orders of, or things, registrations or declarations with any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the Authority of its obligations hereunder or the consummation of the transactions contemplated hereby have been duly obtained and are in full force and effect; provided, however, the Authority makes no representation or warranty as to any consents, approvals, authorizations, orders, filings, registrations or declarations that may be required by any federal or state securities law.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01 Events of Default.** An "event of default" or a "default" shall mean, whenever they are used herein, any one or more of the following events:

(a) Failure by the BOCES or the Authority to observe and perform any covenant, condition or agreement on its part to be observed or performed, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the defaulting party by the other, or such longer period, as is required to cure such default, if by reason of the nature of such failure or default the same cannot be remedied within such thirty (30) day period and the defaulting party has within such thirty (30) day period commenced to take appropriate actions to remedy such failure and is diligently pursuing such actions; or

(b) Any representation or warranty of the BOCES or the Authority contained herein shall have been at the time it was made untrue in any material respect.

**Section 7.02 Remedies.** Whenever any event of default referred to in Section 7.01 hereof shall have happened and be continuing, the non defaulting party shall have the right to seek all remedies available at law or equity, including action for damages and/or specific performance; provided however that the BOCES shall not have the right to terminate this Lease in any circumstances or be excused from performing its obligations hereunder for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title, or frustration of purpose, or any damage to or destruction of the Leased Property, or the taking by eminent domain of title to or the right of temporary use of all or any part of the Leased Property, or the failure of the Authority to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Lease, the Authority Lease or the Resolution.

**Section 7.03 No Remedy Exclusive.** Subject to Section 7.02, no remedy herein conferred upon or reserved to the parties is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**Section 7.04 Waiver and Non-Waiver.** In the event any agreement contained herein should be breached by either party and thereafter waived by the other party, such

waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## **ARTICLE VIII**

### **MISCELLANEOUS**

**Section 8.01 Recording of Memorandum of Lease.** The parties may cause a Memorandum of Lease to be filed with the appropriate recording office in the County of St. Lawrence. Such Memorandum of Lease shall be in form and substance reasonably satisfactory to the Authority and to the BOCES, and otherwise in accordance with applicable legal requirements.

**Section 8.02 Estoppel Certificates.** Each party hereto agrees at any time and from time to time during the Lease Term, upon not less than 15 days prior notice by the other party, to execute, acknowledge and deliver to the party making such request a Certificate stating (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modification); (b) whether or not to the best knowledge of the signer of such Certificate the party requesting such Certificate is in default in performance of any term, covenant, or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge; and (c) as to such other customary matters as may be reasonably requested by the party requesting such Certificate, it being intended that any such statement delivered pursuant to this Section 8.02 may be relied upon by any prospective purchaser of the Leased Property or any mortgagee thereof, or any prospective assignee or lessee thereof.

**Section 8.03 Non-Recourse.** Notwithstanding anything to the contrary, there shall be absolutely no liability on the part of the Authority or any officer, director or employee of the Authority for the observance or performance of any of the terms, covenants, conditions or provisions of this Lease, and no recourse shall be had for the observance and performance of the terms, covenants, conditions or provisions of this Lease against any property, assets, or funds of the Authority, provided that the foregoing provisions of this Section 8.03 shall not constitute a waiver, release or discharge of any of the terms, covenants, conditions or provisions of this Lease, but the same shall continue until fully paid, discharged, observed or performed.

**Section 8.04 Successors and Assigns.** This Lease shall inure to the benefit of and shall be binding upon the BOCES, the Authority and their respective successors and permitted assigns.

**Section 8.05 Severability.** In the event any one or more of the covenants, stipulations, promises, obligations and agreements herein on the part of the Authority or the BOCES to be performed should be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, obligation or obligations, or agreement or agreements shall be null and void, shall be deemed and construed to be severable from the

remaining covenants, stipulations, promises, obligations and agreements herein contained and shall in no way affect the validity or enforceability of the other provisions hereof

**Section 8.06 No Merger.** There shall be no merger of this Lease or the leasehold estate created by this Lease with the fee or any leasehold interest in the Leased Property or with any leasehold mortgage by reason of the fact that the same entity may acquire, own, or hold, directly or indirectly, this Lease or the leasehold estate created by this Lease and the fee estate in the Lease Property or any leasehold mortgage unless and until such entity and all other entities having any interest in the Lease Property shall join in a written instrument affecting such merger and shall duly record the same.

**Section 8.07 Amendments, Changes and Modifications.** This Lease may be amended, changed or modified in any respect provided that each amendment, change or modification is in writing signed by an Authorized Officer of the Authority and the BOCES.

**Section 8.08 Disclaimer of Personal Liability.** No recourse shall be had against or liability incurred by any member of the Authority or the BOCES or any officer or employees of the Authority or of the BOCES, or any person executing this Lease for any covenants and provisions hereof or for any claims based thereon.

**Section 8.09 Counterparts.** This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 8.10 Headings.** The headings preceding the text of the several Articles and Sections hereof and the exhibits appended hereto and any table of contents appended hereto or to copies hereof shall be solely for convenience or reference and shall not constitute a part hereof nor shall they affect its meaning, construction or effect.

**Section 8.11 Notices.** Any notices or other instruments required to be given or delivered pursuant hereto shall be in writing and shall be delivered by hand against the written receipt therefor or sent by registered or certified mail, or by nationally recognized overnight courier, in the case of the Authority, addressed to it to the attention of the Authority's Executive Director with a copy to the Authority's General Counsel, at 515 Broadway, Albany, New York 12207; in the case of the BOCES, addressed to it to the attention of the Superintendent, St. Lawrence-Lewis BOCES, [40 West Main Street, P.O. Box 231, Canton, New York 13617, with a copy to Douglas Goodfriend, Esq., Orrick, Herrington & Sutcliffe LLP, 51 West 52<sup>nd</sup> Street, New York, New York 10019]. Each party may change its address for giving of notices by a written notice to the other party.

**Section 8.12 Agreement to Pay Attorneys' Fees and Expenses.** In the event the BOCES should default under any of the provisions of this Lease and the Authority should employ attorneys or incur other expenses in the enforcement of performance or observance of any obligation or agreement on the part of the BOCES herein contained,

the BOCES agrees that it will on demand therefor pay to the Authority the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred.

**Section 8.13 Survival.** The termination and expiration of the Lease Term shall in no way release or relieve the BOCES from any of its obligations hereunder arising or accruing prior to the date of such termination or expiration and the provisions of Article VI shall survive the termination or expiration hereof.

**Section 8.14 Governing Laws.** This Lease shall be governed and construed in accordance with the laws of the State of New York applicable to agreements executed and to be performed entirely within such State.

**Section 8.15 Intent of the Parties.** It is the intent of the Authority and the BOCES that in accordance with the Act this Agreement is entered into for the purpose of facilitating the financing or refinancing of the acquisition or construction, as applicable, of the Project financed or refinanced with the Series 2020B Bond proceeds and the payment of such Series 2020B Bonds. Further, it is also the intent of the Authority and the BOCES to execute this Agreement prior to the issuance of such Series 2020B Bonds in order for the parties to avail themselves of the protections afforded by subdivision 12 of Section 1689 of the Public Authorities Law



IN WITNESS WHEREOF, the Authority and the BOCES have caused this instrument to be executed by their duly authorized officers, all as of the day and year first above written.

DORMITORY AUTHORITY OF THE STATE  
OF NEW YORK

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

Authorized Officer

BOARD OF COOPERATIVE  
EDUCATIONAL SERVICES FOR THE  
SOLE SUPERVISORY DISTRICT OF ST.  
LAWRENCE-LEWIS COUNTIES

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

Authorized Officer

COUNTY OF \_\_\_\_\_ )

Notary Public

STATE OF NEW YORK     )  
                               )ss:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

**EXHIBIT A**

**Description of Leased Property**

**SCHEDULE A**

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LEASE AND AGREEMENT

between

DORMITORY AUTHORITY OF THE

STATE OF NEW YORK,

as Lessor

and

BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE SOLE  
SUPERVISORY DISTRICT OF ST. LAWRENCE-LEWIS COUNTIES,

as Lessee

Dated as of April 8, 2020

(Dormitory Authority of the State of New York Master BOCES Program Lease Revenue Bonds  
(St. Lawrence-Lewis Issue), Series 2020A)

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Record and Return to:  
[Frederick W. Clark, Esq.]  
Dormitory Authority of the State of New York  
515 Broadway, 6<sup>th</sup> Floor  
Albany, New York 12207  
(518) 257-[3120]

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Exhibit B	Opinion of Counsel to the BOCES .....	B-1



## **LEASE AND AGREEMENT**

**THIS LEASE AND AGREEMENT**, dated as of April 8, 2020, is by and between the Dormitory Authority of the State of New York, a public benefit corporation of the State of New York (the "Authority"), and the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence-Lewis Counties, a corporation created pursuant to Section 1950(6) of the Education Law (the "BOCES").

### **WITNESSETH**

**WHEREAS**, the BOCES is the owner of the Leased Property (defined herein); and

**WHEREAS**, the BOCES is authorized by the Act (defined herein) when authorized by the voters of the BOCES, to convey to the Authority real property, leasehold interests in real property or rights of easement, the title of which is vested in the BOCES, in relation to the Project (as defined herein) to be erected pursuant to the Act; and

**WHEREAS**, the Authority is authorized by the Act (i) to acquire, in the name of the Authority, on terms necessary or convenient by purchase, condemnation, gift or devise, real property, leasehold interest in real property or rights of easement in relation to the Project erected pursuant to the Act and (ii) to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip or otherwise provide a Project; and

**WHEREAS**, the Authority is also authorized by the Act to lease any such Project to the BOCES; and

**WHEREAS**, the Authority has determined pursuant to the Act to lease the Leased Property (defined herein) from the BOCES and to provide for the financing or refinancing of the cost of the acquisition, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of the BOCES school facility comprising or to comprise the Leased Property by leasing the same to the BOCES pursuant to the terms and conditions of this Agreement (defined herein); and

**WHEREAS**, pursuant to the Resolution (defined herein), the Authority has authorized the issuance of bonds; and

**WHEREAS**, the Authority will, pursuant to the Act, provide for the financing or refinancing of the cost of the design, acquisition, construction, reconstruction, rehabilitation, equipping, furnishing and improvement of the Project from the proceeds of the bonds issued pursuant to the Resolution, which bonds shall be payable from State funds payable to the BOCES and assigned by BOCES to the Authority hereunder and rentals to be received from the BOCES pursuant to this Agreement; and

**WHEREAS**, contemporaneously with this Agreement, the Authority and the BOCES will enter into an Agreement of Lease, dated as of April 8, 2020, between the Authority and the BOCES.

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND GENERAL PROVISIONS

**Section 1.01 Definitions.** (a) All terms which are defined in the Resolution which are not defined herein shall have the same meanings, respectively, herein as such terms are given in the Resolution.

(b) In addition, as used herein, unless a different meaning clearly appears from the context:

**"Administrative Expenses"** means expenses incurred by the Authority in carrying out its duties hereunder and under the Resolution, the BOCES Lease, and any other document, instrument, agreement, law, rule or regulation related to any Leased Property including, without limitation, accounting, administrative, financial advisory and legal expenses incurred in connection with the financing or refinancing and construction of the Project, the fees and expenses of the Trustee, any Paying Agents or any other fiduciaries acting under the Resolution, the fees and expenses of any Facility Provider, the costs and expenses incurred in connection with the determination of the rate at which a Variable Interest Rate Bond is to bear interest and the remarketing of such Bond, the cost of providing insurance with respect to the Leased Property and the Project, judgments or claims payable by the Authority for the payment of which the Authority has been indemnified or held harmless pursuant to Section 4.03 hereof, but only to the extent that moneys in the Construction Fund are not available therefor, and expenditures to compel full and punctual performance of the BOCES Lease, this Agreement, or any document, instrument or agreement related thereto in accordance with its terms.

**"Agreement"** means this Lease and Agreement, dated as of April 8, 2020, by and between the Authority and the BOCES, as from time to time amended or supplemented in accordance with the terms and provisions hereof and of the Resolution.

**"Annual Administrative Fee"** when used with respect to any Bond Year, means a share of the general overhead and administrative expenditures of the Authority reasonably allocated to the Project for such Bond Year by the Authority in accordance with a formula approved by the Comptroller of the State of New York.

**"Authority Fee"** means the fee payable to the Authority in the amount of \$[37,500] as compensation for all of the Authority's internal costs and overhead expenses attributable to an issuance of a Series of Bonds, including the Series 2020A Bonds, excluding Administrative Expenses and the Annual Administrative Fee.

**"Basic Rent"** means that portion of the Rentals payable pursuant to Section 4.01 (a) hereof.

**"BOCES"** means the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence-Lewis Counties, a body corporate created pursuant to Section 1950(6) of the State Education Law, duly organized and validly existing under the Constitution and the laws of the State of New York.

**"BOCES Lease"** means that certain Agreement of Lease, dated as of April 8, 2020, by and between the BOCES, as lessor, and the Authority, as lessee, as it may be from time to time amended, modified and supplemented.

**"Bonds"** means any bonds issued under the Resolution, a portion of the proceeds of which shall finance or refinance the Project.

**"Contract Documents"** means any general contract or agreement for the construction of a Project, notice to bidders, information for bidders, form of bid, general conditions, supplemental general conditions, general requirements, supplemental general requirements, bonds, plans and specifications, addenda, change orders, and any other documents entered into or prepared by or on behalf of the BOCES relating to the construction of a Project, and any amendments to the foregoing.

**"Environmental Laws"** means the federal, state, county and local statutes, ordinances and regulations, as may be independently applicable or applied to all or any part of the Leased Property by any governmental authority or any permit or approval applicable to all or any part of the Leased Property, pertaining to the protection of human health and the environment, including without limitation, those pertaining to the discharge of pollutants to surface and ground water, emissions to the air and contamination of soil or groundwater by Hazardous Substances.

**"Hazardous Substance"** means a chemical, waste or material containing or classified as a "hazardous substance," "hazardous waste" or "toxic substance" as defined in or referred to in any Environmental Law.

**"Lease Term"** means the duration of the leasehold estate or estates created hereby as specified in Section 2.02.

**"Leased Property"** means the real property described in Exhibit A hereto, the buildings and improvements situated thereon or from time to time erected thereon and the Personal Property now or hereafter situated on or used in connection therewith (but only to the extent such Personal Property is financed with the proceeds of Series 2020A Bonds) constituting "board of cooperative educational services school facilities" as defined in the Act.

**"Permitted Encumbrances"** means and includes:

- (i) the lien of taxes and assessments and water and sewer rents and charges which are not yet due and payable;
- (ii) rights reserved to or vested in any municipality or governmental or other public authority to control or regulate or use in any manner any portion of the Leased Property which do not materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;
- (iii) minor defects and irregularities in the title to the Leased Property which do not in the aggregate materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;

(iv) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of such property for the purposes for which it is or may reasonably be expected to be held;

(v) present or future valid zoning laws and ordinances;

(vi) any purchase money security interests in any Personal Property, other than with respect to Personal Property financed with the proceeds of the Bonds and any replacements thereof;

(vii) all other matters of record and state of title at the commencement date of this Agreement, rights of parties in possession and any state of facts which an accurate survey or physical inspection would show;

(viii) the BOCES Lease;

(ix) those matters referred to in any title insurance policy with respect to the Leased Property and accepted by the Authority; and

(x) such other encumbrances or items to which the BOCES shall have consented in writing signed by an Authorized Officer.

**"Personal Property"** means all articles of tangible personal property of every kind and description presently located or hereafter placed on or used in connection with the management or operation of the Leased Property other than those which, by the nature of their attachment to the Leased Property become real property pursuant to applicable law, including all escalators and elevators; all heating, ventilating, and air-conditioning equipment; all appliances, apparatus, machinery, motors and electrical equipment; all interior and exterior lighting equipment; all telephone, intercom, audio, music and other sound reproduction and communication equipment; all floor coverings, carpeting, wall coverings, drapes, furniture, trash containers, carts, decorative plants, planters, sculptures, fountains, artwork and other mall, common area, auditorium and office furnishings; all plumbing fixtures, facilities and equipment; all cleaning, janitorial, lawn, landscaping, disposal, firefighting, sprinkler and maintenance equipment and supplies; all books, records, files financial and accounting records relating to the ownership, operation or management of the Project; all drawings, plans and specifications relating to the improvements; and all other personal property whether similar or dissimilar to the foregoing which is now or in the future used in the ownership, operation or management of the Project, including all additions thereto, proceeds received upon voluntary or involuntary disposition thereof, and all renewals or replacements thereof or articles in substitution therefor.

**"Plans and Specifications"** means the final design for the Project, including a complete set of architectural, structural, HVAC, plumbing, electrical, landscape and furniture and equipment drawings, specifications and a shop drawings list which comply with all applicable laws, as well as all required regulatory approvals and utility acceptances, together with any amendments thereto including increasing, decreasing or otherwise modifying the scope of the

Project provided that such amendments are approved in writing by the State Education Department and filed with the Authority.

**"Project"** means the financing or refinancing of the costs of: the acquisition, construction, renovation, repair and/or equipping of various facilities of the BOCES, including but not limited to the [Seaway Career and Technical Education Center, Norwood, New York, the Southwest Career and Technical Education Center, Fowler, New York and the Northwest Career and Technical Education Center, Ogdensburg, New York].[TO MODIFY ACCORDING TO PROJECT STAGES TO REMOVE PROJECTS NOT FINANCED IN THE INITIAL OFFERING].

**"Rentals"** means the rent payable hereunder pursuant to Section 4.01 hereof.

**"Resolution"** means the "Master BOCES Program Lease Revenue Bond Resolution" of the Authority, adopted August 15, 2001, as supplemented and amended, and as supplemented by the Series 2015 Resolution adopted by the Authority on March 11, 2015, and as supplemented by the Series 2020A Resolution adopted by the Authority on April 8, 2020, and as supplemented by the Series 2020B Resolution adopted by the Authority on April 8, 2020, as from time to time further amended or supplemented by Supplemental Resolutions or Series Resolutions in accordance with the terms and provisions thereof.

**"Series 2020A Bonds"** means the Authority's Master BOCES Program Lease Revenue Bonds (St. Lawrence-Lewis Issue), Series 2020A.

**"Series 2020A Pledged Revenues"** means the State moneys payable to the BOCES that are pledged and assigned to the Authority pursuant to Section 4.05 hereof.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neutral genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement.

## **ARTICLE II**

### **LEASE OF FACILITIES; TERM OF LEASE; AND ACQUISITION OF LEASED PROPERTY**

**Section 2.01 Lease of Facilities.** The Authority hereby subleases to the BOCES, and the BOCES hereby subleases from the Authority, the Leased Property.

**SUBJECT TO** the Permitted Encumbrances.

**TO HAVE AND TO HOLD** the Leased Property for the term set forth herein.

**Section 2.02 Term of Lease.** The term of this Agreement shall commence on the date on which Bonds of any Series are first issued and delivered by the Authority, and shall terminate on the earliest of (i) the final maturity date of the Series 2020A Bonds, (ii) the date on which no Bonds are Outstanding or (iii) upon the expiration of the term pursuant to the terms of this Agreement or pursuant to law. Notwithstanding the termination of the term of this Agreement, the obligations of the BOCES hereunder shall not terminate and BOCES shall remain liable for such obligations and damages set forth herein unless and until no Bonds are outstanding and the BOCES has satisfied its obligations hereunder, provided further that Sections 4.03 and 7.09 shall survive such termination.

**Section 2.03 Net Lease.** This Agreement shall be deemed and construed to be a "net lease," and the BOCES shall pay absolutely net during the Lease Term the Rentals and all other payments required hereunder, free of all deductions, without abatement, diminution and set-off.

### **ARTICLE III**

#### **CONSTRUCTION OF PROJECT AND ISSUANCE OF BONDS**

**Section 3.01 Construction of Project.** 1. The BOCES agrees that, whether or not there are sufficient moneys available to it under the provisions of the Resolution, the Applicable Series Resolution and hereunder, the BOCES shall complete the acquisition, design, construction, reconstruction, rehabilitation, renovation and improving or otherwise providing and furnishing and equipping of each Project in connection with which the Authority has issued Bonds, substantially in accordance with the Plans and Specifications related thereto as such Plans and Specifications may be amended by the BOCES with the approval of the State Education Department and filed with the Authority. Subject to the conditions hereof, the Authority will, to the extent of moneys available in the Construction Fund, cause the BOCES to be reimbursed for, or pay, any costs and expenses incurred by the BOCES which constitute Costs of the Project provided such costs and expenses are approved by the Authority, which approval shall not be unreasonably withheld. In order to provide moneys for payment of the Cost of the Project, upon the written request of the BOCES, the Authority may issue additional Bonds.

2.(a) To the extent that moneys are available therefor, moneys in a Construction Fund shall be disbursed from the applicable account thereof as construction of the Project for which such fund was established progresses, but not more frequently than once a month, unless otherwise agreed to in writing by the Authority, in amounts and at the times as shall be requested by the BOCES pursuant to a request for disbursement as hereinafter provided, but not in excess of that needed, in the reasonable judgment of the Authority, to reimburse the BOCES for, or to pay, any costs and expenses constituting Costs of the Project previously paid or then due; provided that the Authority may, in its sole discretion, withhold or delay making any advance in connection with a Project at any time there is pending an action or proceeding, judicial or administrative, challenging the BOCES's right to undertake such Project or any part thereof, or in which there is in issue (i) the validity of any governmental permit, consent or authorization, or the issuance thereof, necessary in connection with such Project or any part thereof, or (ii) the due authorization or validity of the Bonds issued in connection with such Project or any part thereof or the Agreement, unless the BOCES has provided the Authority with the security in such form and amount as may be reasonably required by the Authority.

(b) Prior to making and delivering any certificate required pursuant to subdivision 3 of Section 5.04 of the Resolution to be delivered to the Trustee in connection with payments to be made pursuant to subdivision 3 of Section 5.04 of the Resolution, the BOCES shall have submitted to the Authority, and have received Authority approval with respect to, the form and substance of, a Project budget and shall deliver to the Authority in connection with the delivery of each certificate required pursuant to subdivision 3 of Section 5.04 of the Resolution the following:

(1) a list of invoices, whether paid or unpaid, including, with respect to each invoice, the name of the vendor, a brief description of the goods or services, the amount of the invoice, a description of the building or buildings to which such payment relates, and, if such invoice has been paid, the date paid, the check number and the amount of the payment;

(2) copies of architect's certification(s), if any, relating to the invoices listed pursuant to subsection (b)(1) above;

(3) a reconciliation of the approved budget with funds already disbursed together with funds requested for disbursement currently; all enclosed with

(4) a certificate executed by two (2) Authorized Officers of the BOCES certifying, with respect to items 1, 2 and 3 above, that:

(A) The enclosed architect's certification(s) is (are) a true and correct copy of the architect's certification(s) received by the BOCES for the work to which it relates;

(B) The enclosed reconciliation of the approved budget with funds already disbursed together with funds requested for disbursement currently is true and correct;

(C) Expenses or monies for which payment is requisitioned in the amount of \$[ ] have been incurred or expended for items which constitute Costs of the Project, as that term is defined in the Resolution, which Project has not been modified except as permitted by this Agreement;

(D) Each amount for which payment is sought has not been the basis of any prior disbursement from the Construction Fund;

(E) The payments being requisitioned are within the project budget submitted to and approved by the Authority in accordance with the provisions of Subsection 2(b) of this Agreement, and to the best of the Authorized Officers' knowledge, the Project can be completed within budget;

(F) The BOCES has complied with all provisions of this Agreement, including, but not limited to those related to the use of

the Project and the prohibitions against use for sectarian religious instruction or religious worship and certain non tax-exempt purposes contained in Section 7.06 hereof; and

(G) The BOCES will retain all original documentation related to expenditures for items which constitute Costs of the Project for at least seven (7) years after completion of the Project for inspection at any time by the Authority, or any representative of the Authority.

3. The BOCES will receive the disbursements of moneys in each Construction Fund to be made hereunder, and will hold the right to receive the same, as a trust fund for the purpose of paying the Costs of the Project for which each disbursement was made, and will apply the same first to such payment before using any part thereof for any other purposes.

4. The BOCES shall permit the Authority, authorized representatives, at any time, to enter upon the property of the BOCES, to inspect the Project, and all materials, fixtures and articles used or to be used in construction of the Project, and to examine all Contract Documents. The BOCES shall furnish to the Authority, and its authorized representatives, when requested, copies of such Contract Documents. In the event that, after such inspection or examination, the Authority, in its sole and absolute discretion, decides to engage an independent consultant, such as an accounting firm, or to implement or increase its project management oversight, such action may be taken at the BOCES expense.

5. The Authority, in its sole and absolute discretion, may waive, from time to time, any of the conditions set forth in this Section. Any such waiver shall not be deemed a waiver by the Authority of its right to thereafter require compliance with any such condition. Additionally, the Authority, in its sole and absolute discretion, may require that, in addition to the requirements of Section 3.01 (2)(b) hereof, the BOCES also deliver copies of all invoices, paid or unpaid, and copies of the front and back of cancelled checks, if any. The BOCES acknowledges and agrees that disbursements from a Construction Fund are to be made by the Trustee and shall be made in accordance with the Resolution only upon receipt by the Trustee of the documents required by the Resolution to be executed and delivered in connection with such disbursements.

6. A Project shall be deemed to be complete upon delivery to the Authority, and the Trustee of a certificate signed by an Authorized Officer of the BOCES, which certificate shall be delivered as soon as practicable after the completion of such Project, or upon delivery to the Trustee and the BOCES of a certificate signed by the Authority and delivered at any time after completion of such Project. Any such certificate shall comply with the requirements of Section 5.04 of the Resolution. The Authority agrees that it will not execute and deliver any such certificate unless the Authority has notified the BOCES in writing that, in the judgment of the Authority, such Project has been completed substantially in accordance with the Plans and Specifications for such Project and the BOCES has failed to execute and deliver the certificate provided for herein within thirty (30) days after such notice is given. The moneys, if any, remaining in the Construction Fund account established for such Project after such Project has been deemed to be complete, shall be paid as provided in Section 5.04 of the Resolution.



7. Notwithstanding the foregoing, if, on the date a Series of Bonds is issued, a Project in connection with which such Series of Bonds is issued shall have been deemed to be complete as provided herein or otherwise, the provisions hereof relating to the construction of Projects shall be inapplicable to the Project.

**Section 3.02 Conditions of Bond Closings.** Prior to or concurrently with the issuance and delivery of Bonds of a Series to the underwriters or purchasers thereof (the "Closing"), the BOCES shall, as a condition thereto (any of which may be waived in the sole discretion of the Authority), deliver or cause third parties to deliver to the Authority the following documents, in each case satisfactory in form and substance to the Authority and its counsel:

(a) A certificate, dated the date of Closing, of an Authorized Officer of the BOCES to the effect that (i) the representations and warranties of the BOCES contained in this Agreement are true and correct in all material respects on and as of the date of Closing as if such representations and warranties had been made on and as of such date; (ii) no "event of default" under this Agreement has occurred and is continuing nor will an "event of default" under this Agreement occur as a result of the issuance of the Bonds then to be issued; (iii) unless moneys sufficient to pay such Rentals have been provided from the proceeds of the Bonds and are available therefor, attached thereto is a true and correct copy of the budget of the BOCES for the fiscal year of the BOCES in which the Closing occurs, including as an administrative expense an amount sufficient to pay such Rentals; (iv) the Project has been approved by the voters of the BOCES as required by the Act; and (v) as of the date of Closing, the information relating to the BOCES contained in the Official Statement does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading;

(b) The opinion of the chief legal officer of the BOCES or other counsel for the BOCES, dated the date of Closing, substantially in the form set forth in Exhibit B hereto; and

(c) Such additional legal opinions, certificates, instruments and other documents as the Authority or counsel for the Authority reasonably may request, satisfactory in the reasonable judgment of the Authority or counsel for the Authority, as the case may be, to evidence (i) compliance by the BOCES with legal requirements reasonably relating to the transactions contemplated by this Agreement, the Resolution and the Official Statement, (ii) the truth and completeness, as of the date of Closing, of the representations and warranties of the BOCES contained in this Agreement and the certificates or other documents referred to therein and of the statements and information contained in the Official Statement relating to the BOCES and the Project, and (iii) the due performance or satisfaction by the BOCES prior to or concurrently with the Closing of all agreements then to be satisfied relating to the transactions contemplated by this Agreement and the Official Statement.

## **ARTICLE IV**

### **RENTALS AND OTHER PAYMENTS**

**Section 4.01 Payment of Rentals.** (a) The BOCES shall pay to the Authority the following Basic Rent in the amounts and on the dates as follows:

(i) Subject to subdivision (e) hereof, on each September 1, or if such September 1 is not a Business Day then the next succeeding Business Day, the interest on Outstanding Bonds payable on the next succeeding February 15 and August 15 and the principal and Sinking Fund Installments of Outstanding Bonds payable by reason of maturity and redemption on the next succeeding February 15 and August 15;

(ii) Subject to subdivision (e) hereof, on each September 1, or if such September 1 is not a Business Day then the next succeeding Business Day, the amount, if any, as shall have been set forth in the certificate of the Trustee made pursuant to Section 5.08(4) of the Resolution as necessary to restore the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement; and

(iii) On the fifth Business Day prior to each interest payment date, the amount, if any, necessary to cause the amount on deposit in the Debt Service Fund to equal the amount of principal of and interest payable on the Bonds on such interest payment date.

For purposes of Sections 4.01(a)(i) and (ii) in estimating the interest to accrue on a Variable Interest Rate Bond after the end of the then current rate period, the Authority shall assume that interest will accrue on such Variable Interest Rate Bond from and after the last day of such rate period at a constant rate per annum equal to the rate at which it then bears interest, plus one percent (1%) per annum.

The BOCES shall have the option to make from time to time prepayments in part of payments due as aforesaid of Basic Rent, together with interest accrued and to accrue and premium, if any, to be paid on the Bonds, if such prepayment is to be used for the purchase or redemption of such Bonds. To the extent that the BOCES prepays all of the Basic Rent payable with respect to a Project (as determined by the Authority and the BOCES), such Project may be released from this Agreement. The Trustee shall apply such prepayments in such manner consistent with the provisions of the Resolution as may be specified in writing by the BOCES at the time of making such prepayment.

Subject to the provisions hereof and of the Resolution, the BOCES shall receive a credit against the amount required to be paid by the BOCES pursuant to subparagraph (i) of this Section 4.01 (a) on account of any Sinking Fund Installments if, not less than forty-five (45) days prior to a February 15 or an August 15 on which a Sinking Fund Installment is scheduled to be due, there shall be delivered to the Trustee for cancellation one or more Bonds of the Series and maturity to be so redeemed on such February 15 or August 15, as applicable. The amount of the credit shall be equal to the principal amount of Bonds so delivered and cancelled.

(b) The BOCES shall pay to the Authority, as additional rent for the Project, the amounts, and on the dates, as follows:

(i) On the date of delivery of Bonds of a Series, to the extent not paid from the proceeds of the Bonds, the Authority Fee and any Administrative Expenses, as estimated by an Authorized Officer of the Authority, incurred in connection with the issuance of Bonds of such Series;

(ii) On each March 31 or such other date as may be agreed to by the Authority, the Annual Administrative Fee;

(iii) The Administrative Expenses of the Authority, the Trustee and each Paying Agent for the Bonds, within sixty (60) days after notice of the amount thereof is given to the BOCES; and

(iv) The amount determined by an Authorized Officer of the Authority as required to be rebated to the Department of the Treasury of the United States of America in excess of the amount available therefor in the Arbitrage Rebate Fund on such date or dates as the Authority shall determine.

(c) The Authority shall furnish the BOCES not less than sixty (60) days prior to the date on which a payment is due pursuant to this Section, a statement of the amount, purpose and payment date of each payment required to be made pursuant to this Section. With respect to the payment of Basic Rent pursuant to Section 4.01(a), the amount set forth in such statement shall be net of amounts on deposit in the Debt Service Fund, including the State funds received and such interest earnings thereon, if any, as of the date of such statement and such statement shall set forth the amount of such State funds received, such interest earnings thereon and amounts still owed to the Authority.

The failure to furnish such statement shall not excuse the BOCES's failure to pay, when due, the Basic Rent payable pursuant to this Section.

(d) In addition to the payments required by this Section 4.01, in the event a Reserve Fund Facility is deposited for all or part of the Debt Service Reserve Fund Requirement in accordance with Section 5.07(b) of the Resolution, the BOCES shall be obligated (i) to make payments to the Trustee to restore the Debt Service Reserve Fund to its requirement so that the Facility Provider may be reimbursed for amounts paid by it pursuant to such Reserve Fund Facility and (ii) to pay the Administrative Expenses of the Authority incurred in connection with such Reserve Fund Facility, including without limitation, amounts necessary to pay fees, expenses and interest payable to the Facility Provider by the Authority in connection with such Reserve Fund Facility. If the Reserve Fund Facility is to be replaced with money pursuant to the third paragraph of Section 5.08(b) of the Resolution, the BOCES shall be obligated to make payments to the Trustee in amounts and at the times that deposits are to be made to the Debt Service Reserve Fund pursuant to such paragraph.

(e) The BOCES shall receive a credit against payment due hereunder equal to the amount of State funds received by the Trustee or the Authority to be applied towards such payment. If the amount of such State funds received by the Trustee or the Authority on September 1 is less than the amount required to be paid hereunder, the Authority shall give notice to BOCES not more than ten (10) days from such September 1. Such notice shall state the amount received by the Trustee and the Authority and the amount still due and payable.

The Authority shall notify the BOCES of the receipt of any payment of State funds by the Authority or the Trustee after September 1 no more than ten (10) days after receipt of such funds, which notice shall state the amount received by the Trustee and the Authority and the amount still due and payable. If the amount of State funds received by the Trustee or the Authority by January

1 of each year is less than the amount of principal and interest payable on the Bonds on February 15, the BOCES shall pay to the Trustee by January 15 the difference between the amount of State funds received and the principal and interest payable on the Bonds on February 15. If the amount of State funds received by the Trustee or the Authority by July 1 of each year, after the application of the amounts necessary to make the principal and interest payments due on the preceding February 15, is less than the amount of principal and interest payable on the Bonds on August 15, the BOCES shall pay to the Trustee by July 15 the difference between the amount of State funds received and the principal and interest payable on the Bonds on August 15.

If on January 1 of each year the amount of moneys on deposit in the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement, the BOCES shall pay to the Trustee by January 15 the difference between the amount of State funds received and the amount of money to make up the deficiency in the Debt Service Reserve Fund and satisfy the Debt Service Reserve Fund Requirement. If on July 1 of each year the amount of moneys on deposit in the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement, the BOCES shall pay to the Trustee by July 15 the difference between the amount of State funds received and the amount of money to make up the deficiency in the Debt Service Reserve Fund and satisfy the Debt Service Reserve Fund Requirement.

**Section 4.02 Direction as to Payment of Rentals.** The Basic Rent shall be paid by the BOCES, when due, to the Trustee for deposit in accordance with Section 5.05 of the Resolution. The additional rent payable pursuant to Section 4.01 (b) hereof and interest on the Rentals payable pursuant to Section 4.01(d) hereof shall be paid by the BOCES, when due, to the Authority.

**Section 4.03 Indemnification of Authority and Limitation on Liability.** (a) Both during the Lease Term and thereafter, the BOCES, to the extent permitted by law, hereby releases the Authority and each director, officer and employee of the Authority from claims for damages or liability arising from or out of the design, acquisition, construction, reconstruction, rehabilitation, improvement, or use of the Leased Property pursuant hereto. Both during the Lease Term and thereafter, the BOCES, to the extent permitted by law, shall indemnify and hold the Authority and each member, officer and employee of the Authority harmless against any and all liabilities, losses, costs, damages or claims, and shall pay any and all judgments or expenses of any and all kinds or nature and however arising, imposed by law, including interest thereon, which it or any of them may sustain, be subject to or be caused to incur by reason of any claim, action, suit, charge or proceeding arising (1) from or out of the design, acquisition, construction, reconstruction, rehabilitation, improvement or use of the Leased Property (including the Project), pursuant hereto, based upon: personal injury, death, or damage to property, whether real, personal or mixed; or upon or arising out of contracts entered into by the Authority, or (2) upon or arising out of the Authority's ownership of a leasehold estate of the Leased Property or the leasing thereof to the BOCES; or (3) upon or arising out of the acquisition of the Leased Property, or upon or arising out of an allegation that an official statement, prospectus, placement memorandum or other offering document prepared in connection with the sale and issuance of Bonds contained an untrue or misleading statement of a material fact obtained from the BOCES relating to the BOCES or the Project, or omitted to state a material fact relating to the BOCES or the Project necessary in order to make the statements made therein in light of the circumstances under which they were made not misleading; provided, however, that neither the Authority nor a member, officer or employee of the Authority shall be released, indemnified or held harmless from any

claim for damages, liability, loss, cost, damage, judgment or expense arising out of the gross negligence or willful misconduct of the Authority, such member, officer or employee.

(b) The Authority agrees to give the BOCES prompt notice in writing of the assertion of any claim or the institution of each such suit, action or proceeding and to cooperate with the BOCES in the investigation of such claim and the defense, adjustment, settlement or compromise of any such action or proceeding. The Authority shall not settle any such suit, action or proceeding without the prior written consent of counsel to the BOCES.

(c) Except as provided in paragraph (d) of this Section 4.03, the BOCES, at its own cost and expense, shall defend any and all suits, actions or proceedings which may be brought or asserted against the Authority, its members, officers or employees for which the BOCES is required to indemnify the Authority or hold the Authority harmless pursuant to paragraph (a) of this Section 4.03, but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for herein from its obligation to defend the BOCES, the Authority and any other insured named in such policy of insurance in connection with claims, suits or actions covered by such policy.

(d) The Authority and each member, officer or employee thereof shall, at the cost and expense of the BOCES, be entitled to employ separate counsel in any action or proceeding arising out of any alleged act or omission which occurred or is alleged to have occurred while the member, officer or employee was acting within the scope of his or her employment or duties in connection with the design, acquisition, construction, reconstruction, rehabilitation, improvement, financing or use of a Project, and to conduct the defense thereof, in which (i) the counsel to the BOCES determines, based on his or her investigation and review of the facts and circumstances of the case, that the interests of such person and the interests of the BOCES are in conflict, or in the event such counsel determines that no conflict exists, a court of competent jurisdiction subsequently determines that such person is entitled to employ separate counsel, or (ii) such person may have an available defense which cannot as a matter of law be asserted on behalf of such person by the BOCES or by counsel employed by it, or (iii) such person may be subject to criminal liability, penalty or forfeiture, or (iv) the BOCES has consented to the employment of separate counsel; provided, however, that the BOCES shall not be liable for attorneys' fees of separate counsel so retained or any other expenses incurred in connection with the defense of an action or proceeding described in clause (iii) of this paragraph, unless the member, officer or employee shall have prevailed on the merits or such action or proceeding was dismissed or withdrawn, or an adverse judgment was reversed upon appeal, and such action or proceeding may not be recommenced; Attorney's fees of separate counsel retained in accordance with this paragraph shall be paid only upon the audits of an appropriate BOCES officer.

**Section 4.04 Nature of Obligations of the BOCES.** Except as hereinafter provided in this Section, the obligation of the BOCES to pay Rentals and to pay all other amounts provided for herein and to perform its obligations hereunder shall be absolute and unconditional, and such Rentals and other amounts shall be payable without any rights of set-off, recoupment or counterclaim it might have against the Authority, the Trustee or any other person and whether or not any or all of the Project is used or occupied or available or suitable for use or occupancy and whether or not the BOCES Lease is in effect. If the BOCES shall have paid all amounts required hereby and continues to pay the same when due, it shall not be precluded from bringing any action it may otherwise have against the Authority; provided, however, that the BOCES shall not

as a result of the BOCES's failure to pay any Administrative Expenses or Annual Administrative Fee be precluded from bringing any such action if the amount thereof is disputed or is being contested by the BOCES in good faith.

The BOCES will not terminate this Agreement (other than such termination as is provided for hereunder) or be excused from performing its obligations hereunder for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title, or frustration of purpose, or any damage to or destruction of any Leased Property, or the taking by eminent domain of title to or the right of temporary use of all or any part of any Leased Property, or the failure of the Authority to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Agreement.

This lease is a general obligation of the BOCES and any successor thereto. Any payment required to be made by the BOCES to the Authority pursuant hereto shall be deemed an administrative expense within the meaning of section nineteen hundred fifty of the Education Law of the State.

**Section 4.05 Pledge by BOCES.** The BOCES hereby assigns and pledges to the Authority a sufficient portion of any and all public funds to be apportioned or otherwise to be made payable by the State to the BOCES, to cover the payments required hereunder and directs and acknowledges that such amounts shall be paid directly to the Trustee as provided in the Act and Section 3609-d of the Education Law of the State. Such assignment and pledge shall be irrevocable and shall continue until the date on which the liabilities of the Authority and the Project have been discharged and the Series 2020A Bonds issued therefor have been paid or such Series 2020A Bonds have otherwise been discharged. The BOCES agrees that, except with regard to any previously outstanding Bonds of the Authority issued on behalf of the BOCES, it will not create or suffer to be created any pledge or assignment of the public funds mentioned in this Section to be apportioned or otherwise payable by the State (including pledges or assignments to secure subsequent Series of Bonds) unless such other pledge or assignment is subordinate to the pledge and assignment made to the Authority pursuant to this Section.

**Section 4.06 Nature of Obligations of the Authority.** The cost and expense of the performance by the Authority of any of its obligations hereunder shall be limited to the availability of the proceeds of Bonds issued for such purposes or from other funds received by the Authority hereunder and available for such purposes.

**Section 4.07 Assignment of Payments by Authority.** It is understood that all payments by the BOCES hereunder (except payments pursuant to Sections 4.01(b), 4.01(d) and 4.3 hereof) and the Authority's interest in the Series 2020A Pledged Revenues are to be pledged by the Authority to the Trustee pursuant to the Resolution and the BOCES consents thereto.

Except as provided in this Section, the Authority shall not assign this Agreement or any payments hereunder without the prior written consent of the BOCES. Except as contemplated herein, the Authority shall not sell or otherwise encumber its interest in any of the Leased Property.

## ARTICLE V

### **OPERATION AND MAINTENANCE; INSURANCE; DAMAGE; DESTRUCTION AND CONDEMNATION**

**Section 5.01 Operation, Maintenance and Repair.** During the Lease Term, the BOCES shall be responsible for, and pay all costs of, operating the Leased Property, maintaining the same in condition suitable and sufficient for the use for which they are intended, and making all necessary repairs and replacements, interior and exterior, structural and nonstructural.

The BOCES is responsible for the over-all supervision of the Leased Property, for the overhead and general administrative costs of the BOCES which are incurred because of the Leased Property and for the integration of the operation of the Leased Property into the BOCES's educational program.

**Section 5.02 Utilities, Taxes and Governmental Charges.** The BOCES will pay or cause to be paid all charges for water, electricity, light, heat or power, sewage, telephone and other, utility service, rendered or supplied upon or in connection with the Leased Property during the Lease Term.

In addition, the BOCES shall (i) pay, or make provision for payment of, all lawful taxes and assessments (other than those which are the basis of a Permitted Encumbrance), including income, profits, property or excise taxes, if any, or other municipal or governmental charges, levied or assessed by any federal, state or any municipal government upon the Authority or the BOCES with respect to or upon the Leased Property or any part thereof or upon any payments hereunder when the same shall become due; (ii) not create or suffer to be created any lien or charge upon the Leased Property or any part thereof, except Permitted Encumbrances, or upon the payments in respect thereof pursuant hereto; and (iii) pay or cause to be discharged or make adequate provision to satisfy and discharge, within sixty (60) days after the same shall come into force, any lien or charge upon the Leased Property or any part thereof, except Permitted Encumbrances, or upon any payments hereunder and all lawful claims or demands for labor, materials, supplies or other charges which, if unpaid, might be or become a lien upon any payments hereunder.

The Authority shall cooperate fully with the BOCES in the payment of taxes or assessments and in the handling and conduct of any prospective or pending litigation with respect to the levying of taxes or assessments on the Leased Property and will, to the extent it may lawfully do so, permit the BOCES to litigate in any such proceeding in the name and behalf of the Authority.

**Section 5.03 Additions, Enlargements and Improvements.** The BOCES shall have the right at any time and from time to time during the Lease Term, at its own cost and expense, to make such additions, alterations, modifications, enlargements, improvements and expansions to, or repairs, reconstruction and restorations of, a Project (collectively, the "Alterations") as the BOCES shall deem necessary or desirable in connection with any permitted use thereof; provided, however, that no Alteration which requires structural change of the Project, or which modifies or changes any aspect or feature thereof designed or intended to protect the life or provide for the safety of the occupants of the Project, shall be made by the BOCES without the

prior written consent of an Authorized Officer of the State Education Department. The cost of any such additions, enlargements, improvements, expansions, repairs, reconstruction or restorations shall be promptly paid or discharged so that the Project shall at all times be free of liens for labor and materials supplied thereto other than Permitted Encumbrances. All additions, enlargements, improvements and expansions to, or repairs, reconstruction and restorations of, a Project on the Leased Property shall be and become a part of the Project and the property leased to the Authority hereunder.

**Section 5.04 Additional Rights of BOCES.** The Authority agrees that the BOCES shall have the right, option and privilege of erecting, installing and maintaining at its own cost and expense such standard office partitions, railings, doors, gates, counters, lighting fixtures, towers (together with all necessary guy wires and anchors), gasoline or natural gas storage tanks and pumps, signs and such other equipment, machinery, furniture and other items of personal property in or upon a Project as may in BOCES's judgment be necessary for its purposes. It is further understood and agreed that anything erected or installed under the provisions of this Section shall be and remain the personal property of BOCES and shall not become part of the Project, and may be removed, altered or otherwise changed, without any consent of the Authority upon or before the termination hereof; provided, however, should such removal, alteration or change cause any damage to the Project, such damage shall be repaired by the BOCES.

#### **Section 5.05 Insurance.**

1. The BOCES shall, in accordance with the requirements of this Section 5.05, procure and maintain, or cause to be procured and maintained, to the extent reasonably obtainable, from responsible insurers, insurance of the type and in the amounts customarily and reasonably maintained by educational institutions providing services similar to those provided by the BOCES. All policies of insurance required by this section shall be primary to any insurance maintained by the Authority.

2. The BOCES shall, with respect to the Leased Property and the Project, at the times specified in the following paragraphs, procure and maintain, or cause to be procured and maintained, to the extent reasonably obtainable, from responsible insurers acceptable to the Authority, the following insurance:

(a) with respect to any building the construction of which shall not have been completed (and until insurance is procured pursuant to paragraph (b) of this subdivision), all risk builders' risk insurance against direct physical loss or damage, or with respect to the acquisition and installation of equipment or machinery, in lieu of all risk builders' risk, an installation floater on an all risk basis. The amount of such insurance shall be on a one hundred per cent (100%) completed value basis on the insurable portion;

(b) at all times (except during a period when builders' risk insurance is in effect as required by paragraph (a) of this subdivision 2), all risk property insurance against direct physical loss or damage to the Leased Property and the Project in an amount not less than one hundred per cent (100%) of the replacement value thereof (such replacement value to be determined on the basis of replacement costs without allowance for depreciation), exclusive of excavations and foundations and similar property normally excluded under New York standard forms; provided, however, that the inclusion of the Leased Property and the Project under a



blanket insurance policy or policies of the BOCES insuring against the aforesaid hazards in an amount aggregating at least one hundred per cent (100%) of the insurable value of the insured property, exclusive of excavations and foundations and similar property normally excluded under New York standard forms shall constitute complete compliance with the provisions of this paragraph with respect to the Project; provided further, that in any event, each such policy shall be in an amount sufficient to prevent the BOCES and the Authority from becoming co insurers under the applicable terms of such policy;

(c) at all times, statutory workers' compensation insurance, covering loss resulting from injury, sickness, disability or death of employees and employer's liability insurance with limits of at least \$1,000,000 for each accident, each sickness, and aggregate occupational illness or sickness;

(d) at all times, applicable statutory disability benefits;

(e) at all times, commercial general liability insurance protecting the Authority and the BOCES against loss or losses from liabilities arising from bodily injury of persons or damage to the property of others caused by accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of injury to persons or property damage with \$2,000,000 policy aggregate, excluding liability imposed upon the Authority or the BOCES by any applicable workers' compensation law;

(f) commencing with the date on which the Leased Property and the Project or any part thereof is completed or first occupied, or any equipment, machinery, fixture or personal property covered by comprehensive boiler and machinery coverage is accepted, whichever occurs earlier, insurance providing comprehensive boiler and machinery coverage in an amount considered adequate by the Authority, which insurance may include deductible provisions approved by the Authority; and

(g) each other form of insurance which the BOCES is required by law to provide and such other kinds of insurance in such amounts as from time to time may be reasonably required by the Authority.

3. Any insurance procured and maintained by the Authority or the BOCES pursuant to this Section, including any blanket insurance policy, may include deductible provisions reasonably satisfactory to the Authority and the BOCES. In determining whether or not any insurance required by this Section is reasonably obtainable or if the deductible on any such insurance is a reasonable deductible, the Authority may rely solely and exclusively upon the advice and judgment of any insurance consultant chosen by the BOCES and approved by the Authority, and any such decision by the Authority, based upon such advice and judgment, shall be conclusive.

4. No provision of this Section shall be construed to prohibit the BOCES from self insuring against any risk at the recommendation of any insurance consultant chosen by the BOCES and approved by the Authority provided, however, that self insurance plans shall not cover property, plant and equipment. The BOCES shall also cause an annual evaluation of such self insurance plans to be performed by an independent insurance consultant. The BOCES shall

provide adequate funding of such self insurance if and to the extent recommended by such insurance consultant and approved by the Authority.

5. Each policy maintained by the BOCES pursuant to subdivision 2 of this Section shall provide that the insurer writing such policy shall give at least thirty (30) days notice in writing to the Authority of the cancellation or non renewal or material change in the policy unless a lesser period of notice is expressly approved in writing by the Authority. The BOCES, not later than July 15 of each year, shall provide to the Authority and the Insurer certificate(s) of insurance describing all policies of insurance maintained as of June 30 by the BOCES pursuant to this Section stating with respect to each such policy (i) the insurer, (ii) the insured parties or loss payees, (iii) the level of coverage, and (iv) such other information as the Authority may have reasonably requested.

6. All policies of insurance shall be open to inspection by the Authority and the Trustee or their representatives at all reasonable times. If any change shall be made in any such insurance, a description and notice of such change shall be furnished to the Authority and the Trustee at the time of such change. The BOCES covenants and agrees not to make any change in any policy of insurance which would reduce the coverages or increase the deductible thereunder without first securing the prior written approval of the Authority.

7. All policies of insurance required pursuant to subdivision 2 of this Section, other than policies of workers' compensation insurance, shall include the Authority and the BOCES, and, to the extent that such proceeds are required to be paid to the Trustee hereunder or pursuant to the Resolution, the Trustee, as additional insureds or as loss payee as appropriate.

8. In the event the BOCES fails to provide the insurance required by subdivision 2 of this Section, the Authority may elect at any time thereafter to procure and maintain the insurance required by this Section at the expense of the BOCES. The policies procured and maintained by the Authority shall be open to inspection by the BOCES at all reasonable times, and, upon request of the BOCES, a complete list describing such policies as of the June 30 preceding the Authority's receipt of such request shall be furnished to the BOCES by the Authority.

**Section 5.06 Damage or Destruction.** The BOCES agrees to notify the Authority and the Trustee immediately in the case of damage to or destruction of the Leased Property or any portion thereof in an amount exceeding \$100,000 resulting from fire or other casualty. The Authority agrees that the net proceeds of any insurance relating to such damage or destruction, not exceeding \$100,000, may be paid directly to the BOCES.

In the event the Leased Property or any portion thereof is damaged or destroyed by fire or other casualty and the damage or destruction is estimated to exceed \$100,000, the net proceeds of any insurance shall be initially paid directly to the Authority for deposit and application as hereby provided. The BOCES shall within one hundred eighty (180) days after such damage or destruction determine whether or not to repair, reconstruct, restore or improve the Leased Property and give written notice of such determination to the Authority. If the BOCES elects to repair, reconstruct, restore or improve the Leased Property it shall proceed forthwith to repair, reconstruct, restore or improve the Leased Property to substantially the same condition as it existed prior to the event causing such damage or destruction. So long as the BOCES is not in

default under Section 8.0 1 (a) hereof, any net proceeds of insurance relating to such damage or destruction received by the Authority shall be deposited to the credit of the Construction Fund and applied to payment of the costs of such repairs, reconstruction, restoration or improvement in the same manner and upon the same conditions as set forth in the Resolution for the payment of the Costs of the Project from the Construction Fund.

It is further understood and agreed that in the event the BOCES shall elect to repair, reconstruct, restore or improve the Leased Property, the BOCES shall complete the repairs, reconstruction, restoration or improvement of the Leased Property.

In the event the BOCES elects not to repair, reconstruct, restore or improve the Leased Property, the net proceeds of any insurance shall be paid to the Authority, as a prepayment of the Rentals hereunder, for deposit to the Debt Service Fund and application to the redemption of Outstanding Bonds or for payment to the Trustee, to be held by the Trustee, in trust, pursuant to Section 12.01 of the Resolution for the payment of Outstanding Bonds in accordance with the written instructions of an Authorized Officer of the Authority.

**Section 5.07 Condemnation.** The Agreement and the interest of the BOCES shall terminate as to a Project or portion thereof on Leased Property and the Leased Property appertaining thereto condemned or taken by eminent domain when title thereto vests in the party condemning or taking the same (hereinafter referred to as the "termination date"). The BOCES hereby irrevocably assigns to the Authority all right, title and interest of the BOCES in and to any net proceeds of any award, compensation or damages (hereinafter referred to as an "award"), payable in connection with any such condemnation or taking during the Lease Term. Such net proceeds shall be initially paid to the Authority for deposit and application as hereinafter provided.

In the event of any such condemnation or taking the BOCES shall within ninety (90) days after the termination date therefor determine whether or not to repair, reconstruct, restore or improve such Project and give written notice of such determination to the Authority. If the BOCES elects to repair, reconstruct, restore or improve such Project, so long as the BOCES is not in default under Section 8.0 1(a) hereof, any such net proceeds received by the Authority shall be deposited to the credit of the Construction Fund and be applied to finance the costs of such repairs, reconstruction, restoration or improvements in the same manner and upon the same conditions set forth in the Resolution for the payment of the Costs of the Project from the Construction Fund.

In the event the BOCES elects not to repair, reconstruct, restore or improve such Project, the award shall be paid to the Authority, as a prepayment of the Rentals hereunder, for deposit to the Debt Service Fund and application to the redemption of Outstanding Bonds or for payment to the Trustee, to be held by the Trustee, in trust, pursuant to Section 12.01 of the Resolution for the payment of Outstanding Bonds in accordance with the written instructions of an Authorized Officer of the Authority.

The Authority shall cooperate fully with the BOCES in the handling and conduct of any prospective or pending condemnation proceedings with respect to a Project on Leased Property or any part thereof and will, to the extent it may lawfully do so, permit the BOCES to litigate in any such proceeding in the name and behalf of the Authority. In no event will the Authority

voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceedings with respect to a Project on Leased Property or any part thereof without the written consent of the BOCES.

**Section 5.08 Condition of Premises.** Immediately upon the availability of any part of a Project for use by the BOCES, the BOCES shall become thoroughly familiar with the physical condition of such part of the Project. The Authority makes no representations whatever in connection with the condition of the Project, and the Authority shall not be liable for any defects therein.

## **ARTICLE VI**

### **REPRESENTATIONS AND WARRANTIES**

The BOCES hereby represents and warrants as of the date of execution and delivery hereof as follows:

**Section 6.01 Legal Entity.** The BOCES is a body corporate created pursuant to Section 1950 of the State Education Law, duly created and validly existing under the Constitution and laws of the State.

**Section 6.02 Legal Authority.** The BOCES has the good right and lawful authority and power to execute and deliver this Agreement, to perform the obligations and covenants contained herein and to consummate the transactions contemplated hereby.

**Section 6.03 Due Authorization.** The BOCES has duly authorized by all necessary actions the execution and delivery hereof, the performance of its obligations and covenants hereunder, and the consummation of the transactions contemplated hereby. A referendum of the voters was conducted on November 14, 2019 in which the voters approved a proposition regarding the Project and the entering into of any and all agreements to effectuate the financing, all in accordance with the provisions of the State Education Law. The BOCES has complied with all requirements of law required of the BOCES in order to permit the Authority to provide the Project.

**Section 6.04 Validity and Enforceability.** This Agreement constitutes a legal, valid and binding obligation of the BOCES, enforceable against the BOCES in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors' rights generally or the availability of any particular remedy.

**Section 6.05 No Conflict.** This Agreement, the execution and delivery hereof and the consummation of the transactions contemplated hereby (i) do not and will not in any material respect conflict with, or constitute on the part of the BOCES a breach of or default under (a) any existing law, administrative regulation, judgment, order, decree or ruling by or to which it or its revenues, properties or operations are bound or subject or (b) any agreement or other instrument to which the BOCES is a party or by which it or any of its revenues, properties or operations are bound or subject which conflict, breach or default would adversely affect in any material respect the ability of the BOCES to perform its obligations hereunder or the validity or enforceability of

this Agreement and (ii) will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the BOCES's revenues, properties or operations which lien, charge or encumbrance could reasonably be expected to adversely affect in any material respect the ability of the BOCES to perform its obligations hereunder or the validity or enforceability of this Agreement.

**Section 6.06 Consents and Approvals.** All consents, approvals, authorizations or orders of, or filings, registrations or declarations with any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the BOCES of its obligations hereunder or the consummation of the transactions contemplated hereby have been duly obtained and are in full force and effect; provided, however, the BOCES makes no representation or warranty as to any consents, approvals, authorizations, orders, filings, registrations or declarations that may be required by any federal or state securities law.

**Section 6.07 No Defaults.** The BOCES is not in breach of or default under any agreement or other instrument to which the BOCES is a party or by or to which it or its revenues, properties or operations are bound or subject, or any existing administrative regulation, judgment, order, decree, ruling or other law by or to which it or its revenues, properties or operations are bound or subject, which breach or default could reasonably be expected to adversely affect in any material respect the ability of the BOCES to perform its obligations hereunder or the validity or enforceability of this Agreement; and no event has occurred and is continuing that with the passage of time or the giving of notice, or both, would constitute, under any such agreement or instrument, such a breach or default material to such transactions.

**Section 6.08 No Litigation.** Except as set forth in an official statement, prospectus, placement memorandum or other similar offering document prepared in connection with the issuance and sale of Bonds, no action, suit, proceeding or investigation, in equity or at law, before or by any court or governmental agency or body, is pending or, to the best knowledge of the BOCES, threatened wherein an adverse decision, ruling or finding would adversely affect in any material respect the transactions contemplated hereby or the validity or enforceability hereof.

## **ARTICLE VII**

### **SPECIAL COVENANTS**

The BOCES and the Authority each covenant with the other party hereto as follows:

**Section 7.01 BOCES's Right to Possession.** Except as otherwise provided herein, the BOCES shall be entitled to sole possession of the Project during the Lease Term subject to the terms of the BOCES Lease.

**Section 7.02 Quiet Enjoyment.** The BOCES, upon paying the Rentals and the other payments required hereunder and observing and performing all the terms, covenants, and conditions on the BOCES's part to be observed and performed, may peaceably and quietly have, hold and enjoy the Leased Property, subject to all the terms and provisions hereof.

**Section 7.03 Right of Inspection.** Upon prior reasonable notice, the BOCES will permit the Authority and the authorized agents and representatives of the Authority to enter the Leased Property at all times during usual business hours for the purpose of inspecting the same.

**Section 7.04 Assignment by BOCES.** The BOCES will not sell, sublease or otherwise dispose of or encumber its interest in a Project except as provided in Section 7.07 hereof. This Agreement may not be assigned in whole or in part by the BOCES.

**Section 7.05 Use of Project.** The BOCES agrees that the Project shall be occupied or used only by or for students, members of the faculty, staff and personnel, officers and employees of the BOCES, and the district superintendent of schools, in each case in connection with their respective duties, functions and responsibilities relating to the operation of the Project, or, on a temporary basis, by or for individuals connected with educational activities; provided, however, that any occupancy or use of the Project which is from time to time Authorized or permitted by the provisions of the Education Law of the State relating to boards of cooperative educational services shall be deemed to be authorized or permitted by this Section.

**Section 7.06 Restrictions on Religious Use.** The BOCES agrees that with respect to any Project or portion thereof, so long as such Project or portion thereof exists and unless and until such Project or portion thereof is sold for the fair market value thereof, such Project or any portion thereof shall not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination; provided, however, that the foregoing restriction shall not prohibit the free exercise of any religion and shall not restrict or inhibit compliance with the Equal Access Act, 20 U.S.C. Sections 4071-4074; and, further provided, however, that if at any time hereafter, in the opinion of Bond Counsel, the then applicable statutory and/or case law would permit the Project or a portion thereof to be used without regard to the above stated restriction, said restriction shall not apply to such Project and each portion thereof. The Authority and its agents may conduct such inspections as the Authority deems necessary to determine whether the Project or any portion of real property thereof financed by Bonds is being used for any purposed proscribed hereby. The BOCES hereby further agrees that prior to any disposition of any portion of the Project for less than fair market value, it shall execute and record in the appropriate real property records an instrument subjecting, to the satisfaction of the Authority, the use of such portion of such Project to the restriction that (i) so long as such portion of such Project (and, if included in such Project, the real property on or in which such portion of such Project is situated) shall exist and (ii) until such portion of such Project is sold or otherwise transferred to a person who purchases the same for the fair market value thereof at the time of such sale or transfer, such portion of such Project shall not be used for sectarian religious instruction or as a place of religious worship or used in connection with any part of the program of a school or department of divinity of any religious denomination. The instrument containing such restriction shall further provide that such restriction may be enforced at the instance of the Authority or the Attorney General of the State, by a proceeding in any court of competent jurisdiction, by injunction, mandamus or by other appropriate remedy. The instrument containing such restriction shall also provide that if at any time thereafter, in the opinion of Bond Counsel, the then applicable statutory and/or case law would permit such portion of such Project, or, if included in such Project, the real property on or in which such portion is situated, to be used without regard to the above stated restriction, then said restriction shall be without any force or effect. For the

purposes of this Section an involuntary transfer or disposition of the Project or a portion thereof, upon foreclosure or otherwise, shall be considered a sale for the fair market value thereof.

**Section 7.07 Sale; Subletting.** No Leased Property shall be sold by the BOCES, or any other person or entity succeeding to any of their respective interests, without the prior written consent of the Authority, accompanied by an opinion of Bond Counsel to the effect that such sale would not adversely affect the exclusion of the interest on any of the Bonds from gross income for federal income tax purposes.

No Leased Property shall be sublet by the BOCES, or any other person or entity succeeding to any of their respective interests without the prior written consent of the Authority, accompanied by an opinion of Bond Counsel to the effect that such sublease would not adversely affect the exclusion of the interest on any of the Bonds from gross income for federal income tax purposes.

The sale or subletting of Leased Property shall not reduce the Rentals payable hereunder and shall not otherwise affect the obligations of the BOCES hereunder.

**Section 7.08 Cooperation by the BOCES.** The BOCES, whenever requested by the Authority, shall provide and certify, or cause to be provided and certified, in form satisfactory to the Authority, such information concerning the BOCES, the operations and finances of the BOCES and such other matters that the Authority reasonably considers necessary to enable it to amend or supplement an official statement or other disclosure document prepared in connection with the sale of Bonds, or to enable the Authority to make any reports which, in the opinion of counsel acceptable to the BOCES, is required by law or regulations of any governmental authority.

**Section 7.09 Covenant not to Affect the Tax Exempt Status of the Bonds.** The BOCES, so long as it leases a Project and Leased Property hereunder, (i) will take no action, or permit any action to be taken, or omit to take any action, with respect to the Project or any Project which will adversely affect the exclusion of interest on any Bonds from gross income for purposes of federal income taxation; (ii) will not invest or otherwise use "gross proceeds" of the Bonds in a manner which would cause any Bond (other than a Bond designated as federally taxable) to be an "arbitrage bond" within the meaning of Section 148 of the Code, and any proposed or final regulations thereunder as are applicable to any Bond; and (iii) will not, nor will any "related person," as defined in Section 147(a)(2) of the Code, pursuant to an arrangement, formal or informal, purchase Bonds (other than Bonds designated as federally taxable) in an amount related to the amount of any obligation to be acquired by the Authority from the BOCES.

**Section 7.10 Environmental Quality Review and Historic Preservation.** The BOCES covenants that it shall comply or cause there to be complied with the provisions of all Environmental Laws, including, but not limited to, the provisions of Article 8 of the Environmental Conservation Law and any rules and regulations promulgated pursuant thereto and with the provisions of the Historic Preservation Act of 1980 of the State applicable to the Project, the alteration or expansion of the Project or additions thereto. The BOCES will cooperate with and provide assistance to the Authority in the performance of its duties as lead

agency, including the preparation and provision of such documents as may be reasonably requested of the BOCES as are necessary to enable the Authority to comply with such laws.

**Section 7.11 Budget.** The BOCES shall include all amounts payable hereunder in its annual budget as "administrative expenses." The BOCES hereby agrees to prepare annually a budget and to take all available action to require that the component school districts which comprise the BOCES shall annually include in the budget of such school district such school district's allocable share of the BOCES's administrative expenses and other costs to be paid by such school district to such BOCES and to obtain the payment of such amounts to the BOCES. Such budget of the BOCES and the budget of each component school district shall each be prepared in accordance with, and shall include at least the items mentioned in, Sections 1950 and 1951 of the Education Law of the State. The BOCES hereby agrees, at the request of the Authority to promptly file with the Authority and the Trustee a copy of the annual budget of the BOCES. The BOCES further agrees to file with the Comptroller of the State of New York, within sixty (60) days after the close of the fiscal year of the BOCES, the report of its financial condition required by Section 30 of the General Municipal Law.

**Section 7.12 Limitation of Authority Rights.** The Authority shall not, without the prior written consent of the BOCES, (i) call any Bond for redemption prior to maturity, other than through the application of mandatory Sinking Fund Installments, (ii) purchase any Bond, other than pursuant to Section 5.07(4) of the Resolution, (iii) change the dates on which an Option Bond is to be tendered for purchase or the period during which a Variable Interest Rate bond shall bear interest at a particular rate or (iv) convert a Variable Interest Rate Bond to bear interest at a fixed rate to its maturity.



## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

**Section 8.01 Events of Default.** An "event of default" or a "default" shall mean, whenever they are used herein, any one or more of the following events:

(a) Failure by the BOCES to pay or cause to be paid when due the Rentals to be paid hereunder which failure continues for a period of seven (7) days after payment thereof was due;

(b) Failure by the BOCES to pay or to cause to be paid when due any other payment required to be made hereunder which failure continues for a period of thirty (30) days after payment thereof was due, provided that written notice thereof shall have been given to the BOCES not less than thirty (30) days prior to the due date thereof;

(c) Failure by the BOCES to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subparagraphs (a) and (b) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the BOCES by the Authority or such longer period, as is required to cure such default, if by reason of the nature of such failure the same cannot be remedied within such thirty (30) day period and the BOCES has within such thirty (30) day period commenced to take appropriate actions to remedy such failure and is diligently pursuing such actions;

(d) Any representation or warranty of the BOCES contained herein shall have been at the time it was made untrue in any material respect; or

(e) The BOCES shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the BOCES seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it for any substantial part of its property; or the BOCES shall authorize any of the actions set forth above in this subparagraph (e).

**Section 8.02 Remedies.** Whenever any event of default referred to in Section 8.01 hereof shall have happened and be continuing, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the BOCES hereunder.

**Section 8.03 No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Authority or Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other

remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**Section 8.04 Waiver and Non-Waiver.** In the event any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No delay or omission by the Authority to exercise any right or power accruing upon default shall impair any right or power or shall be construed to be a waiver of any such default or acquiescence therein. In particular, failure of the Authority to provide the notices specified herein at the time specified shall not preclude the Authority from subsequently filing such notices.

## **ARTICLE IX**

### **MISCELLANEOUS**

**Section 9.01 Surrender of Possession.** At the termination of the term of any leasehold in a Leased Property, the BOCES agrees to surrender possession of such Leased Property and Project peacefully and promptly to the Authority in the condition in which the Leased Property is at such time, "AS IS", "WHERE IS" (including, without limitation, the results of any wear and tear or damages caused by condemnation, or by fire or other casualty).

**Section 9.02 Successors and Assigns.** This Agreement shall inure to the benefit of and shall be binding upon the BOCES, the Authority and their respective successors and assigns, subject, however, to the provisions of Sections 7.05, 7.07 and 7.10 hereof.

**Section 9.03 Severability.** In the event any one or more of the covenants, stipulations, promises, obligations and agreements herein on the part of the Authority or the BOCES to be performed should be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, obligation or obligations, or agreement or agreements shall be null and void, shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, obligations and agreements herein contained and shall in no way affect the validity or enforceability of the other provisions hereof.

**Section 9.04 Amendments, Changes and Modifications.** This Agreement may be amended, changed or modified in any respect provided that each amendment, change or modification is in writing signed by an Authorized Officer of the Authority and of the BOCES; provided, however, that no amendment, change or modification shall take effect unless and until (i) if the consent of Holders of Outstanding Bonds is required by Section 7.10 of the Resolution, there shall have been filed with the Trustee the written consents of the Holders of the percentages of Outstanding Bonds specified in Section 7.10 of the Resolution, (ii) if the consent of the Trustee is required by Section 7.10 of the Resolution, the Trustee shall have consented

thereto and (iii) an executed copy of such amendment, change or modification, certified by an Authorized Officer of the Authority, shall have been filed with the Trustee.

**Section 9.05 Amounts Remaining under Resolution.** It is agreed by the parties hereto that any amounts remaining in any fund or account created under the Resolution, upon termination of the Lease Term, as provided herein, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Resolution) and the fees, charges and expenses of the Trustee and paying agents and the Authority in accordance herewith and with the Resolution, shall belong to and be paid to the BOCES.

**Section 9.06 Compliance with Resolution.** The BOCES hereby approves of and agrees to the provisions of the Resolution. Upon request of the Authority, the BOCES agrees to do all reasonable things within its power in order to enable the Authority to comply with all requirements and to fulfill all covenants of the Resolution which require the BOCES to comply with requests or obligations so that the Authority will not be in default in the performance of any covenant, condition, agreement or provision of the Resolution.

**Section 9.07 Investment of Moneys.** The BOCES hereby acknowledges that the Authority may in its sole discretion invest or direct the investment of certain moneys held under the Resolution as provided therein and that no representation or warranty has been made by the Authority with respect to interest rates on, or the amount to be earned as a result of, any such investment. Neither the Authority nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of Article VI of the Resolution in the manner provided therein, for any depreciation in value of any investment or for any loss, direct or indirect, resulting from any such investment.

**Section 9.08 Disclaimer of Personal Liability.** No recourse shall be had against or liability incurred by any member of the Authority or any officer or employee of the Authority or of the BOCES, or any person executing this Agreement for any covenants and provisions hereof or for any claims based thereon.

**Section 9.09 Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 9.10 Headings.** The headings preceding the text of the several Articles and Sections hereof and the exhibits appended hereto and any table of contents appended hereto or to copies hereof shall be solely for convenience of reference and shall not constitute a part hereof nor shall they affect its meaning, construction or effect.

**Section 9.11 Notices.** Any notices or other instruments required to be given or delivered pursuant hereto shall be in writing and shall be delivered by hand against the written receipt therefor or sent by registered or certified mail, in the case of the Authority, addressed to it to the attention of the Authority's Executive Director with a copy to the Authority's General Counsel, at 515 Broadway, Albany, New York 12207; in the case of the BOCES, addressed to it to the

attention of the Superintendent, St. Lawrence-Lewis BOCES, [40 W. Main Street, P.O. Box 231, Canton, New York 13617], with a copy to Douglas Goodfriend, Esq., Orrick, Herrington & Sutcliffe LLP, 51 West 52" Street, New York, New York 10019; in the case of the Trustee, addressed to it at the principal corporate trust office of the Trustee at the addresses of such principal corporate trust office; or, in each case, to such other individual and at such other address as the person to be notified shall have specified by notice to the other persons.

**Section 9.12 Governing Laws.** This Agreement shall be governed and construed in accordance with the laws of the State of New York.

**Section 9.13 Intent of the Parties.** It is the intent of the Authority and the BOCES that in accordance with the Act this Agreement is entered into for the purpose of facilitating the financing or refinancing of the acquisition or construction, as applicable, of the Project financed or refinanced with the Series 2020A Bond proceeds and the payment of such Series 2020A Bonds. Further, it is also the intent of the Authority and the BOCES to execute this Agreement prior to the issuance of such Series 2020A Bonds in order for the parties to avail themselves of the protections afforded by subdivision 12 of Section 1689 of the Public Authorities Law.

IN WITNESS WHEREOF, the Authority and the BOCES have caused this instrument to be executed by their duly authorized officers, all as of the day and year first above written.

DORMITORY AUTHORITY OF THE STATE  
OF NEW YORK

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

Authorized Officer

BOARD OF COOPERATIVE EDUCATIONAL  
SERVICES FOR THE SOLE SUPERVISORY  
DISTRICT OF ST. LAWRENCE-LEWIS  
COUNTIES

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

Authorized Officer

STATE OF NEW YORK                    )  
  :SS,  
COUNTY OF \_\_\_\_\_              )

On the \_\_ day of \_\_\_\_\_in the year 20\_\_ before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that she/he/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf, of which the individual(s) acted, executed the instrument.

---

Notary Public

STATE OF NEW YORK                    )  
  :ss,  
COUNTY OF \_\_\_\_\_              )

On the \_\_ day of \_\_\_\_\_in the year 20\_\_ before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that she/he/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf, of which the individual(s) acted, executed the instrument.

---

Notary Public

## **EXHIBIT A**

### Description of Leased Property



## **EXHIBIT B**

### **Opinion of Counsel to the BOCES**

The opinion of the chief legal officer of the BOCES or other counsel for the BOCES shall be to the effect that

(i) the BOCES is a corporation of the State of New York, duly organized and existing under Section 1950(6) of the State Education Law;

(ii) the BOCES has the right, lawful authority and power to execute, make and deliver the Agreement and all of the other documents relating to the authorization, sale and issuance of the Bonds to which it is a party or to which by the signature of its Authorized Officer it has approved (collectively, the "BOCES Documents"), and to perform its obligations and covenants in such BOCES Documents;

(iii) the BOCES has duly authorized by all necessary actions the execution and delivery of the BOCES Documents and the performance of its obligations and covenants thereunder;

(iv) the BOCES Documents are legal, valid and binding obligations of the BOCES enforceable against the BOCES in accordance with their terms, except to the extent that the enforceability may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors' rights generally, by equitable principles generally or by the availability of any particular remedy;

(v) the execution and delivery of the BOCES Documents and the performance of its obligations thereunder, to the best knowledge of such counsel, do not and will not conflict with, or constitute on the part of the BOCES a breach of or default under any existing law, administrative regulation, judgment, order, decree, ruling, mortgage, agreement indenture or instrument by or to which it or its revenues, properties or operations are bound or subject which conflict, breach or default would have a material adverse affect on the BOCES's ability to perform its obligations under the BOCES Documents;

(vi) all consents, approvals, authorizations or orders of, or filings, registrations or declarations with any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the BOCES of its obligations under the BOCES Documents have been duly obtained and are in full force and effect;

(vii) except as disclosed in the Official Statement, to the knowledge of counsel no action, suit, proceeding or investigation, in equity or at law, before or by any court or governmental agency or body, is pending or, to the best knowledge of such counsel, threatened wherein an adverse decision, ruling or finding might materially adversely affect the transactions contemplated by the BOCES Documents;

(viii) the BOCES has duly authorized inclusion in the Official Statement of the information provided by the BOCES and contained therein and the information contained therein related to the BOCES, the Project, the refunding plan and the sources and uses of funds and, after reasonable investigation, no facts have come to such counsel's attention which would lead such counsel to believe that as of the date of the Official Statement and the date of its distribution, such information (with the exception of financial and statistical information included therein, as to which no opinion need be expressed, is or was not true and correct in all material respects or contains or contained any untrue statement of a material fact or omits or omitted to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading;

(ix) to the knowledge of counsel, based solely on our review of the title insurance policy of the BOCES, the BOCES has good and insurable title to the Leased Property; and

(x) the Lease Agreement creates in favor of the Authority a security interest in the rights of the BOCES in the Series 2020A Pledged Revenues as security for the BOCES's obligations under the Lease Agreement and such security interest will be perfected upon proper filing of the UCC financing statements to the extent perfection may be accomplished by filing a UCC financing statement.

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LEASE AND AGREEMENT

between

DORMITORY AUTHORITY OF THE

STATE OF NEW YORK,

as Lessor

and

BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE SOLE  
SUPERVISORY DISTRICT OF ST. LAWRENCE-LEWIS COUNTIES,

as Lessee

Dated as of April 8, 2020

(Dormitory Authority of the State of New York Master BOCES Program Lease Revenue Bonds  
(St. Lawrence-Lewis Issue), Series 2020B)

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Record and Return to:  
[Frederick W. Clark, Esq.]  
Dormitory Authority of the State of New York  
515 Broadway, 6<sup>th</sup> Floor  
Albany, New York 12207  
(518) 257-[3120]

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## **LEASE AND AGREEMENT**

**THIS LEASE AND AGREEMENT**, dated as of April 8, 2020, is by and between the Dormitory Authority of the State of New York, a public benefit corporation of the State of New York (the "Authority"), and the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence-Lewis Counties, a corporation created pursuant to Section 1950(6) of the Education Law (the "BOCES").

### **WITNESSETH**

**WHEREAS**, the BOCES is the owner of the Leased Property (defined herein); and

**WHEREAS**, the BOCES is authorized by the Act (defined herein) when authorized by the voters of the BOCES, to convey to the Authority real property, leasehold interests in real property or rights of easement, the title of which is vested in the BOCES, in relation to the Project (as defined herein) to be erected pursuant to the Act; and

**WHEREAS**, the Authority is authorized by the Act (i) to acquire, in the name of the Authority, on terms necessary or convenient by purchase, condemnation, gift or devise, real property, leasehold interest in real property or rights of easement in relation to the Project erected pursuant to the Act and (ii) to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip or otherwise provide a Project; and

**WHEREAS**, the Authority is also authorized by the Act to lease any such Project to the BOCES; and

**WHEREAS**, the Authority has determined pursuant to the Act to lease the Leased Property (defined herein) from the BOCES and to provide for the financing or refinancing of the cost of the acquisition, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of the BOCES school facility comprising or to comprise the Leased Property by leasing the same to the BOCES pursuant to the terms and conditions of this Agreement (defined herein); and

**WHEREAS**, pursuant to the Resolution (defined herein), the Authority has authorized the issuance of bonds; and

**WHEREAS**, the Authority will, pursuant to the Act, provide for the financing or refinancing of the cost of the design, acquisition, construction, reconstruction, rehabilitation, equipping, furnishing and improvement of the Project from the proceeds of the bonds issued pursuant to the Resolution, which bonds shall be payable from State funds payable to the BOCES and assigned by BOCES to the Authority hereunder and rentals to be received from the BOCES pursuant to this Agreement; and

**WHEREAS**, contemporaneously with this Agreement, the Authority and the BOCES will enter into an Agreement of Lease, dated as of April 8, 2020, between the Authority and the BOCES.

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND GENERAL PROVISIONS

**Section 1.01 Definitions.** (a) All terms which are defined in the Resolution which are not defined herein shall have the same meanings, respectively, herein as such terms are given in the Resolution.

(b) In addition, as used herein, unless a different meaning clearly appears from the context:

**"Administrative Expenses"** means expenses incurred by the Authority in carrying out its duties hereunder and under the Resolution, the BOCES Lease, and any other document, instrument, agreement, law, rule or regulation related to any Leased Property including, without limitation, accounting, administrative, financial advisory and legal expenses incurred in connection with the financing or refinancing and construction of the Project, the fees and expenses of the Trustee, any Paying Agents or any other fiduciaries acting under the Resolution, the fees and expenses of any Facility Provider, the costs and expenses incurred in connection with the determination of the rate at which a Variable Interest Rate Bond is to bear interest and the remarketing of such Bond, the cost of providing insurance with respect to the Leased Property and the Project, judgments or claims payable by the Authority for the payment of which the Authority has been indemnified or held harmless pursuant to Section 4.03 hereof, but only to the extent that moneys in the Construction Fund are not available therefor, and expenditures to compel full and punctual performance of the BOCES Lease, this Agreement, or any document, instrument or agreement related thereto in accordance with its terms.

**"Agreement"** means this Lease and Agreement, dated as of April 8, 2020, by and between the Authority and the BOCES, as from time to time amended or supplemented in accordance with the terms and provisions hereof and of the Resolution.

**"Annual Administrative Fee"** when used with respect to any Bond Year, means a share of the general overhead and administrative expenditures of the Authority reasonably allocated to the Project for such Bond Year by the Authority in accordance with a formula approved by the Comptroller of the State of New York.

**"Authority Fee"** means the fee payable to the Authority in the amount of \$[37,500] as compensation for all of the Authority's internal costs and overhead expenses attributable to an issuance of a Series of Bonds, including the Series 2020B Bonds, excluding Administrative Expenses and the Annual Administrative Fee.

**"Basic Rent"** means that portion of the Rentals payable pursuant to Section 4.01 (a) hereof.

**"BOCES"** means the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence-Lewis Counties, a body corporate created pursuant to Section 1950(6) of the State Education Law, duly organized and validly existing under the Constitution and the laws of the State of New York.



**"BOCES Lease"** means that certain Agreement of Lease, dated as of April 8, 2020, by and between the BOCES, as lessor, and the Authority, as lessee, as it may be from time to time amended, modified and supplemented.

**"Bonds"** means any bonds issued under the Resolution, a portion of the proceeds of which shall finance or refinance the Project.

**"Contract Documents"** means any general contract or agreement for the construction of a Project, notice to bidders, information for bidders, form of bid, general conditions, supplemental general conditions, general requirements, supplemental general requirements, bonds, plans and specifications, addenda, change orders, and any other documents entered into or prepared by or on behalf of the BOCES relating to the construction of a Project, and any amendments to the foregoing.

**"Environmental Laws"** means the federal, state, county and local statutes, ordinances and regulations, as may be independently applicable or applied to all or any part of the Leased Property by any governmental authority or any permit or approval applicable to all or any part of the Leased Property, pertaining to the protection of human health and the environment, including without limitation, those pertaining to the discharge of pollutants to surface and ground water, emissions to the air and contamination of soil or groundwater by Hazardous Substances.

**"Hazardous Substance"** means a chemical, waste or material containing or classified as a "hazardous substance," "hazardous waste" or "toxic substance" as defined in or referred to in any Environmental Law.

**"Lease Term"** means the duration of the leasehold estate or estates created hereby as specified in Section 2.02.

**"Leased Property"** means the real property described in Exhibit A hereto, the buildings and improvements situated thereon or from time to time erected thereon and the Personal Property now or hereafter situated on or used in connection therewith (but only to the extent such Personal Property is financed with the proceeds of Series 2020B Bonds) constituting "board of cooperative educational services school facilities" as defined in the Act.

**"Permitted Encumbrances"** means and includes:

- (i) the lien of taxes and assessments and water and sewer rents and charges which are not yet due and payable;
- (ii) rights reserved to or vested in any municipality or governmental or other public authority to control or regulate or use in any manner any portion of the Leased Property which do not materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;
- (iii) minor defects and irregularities in the title to the Leased Property which do not in the aggregate materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;

(iv) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of such property for the purposes for which it is or may reasonably be expected to be held;

(v) present or future valid zoning laws and ordinances;

(vi) any purchase money security interests in any Personal Property, other than with respect to Personal Property financed with the proceeds of the Bonds and any replacements thereof;

(vii) all other matters of record and state of title at the commencement date of this Agreement, rights of parties in possession and any state of facts which an accurate survey or physical inspection would show;

(viii) the BOCES Lease;

(ix) those matters referred to in any title insurance policy with respect to the Leased Property and accepted by the Authority; and

(x) such other encumbrances or items to which the BOCES shall have consented in writing signed by an Authorized Officer.

**"Personal Property"** means all articles of tangible personal property of every kind and description presently located or hereafter placed on or used in connection with the management or operation of the Leased Property other than those which, by the nature of their attachment to the Leased Property become real property pursuant to applicable law, including all escalators and elevators; all heating, ventilating, and air-conditioning equipment; all appliances, apparatus, machinery, motors and electrical equipment; all interior and exterior lighting equipment; all telephone, intercom, audio, music and other sound reproduction and communication equipment; all floor coverings, carpeting, wall coverings, drapes, furniture, trash containers, carts, decorative plants, planters, sculptures, fountains, artwork and other mall, common area, auditorium and office furnishings; all plumbing fixtures, facilities and equipment; all cleaning, janitorial, lawn, landscaping, disposal, firefighting, sprinkler and maintenance equipment and supplies; all books, records, files financial and accounting records relating to the ownership, operation or management of the Project; all drawings, plans and specifications relating to the improvements; and all other personal property whether similar or dissimilar to the foregoing which is now or in the future used in the ownership, operation or management of the Project, including all additions thereto, proceeds received upon voluntary or involuntary disposition thereof, and all renewals or replacements thereof or articles in substitution therefor.

**"Plans and Specifications"** means the final design for the Project, including a complete set of architectural, structural, HVAC, plumbing, electrical, landscape and furniture and equipment drawings, specifications and a shop drawings list which comply with all applicable laws, as well as all required regulatory approvals and utility acceptances, together with any amendments thereto including increasing, decreasing or otherwise modifying the scope of the

Project provided that such amendments are approved in writing by the State Education Department and filed with the Authority.

**"Project"** means the financing or refinancing of the costs of: the acquisition, construction, renovation, repair and/or equipping of various facilities of the BOCES, including but not limited to the [Seaway Career and Technical Education Center, Norwood, New York, the Southwest Career and Technical Education Center, Fowler, New York and the Northwest Career and Technical Education Center, Ogdensburg, New York].[TO MODIFY ACCORDING TO PROJECT STAGES TO REMOVE PROJECTS NOT FINANCED IN THE INITIAL OFFERING].

**"Rentals"** means the rent payable hereunder pursuant to Section 4.01 hereof.

**"Resolution"** means the "Master BOCES Program Lease Revenue Bond Resolution" of the Authority, adopted August 15, 2001, as supplemented and amended, and as supplemented by the Series 2015 Resolution adopted by the Authority on March 11, 2015, and as supplemented by the Series 2020A Resolution adopted by the Authority on April 8, 2020, and as supplemented by the Series 2020B Resolution adopted by the Authority on April 8, 2020, as from time to time further amended or supplemented by Supplemental Resolutions or Series Resolutions in accordance with the terms and provisions thereof.

**"Series 2020B Bonds"** means the Authority's Master BOCES Program Lease Revenue Bonds (St. Lawrence-Lewis Issue), Series 2020B.

**"Series 2020B Pledged Revenues"** means the State moneys payable to the BOCES that are pledged and assigned to the Authority pursuant to Section 4.05 hereof.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neutral genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement.

## **ARTICLE II**

### **LEASE OF FACILITIES; TERM OF LEASE; AND ACQUISITION OF LEASED PROPERTY**

**Section 2.01 Lease of Facilities.** The Authority hereby subleases to the BOCES, and the BOCES hereby subleases from the Authority, the Leased Property.

**SUBJECT TO** the Permitted Encumbrances.

**TO HAVE AND TO HOLD** the Leased Property for the term set forth herein.

**Section 2.02 Term of Lease.** The term of this Agreement shall commence on the date on which Bonds of any Series are first issued and delivered by the Authority, and shall terminate on the earliest of (i) the final maturity date of the Series 2020B Bonds, (ii) the date on which no Bonds are Outstanding or (iii) upon the expiration of the term pursuant to the terms of this Agreement or pursuant to law. Notwithstanding the termination of the term of this Agreement, the obligations of the BOCES hereunder shall not terminate and BOCES shall remain liable for such obligations and damages set forth herein unless and until no Bonds are outstanding and the BOCES has satisfied its obligations hereunder, provided further that Sections 4.03 and 7.09 shall survive such termination.

**Section 2.03 Net Lease.** This Agreement shall be deemed and construed to be a "net lease," and the BOCES shall pay absolutely net during the Lease Term the Rentals and all other payments required hereunder, free of all deductions, without abatement, diminution and set-off.

### **ARTICLE III**

#### **CONSTRUCTION OF PROJECT AND ISSUANCE OF BONDS**

**Section 3.01 Construction of Project.** 1. The BOCES agrees that, whether or not there are sufficient moneys available to it under the provisions of the Resolution, the Applicable Series Resolution and hereunder, the BOCES shall complete the acquisition, design, construction, reconstruction, rehabilitation, renovation and improving or otherwise providing and furnishing and equipping of each Project in connection with which the Authority has issued Bonds, substantially in accordance with the Plans and Specifications related thereto as such Plans and Specifications may be amended by the BOCES with the approval of the State Education Department and filed with the Authority. Subject to the conditions hereof, the Authority will, to the extent of moneys available in the Construction Fund, cause the BOCES to be reimbursed for, or pay, any costs and expenses incurred by the BOCES which constitute Costs of the Project provided such costs and expenses are approved by the Authority, which approval shall not be unreasonably withheld. In order to provide moneys for payment of the Cost of the Project, upon the written request of the BOCES, the Authority may issue additional Bonds.

2.(a) To the extent that moneys are available therefor, moneys in a Construction Fund shall be disbursed from the applicable account thereof as construction of the Project for which such fund was established progresses, but not more frequently than once a month, unless otherwise agreed to in writing by the Authority, in amounts and at the times as shall be requested by the BOCES pursuant to a request for disbursement as hereinafter provided, but not in excess of that needed, in the reasonable judgment of the Authority, to reimburse the BOCES for, or to pay, any costs and expenses constituting Costs of the Project previously paid or then due; provided that the Authority may, in its sole discretion, withhold or delay making any advance in connection with a Project at any time there is pending an action or proceeding, judicial or administrative, challenging the BOCES's right to undertake such Project or any part thereof, or in which there is in issue (i) the validity of any governmental permit, consent or authorization, or the issuance thereof, necessary in connection with such Project or any part thereof, or (ii) the due authorization or validity of the Bonds issued in connection with such Project or any part thereof or the Agreement, unless the BOCES has provided the Authority with the security in such form and amount as may be reasonably required by the Authority.

(b) Prior to making and delivering any certificate required pursuant to subdivision 3 of Section 5.04 of the Resolution to be delivered to the Trustee in connection with payments to be made pursuant to subdivision 3 of Section 5.04 of the Resolution, the BOCES shall have submitted to the Authority, and have received Authority approval with respect to, the form and substance of, a Project budget and shall deliver to the Authority in connection with the delivery of each certificate required pursuant to subdivision 3 of Section 5.04 of the Resolution the following:

(1) a list of invoices, whether paid or unpaid, including, with respect to each invoice, the name of the vendor, a brief description of the goods or services, the amount of the invoice, a description of the building or buildings to which such payment relates, and, if such invoice has been paid, the date paid, the check number and the amount of the payment;

(2) copies of architect's certification(s), if any, relating to the invoices listed pursuant to subsection (b)(1) above;

(3) a reconciliation of the approved budget with funds already disbursed together with funds requested for disbursement currently; all enclosed with

(4) a certificate executed by two (2) Authorized Officers of the BOCES certifying, with respect to items 1, 2 and 3 above, that:

(A) The enclosed architect's certification(s) is (are) a true and correct copy of the architect's certification(s) received by the BOCES for the work to which it relates;

(B) The enclosed reconciliation of the approved budget with funds already disbursed together with funds requested for disbursement currently is true and correct;

(C) Expenses or monies for which payment is requisitioned in the amount of \$[ ] have been incurred or expended for items which constitute Costs of the Project, as that term is defined in the Resolution, which Project has not been modified except as permitted by this Agreement;

(D) Each amount for which payment is sought has not been the basis of any prior disbursement from the Construction Fund;

(E) The payments being requisitioned are within the project budget submitted to and approved by the Authority in accordance with the provisions of Subsection 2(b) of this Agreement, and to the best of the Authorized Officers' knowledge, the Project can be completed within budget;

(F) The BOCES has complied with all provisions of this Agreement, including, but not limited to those related to the use of

the Project and the prohibitions against use for sectarian religious instruction or religious worship and certain non tax-exempt purposes contained in Section 7.06 hereof; and

(G) The BOCES will retain all original documentation related to expenditures for items which constitute Costs of the Project for at least seven (7) years after completion of the Project for inspection at any time by the Authority, or any representative of the Authority.

3. The BOCES will receive the disbursements of moneys in each Construction Fund to be made hereunder, and will hold the right to receive the same, as a trust fund for the purpose of paying the Costs of the Project for which each disbursement was made, and will apply the same first to such payment before using any part thereof for any other purposes.

4. The BOCES shall permit the Authority, authorized representatives, at any time, to enter upon the property of the BOCES, to inspect the Project, and all materials, fixtures and articles used or to be used in construction of the Project, and to examine all Contract Documents. The BOCES shall furnish to the Authority, and its authorized representatives, when requested, copies of such Contract Documents. In the event that, after such inspection or examination, the Authority, in its sole and absolute discretion, decides to engage an independent consultant, such as an accounting firm, or to implement or increase its project management oversight, such action may be taken at the BOCES expense.

5. The Authority, in its sole and absolute discretion, may waive, from time to time, any of the conditions set forth in this Section. Any such waiver shall not be deemed a waiver by the Authority of its right to thereafter require compliance with any such condition. Additionally, the Authority, in its sole and absolute discretion, may require that, in addition to the requirements of Section 3.01 (2)(b) hereof, the BOCES also deliver copies of all invoices, paid or unpaid, and copies of the front and back of cancelled checks, if any. The BOCES acknowledges and agrees that disbursements from a Construction Fund are to be made by the Trustee and shall be made in accordance with the Resolution only upon receipt by the Trustee of the documents required by the Resolution to be executed and delivered in connection with such disbursements.

6. A Project shall be deemed to be complete upon delivery to the Authority, and the Trustee of a certificate signed by an Authorized Officer of the BOCES, which certificate shall be delivered as soon as practicable after the completion of such Project, or upon delivery to the Trustee and the BOCES of a certificate signed by the Authority and delivered at any time after completion of such Project. Any such certificate shall comply with the requirements of Section 5.04 of the Resolution. The Authority agrees that it will not execute and deliver any such certificate unless the Authority has notified the BOCES in writing that, in the judgment of the Authority, such Project has been completed substantially in accordance with the Plans and Specifications for such Project and the BOCES has failed to execute and deliver the certificate provided for herein within thirty (30) days after such notice is given. The moneys, if any, remaining in the Construction Fund account established for such Project after such Project has been deemed to be complete, shall be paid as provided in Section 5.04 of the Resolution.

7. Notwithstanding the foregoing, if, on the date a Series of Bonds is issued, a Project in connection with which such Series of Bonds is issued shall have been deemed to be complete as provided herein or otherwise, the provisions hereof relating to the construction of Projects shall be inapplicable to the Project.

**Section 3.02 Conditions of Bond Closings.** Prior to or concurrently with the issuance and delivery of Bonds of a Series to the underwriters or purchasers thereof (the "Closing"), the BOCES shall, as a condition thereto (any of which may be waived in the sole discretion of the Authority), deliver or cause third parties to deliver to the Authority the following documents, in each case satisfactory in form and substance to the Authority and its counsel:

(a) A certificate, dated the date of Closing, of an Authorized Officer of the BOCES to the effect that (i) the representations and warranties of the BOCES contained in this Agreement are true and correct in all material respects on and as of the date of Closing as if such representations and warranties had been made on and as of such date; (ii) no "event of default" under this Agreement has occurred and is continuing nor will an "event of default" under this Agreement occur as a result of the issuance of the Bonds then to be issued; (iii) unless moneys sufficient to pay such Rentals have been provided from the proceeds of the Bonds and are available therefor, attached thereto is a true and correct copy of the budget of the BOCES for the fiscal year of the BOCES in which the Closing occurs, including as an administrative expense an amount sufficient to pay such Rentals; (iv) the Project has been approved by the voters of the BOCES as required by the Act; and (v) as of the date of Closing, the information relating to the BOCES contained in the Official Statement does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading;

(b) The opinion of the chief legal officer of the BOCES or other counsel for the BOCES, dated the date of Closing, substantially in the form set forth in Exhibit B hereto; and

(c) Such additional legal opinions, certificates, instruments and other documents as the Authority or counsel for the Authority reasonably may request, satisfactory in the reasonable judgment of the Authority or counsel for the Authority, as the case may be, to evidence (i) compliance by the BOCES with legal requirements reasonably relating to the transactions contemplated by this Agreement, the Resolution and the Official Statement, (ii) the truth and completeness, as of the date of Closing, of the representations and warranties of the BOCES contained in this Agreement and the certificates or other documents referred to therein and of the statements and information contained in the Official Statement relating to the BOCES and the Project, and (iii) the due performance or satisfaction by the BOCES prior to or concurrently with the Closing of all agreements then to be satisfied relating to the transactions contemplated by this Agreement and the Official Statement.

## **ARTICLE IV**

### **RENTALS AND OTHER PAYMENTS**

**Section 4.01 Payment of Rentals.** (a) The BOCES shall pay to the Authority the following Basic Rent in the amounts and on the dates as follows:

(i) Subject to subdivision (e) hereof, on each September 1, or if such September 1 is not a Business Day then the next succeeding Business Day, the interest on Outstanding Bonds payable on the next succeeding February 15 and August 15 and the principal and Sinking Fund Installments of Outstanding Bonds payable by reason of maturity and redemption on the next succeeding February 15 and August 15;

(ii) Subject to subdivision (e) hereof, on each September 1, or if such September 1 is not a Business Day then the next succeeding Business Day, the amount, if any, as shall have been set forth in the certificate of the Trustee made pursuant to Section 5.08(4) of the Resolution as necessary to restore the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement; and

(iii) On the fifth Business Day prior to each interest payment date, the amount, if any, necessary to cause the amount on deposit in the Debt Service Fund to equal the amount of principal of and interest payable on the Bonds on such interest payment date.

For purposes of Sections 4.01(a)(i) and (ii) in estimating the interest to accrue on a Variable Interest Rate Bond after the end of the then current rate period, the Authority shall assume that interest will accrue on such Variable Interest Rate Bond from and after the last day of such rate period at a constant rate per annum equal to the rate at which it then bears interest, plus one percent (1%) per annum.

The BOCES shall have the option to make from time to time prepayments in part of payments due as aforesaid of Basic Rent, together with interest accrued and to accrue and premium, if any, to be paid on the Bonds, if such prepayment is to be used for the purchase or redemption of such Bonds. To the extent that the BOCES prepays all of the Basic Rent payable with respect to a Project (as determined by the Authority and the BOCES), such Project may be released from this Agreement. The Trustee shall apply such prepayments in such manner consistent with the provisions of the Resolution as may be specified in writing by the BOCES at the time of making such prepayment.

Subject to the provisions hereof and of the Resolution, the BOCES shall receive a credit against the amount required to be paid by the BOCES pursuant to subparagraph (i) of this Section 4.01 (a) on account of any Sinking Fund Installments if, not less than forty-five (45) days prior to a February 15 or an August 15 on which a Sinking Fund Installment is scheduled to be due, there shall be delivered to the Trustee for cancellation one or more Bonds of the Series and maturity to be so redeemed on such February 15 or August 15, as applicable. The amount of the credit shall be equal to the principal amount of Bonds so delivered and cancelled.

(b) The BOCES shall pay to the Authority, as additional rent for the Project, the amounts, and on the dates, as follows:

(i) On the date of delivery of Bonds of a Series, to the extent not paid from the proceeds of the Bonds, the Authority Fee and any Administrative Expenses, as estimated by an Authorized Officer of the Authority, incurred in connection with the issuance of Bonds of such Series;



(ii) On each March 31 or such other date as may be agreed to by the Authority, the Annual Administrative Fee;

(iii) The Administrative Expenses of the Authority, the Trustee and each Paying Agent for the Bonds, within sixty (60) days after notice of the amount thereof is given to the BOCES; and

(iv) The amount determined by an Authorized Officer of the Authority as required to be rebated to the Department of the Treasury of the United States of America in excess of the amount available therefor in the Arbitrage Rebate Fund on such date or dates as the Authority shall determine.

(c) The Authority shall furnish the BOCES not less than sixty (60) days prior to the date on which a payment is due pursuant to this Section, a statement of the amount, purpose and payment date of each payment required to be made pursuant to this Section. With respect to the payment of Basic Rent pursuant to Section 4.01(a), the amount set forth in such statement shall be net of amounts on deposit in the Debt Service Fund, including the State funds received and such interest earnings thereon, if any, as of the date of such statement and such statement shall set forth the amount of such State funds received, such interest earnings thereon and amounts still owed to the Authority.

The failure to furnish such statement shall not excuse the BOCES's failure to pay, when due, the Basic Rent payable pursuant to this Section.

(d) In addition to the payments required by this Section 4.01, in the event a Reserve Fund Facility is deposited for all or part of the Debt Service Reserve Fund Requirement in accordance with Section 5.07(b) of the Resolution, the BOCES shall be obligated (i) to make payments to the Trustee to restore the Debt Service Reserve Fund to its requirement so that the Facility Provider may be reimbursed for amounts paid by it pursuant to such Reserve Fund Facility and (ii) to pay the Administrative Expenses of the Authority incurred in connection with such Reserve Fund Facility, including without limitation, amounts necessary to pay fees, expenses and interest payable to the Facility Provider by the Authority in connection with such Reserve Fund Facility. If the Reserve Fund Facility is to be replaced with money pursuant to the third paragraph of Section 5.08(b) of the Resolution, the BOCES shall be obligated to make payments to the Trustee in amounts and at the times that deposits are to be made to the Debt Service Reserve Fund pursuant to such paragraph.

(e) The BOCES shall receive a credit against payment due hereunder equal to the amount of State funds received by the Trustee or the Authority to be applied towards such payment. If the amount of such State funds received by the Trustee or the Authority on September 1 is less than the amount required to be paid hereunder, the Authority shall give notice to BOCES not more than ten (10) days from such September 1. Such notice shall state the amount received by the Trustee and the Authority and the amount still due and payable.

The Authority shall notify the BOCES of the receipt of any payment of State funds by the Authority or the Trustee after September 1 no more than ten (10) days after receipt of such funds, which notice shall state the amount received by the Trustee and the Authority and the amount still due and payable. If the amount of State funds received by the Trustee or the Authority by January

1 of each year is less than the amount of principal and interest payable on the Bonds on February 15, the BOCES shall pay to the Trustee by January 15 the difference between the amount of State funds received and the principal and interest payable on the Bonds on February 15. If the amount of State funds received by the Trustee or the Authority by July 1 of each year, after the application of the amounts necessary to make the principal and interest payments due on the preceding February 15, is less than the amount of principal and interest payable on the Bonds on August 15, the BOCES shall pay to the Trustee by July 15 the difference between the amount of State funds received and the principal and interest payable on the Bonds on August 15.

If on January 1 of each year the amount of moneys on deposit in the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement, the BOCES shall pay to the Trustee by January 15 the difference between the amount of State funds received and the amount of money to make up the deficiency in the Debt Service Reserve Fund and satisfy the Debt Service Reserve Fund Requirement. If on July 1 of each year the amount of moneys on deposit in the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement, the BOCES shall pay to the Trustee by July 15 the difference between the amount of State funds received and the amount of money to make up the deficiency in the Debt Service Reserve Fund and satisfy the Debt Service Reserve Fund Requirement.

**Section 4.02 Direction as to Payment of Rentals.** The Basic Rent shall be paid by the BOCES, when due, to the Trustee for deposit in accordance with Section 5.05 of the Resolution. The additional rent payable pursuant to Section 4.01 (b) hereof and interest on the Rentals payable pursuant to Section 4.01(d) hereof shall be paid by the BOCES, when due, to the Authority.

**Section 4.03 Indemnification of Authority and Limitation on Liability.** (a) Both during the Lease Term and thereafter, the BOCES, to the extent permitted by law, hereby releases the Authority and each director, officer and employee of the Authority from claims for damages or liability arising from or out of the design, acquisition, construction, reconstruction, rehabilitation, improvement, or use of the Leased Property pursuant hereto. Both during the Lease Term and thereafter, the BOCES, to the extent permitted by law, shall indemnify and hold the Authority and each member, officer and employee of the Authority harmless against any and all liabilities, losses, costs, damages or claims, and shall pay any and all judgments or expenses of any and all kinds or nature and however arising, imposed by law, including interest thereon, which it or any of them may sustain, be subject to or be caused to incur by reason of any claim, action, suit, charge or proceeding arising (1) from or out of the design, acquisition, construction, reconstruction, rehabilitation, improvement or use of the Leased Property (including the Project), pursuant hereto, based upon: personal injury, death, or damage to property, whether real, personal or mixed; or upon or arising out of contracts entered into by the Authority, or (2) upon or arising out of the Authority's ownership of a leasehold estate of the Leased Property or the leasing thereof to the BOCES; or (3) upon or arising out of the acquisition of the Leased Property, or upon or arising out of an allegation that an official statement, prospectus, placement memorandum or other offering document prepared in connection with the sale and issuance of Bonds contained an untrue or misleading statement of a material fact obtained from the BOCES relating to the BOCES or the Project, or omitted to state a material fact relating to the BOCES or the Project necessary in order to make the statements made therein in light of the circumstances under which they were made not misleading; provided, however, that neither the Authority nor a member, officer or employee of the Authority shall be released, indemnified or held harmless from any

claim for damages, liability, loss, cost, damage, judgment or expense arising out of the gross negligence or willful misconduct of the Authority, such member, officer or employee.

(b) The Authority agrees to give the BOCES prompt notice in writing of the assertion of any claim or the institution of each such suit, action or proceeding and to cooperate with the BOCES in the investigation of such claim and the defense, adjustment, settlement or compromise of any such action or proceeding. The Authority shall not settle any such suit, action or proceeding without the prior written consent of counsel to the BOCES.

(c) Except as provided in paragraph (d) of this Section 4.03, the BOCES, at its own cost and expense, shall defend any and all suits, actions or proceedings which may be brought or asserted against the Authority, its members, officers or employees for which the BOCES is required to indemnify the Authority or hold the Authority harmless pursuant to paragraph (a) of this Section 4.03, but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for herein from its obligation to defend the BOCES, the Authority and any other insured named in such policy of insurance in connection with claims, suits or actions covered by such policy.

(d) The Authority and each member, officer or employee thereof shall, at the cost and expense of the BOCES, be entitled to employ separate counsel in any action or proceeding arising out of any alleged act or omission which occurred or is alleged to have occurred while the member, officer or employee was acting within the scope of his or her employment or duties in connection with the design, acquisition, construction, reconstruction, rehabilitation, improvement, financing or use of a Project, and to conduct the defense thereof, in which (i) the counsel to the BOCES determines, based on his or her investigation and review of the facts and circumstances of the case, that the interests of such person and the interests of the BOCES are in conflict, or in the event such counsel determines that no conflict exists, a court of competent jurisdiction subsequently determines that such person is entitled to employ separate counsel, or (ii) such person may have an available defense which cannot as a matter of law be asserted on behalf of such person by the BOCES or by counsel employed by it, or (iii) such person may be subject to criminal liability, penalty or forfeiture, or (iv) the BOCES has consented to the employment of separate counsel; provided, however, that the BOCES shall not be liable for attorneys' fees of separate counsel so retained or any other expenses incurred in connection with the defense of an action or proceeding described in clause (iii) of this paragraph, unless the member, officer or employee shall have prevailed on the merits or such action or proceeding was dismissed or withdrawn, or an adverse judgment was reversed upon appeal, and such action or proceeding may not be recommenced; Attorney's fees of separate counsel retained in accordance with this paragraph shall be paid only upon the audits of an appropriate BOCES officer.

**Section 4.04 Nature of Obligations of the BOCES.** Except as hereinafter provided in this Section, the obligation of the BOCES to pay Rentals and to pay all other amounts provided for herein and to perform its obligations hereunder shall be absolute and unconditional, and such Rentals and other amounts shall be payable without any rights of set-off, recoupment or counterclaim it might have against the Authority, the Trustee or any other person and whether or not any or all of the Project is used or occupied or available or suitable for use or occupancy and whether or not the BOCES Lease is in effect. If the BOCES shall have paid all amounts required hereby and continues to pay the same when due, it shall not be precluded from bringing any action it may otherwise have against the Authority; provided, however, that the BOCES shall not

as a result of the BOCES's failure to pay any Administrative Expenses or Annual Administrative Fee be precluded from bringing any such action if the amount thereof is disputed or is being contested by the BOCES in good faith.

The BOCES will not terminate this Agreement (other than such termination as is provided for hereunder) or be excused from performing its obligations hereunder for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title, or frustration of purpose, or any damage to or destruction of any Leased Property, or the taking by eminent domain of title to or the right of temporary use of all or any part of any Leased Property, or the failure of the Authority to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Agreement.

This lease is a general obligation of the BOCES and any successor thereto. Any payment required to be made by the BOCES to the Authority pursuant hereto shall be deemed an administrative expense within the meaning of section nineteen hundred fifty of the Education Law of the State.

**Section 4.05 Pledge by BOCES.** The BOCES hereby assigns and pledges to the Authority a sufficient portion of any and all public funds to be apportioned or otherwise to be made payable by the State to the BOCES, to cover the payments required hereunder and directs and acknowledges that such amounts shall be paid directly to the Trustee as provided in the Act and Section 3609-d of the Education Law of the State. Such assignment and pledge shall be irrevocable and shall continue until the date on which the liabilities of the Authority and the Project have been discharged and the Series 2020B Bonds issued therefor have been paid or such Series 2020B Bonds have otherwise been discharged. The BOCES agrees that, except with regard to any previously outstanding Bonds of the Authority issued on behalf of the BOCES, it will not create or suffer to be created any pledge or assignment of the public funds mentioned in this Section to be apportioned or otherwise payable by the State (including pledges or assignments to secure subsequent Series of Bonds) unless such other pledge or assignment is subordinate to the pledge and assignment made to the Authority pursuant to this Section.

**Section 4.06 Nature of Obligations of the Authority.** The cost and expense of the performance by the Authority of any of its obligations hereunder shall be limited to the availability of the proceeds of Bonds issued for such purposes or from other funds received by the Authority hereunder and available for such purposes.

**Section 4.07 Assignment of Payments by Authority.** It is understood that all payments by the BOCES hereunder (except payments pursuant to Sections 4.01(b), 4.01(d) and 4.3 hereof) and the Authority's interest in the Series 2020B Pledged Revenues are to be pledged by the Authority to the Trustee pursuant to the Resolution and the BOCES consents thereto.

Except as provided in this Section, the Authority shall not assign this Agreement or any payments hereunder without the prior written consent of the BOCES. Except as contemplated herein, the Authority shall not sell or otherwise encumber its interest in any of the Leased Property.

## ARTICLE V

### **OPERATION AND MAINTENANCE; INSURANCE; DAMAGE; DESTRUCTION AND CONDEMNATION**

**Section 5.01 Operation, Maintenance and Repair.** During the Lease Term, the BOCES shall be responsible for, and pay all costs of, operating the Leased Property, maintaining the same in condition suitable and sufficient for the use for which they are intended, and making all necessary repairs and replacements, interior and exterior, structural and nonstructural.

The BOCES is responsible for the over-all supervision of the Leased Property, for the overhead and general administrative costs of the BOCES which are incurred because of the Leased Property and for the integration of the operation of the Leased Property into the BOCES's educational program.

**Section 5.02 Utilities, Taxes and Governmental Charges.** The BOCES will pay or cause to be paid all charges for water, electricity, light, heat or power, sewage, telephone and other, utility service, rendered or supplied upon or in connection with the Leased Property during the Lease Term.

In addition, the BOCES shall (i) pay, or make provision for payment of, all lawful taxes and assessments (other than those which are the basis of a Permitted Encumbrance), including income, profits, property or excise taxes, if any, or other municipal or governmental charges, levied or assessed by any federal, state or any municipal government upon the Authority or the BOCES with respect to or upon the Leased Property or any part thereof or upon any payments hereunder when the same shall become due; (ii) not create or suffer to be created any lien or charge upon the Leased Property or any part thereof, except Permitted Encumbrances, or upon the payments in respect thereof pursuant hereto; and (iii) pay or cause to be discharged or make adequate provision to satisfy and discharge, within sixty (60) days after the same shall come into force, any lien or charge upon the Leased Property or any part thereof, except Permitted Encumbrances, or upon any payments hereunder and all lawful claims or demands for labor, materials, supplies or other charges which, if unpaid, might be or become a lien upon any payments hereunder.

The Authority shall cooperate fully with the BOCES in the payment of taxes or assessments and in the handling and conduct of any prospective or pending litigation with respect to the levying of taxes or assessments on the Leased Property and will, to the extent it may lawfully do so, permit the BOCES to litigate in any such proceeding in the name and behalf of the Authority.

**Section 5.03 Additions, Enlargements and Improvements.** The BOCES shall have the right at any time and from time to time during the Lease Term, at its own cost and expense, to make such additions, alterations, modifications, enlargements, improvements and expansions to, or repairs, reconstruction and restorations of, a Project (collectively, the "Alterations") as the BOCES shall deem necessary or desirable in connection with any permitted use thereof; provided, however, that no Alteration which requires structural change of the Project, or which modifies or changes any aspect or feature thereof designed or intended to protect the life or provide for the safety of the occupants of the Project, shall be made by the BOCES without the

prior written consent of an Authorized Officer of the State Education Department. The cost of any such additions, enlargements, improvements, expansions, repairs, reconstruction or restorations shall be promptly paid or discharged so that the Project shall at all times be free of liens for labor and materials supplied thereto other than Permitted Encumbrances. All additions, enlargements, improvements and expansions to, or repairs, reconstruction and restorations of, a Project on the Leased Property shall be and become a part of the Project and the property leased to the Authority hereunder.

**Section 5.04 Additional Rights of BOCES.** The Authority agrees that the BOCES shall have the right, option and privilege of erecting, installing and maintaining at its own cost and expense such standard office partitions, railings, doors, gates, counters, lighting fixtures, towers (together with all necessary guy wires and anchors), gasoline or natural gas storage tanks and pumps, signs and such other equipment, machinery, furniture and other items of personal property in or upon a Project as may in BOCES's judgment be necessary for its purposes. It is further understood and agreed that anything erected or installed under the provisions of this Section shall be and remain the personal property of BOCES and shall not become part of the Project, and may be removed, altered or otherwise changed, without any consent of the Authority upon or before the termination hereof; provided, however, should such removal, alteration or change cause any damage to the Project, such damage shall be repaired by the BOCES.

#### **Section 5.05 Insurance.**

1. The BOCES shall, in accordance with the requirements of this Section 5.05, procure and maintain, or cause to be procured and maintained, to the extent reasonably obtainable, from responsible insurers, insurance of the type and in the amounts customarily and reasonably maintained by educational institutions providing services similar to those provided by the BOCES. All policies of insurance required by this section shall be primary to any insurance maintained by the Authority.

2. The BOCES shall, with respect to the Leased Property and the Project, at the times specified in the following paragraphs, procure and maintain, or cause to be procured and maintained, to the extent reasonably obtainable, from responsible insurers acceptable to the Authority, the following insurance:

(a) with respect to any building the construction of which shall not have been completed (and until insurance is procured pursuant to paragraph (b) of this subdivision), all risk builders' risk insurance against direct physical loss or damage, or with respect to the acquisition and installation of equipment or machinery, in lieu of all risk builders' risk, an installation floater on an all risk basis. The amount of such insurance shall be on a one hundred per cent (100%) completed value basis on the insurable portion;

(b) at all times (except during a period when builders' risk insurance is in effect as required by paragraph (a) of this subdivision 2), all risk property insurance against direct physical loss or damage to the Leased Property and the Project in an amount not less than one hundred per cent (100%) of the replacement value thereof (such replacement value to be determined on the basis of replacement costs without allowance for depreciation), exclusive of excavations and foundations and similar property normally excluded under New York standard forms; provided, however, that the inclusion of the Leased Property and the Project under a

blanket insurance policy or policies of the BOCES insuring against the aforesaid hazards in an amount aggregating at least one hundred per cent (100%) of the insurable value of the insured property, exclusive of excavations and foundations and similar property normally excluded under New York standard forms shall constitute complete compliance with the provisions of this paragraph with respect to the Project; provided further, that in any event, each such policy shall be in an amount sufficient to prevent the BOCES and the Authority from becoming co insurers under the applicable terms of such policy;

(c) at all times, statutory workers' compensation insurance, covering loss resulting from injury, sickness, disability or death of employees and employer's liability insurance with limits of at least \$1,000,000 for each accident, each sickness, and aggregate occupational illness or sickness;

(d) at all times, applicable statutory disability benefits;

(e) at all times, commercial general liability insurance protecting the Authority and the BOCES against loss or losses from liabilities arising from bodily injury of persons or damage to the property of others caused by accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of injury to persons or property damage with \$2,000,000 policy aggregate, excluding liability imposed upon the Authority or the BOCES by any applicable workers' compensation law;

(f) commencing with the date on which the Leased Property and the Project or any part thereof is completed or first occupied, or any equipment, machinery, fixture or personal property covered by comprehensive boiler and machinery coverage is accepted, whichever occurs earlier, insurance providing comprehensive boiler and machinery coverage in an amount considered adequate by the Authority, which insurance may include deductible provisions approved by the Authority; and

(g) each other form of insurance which the BOCES is required by law to provide and such other kinds of insurance in such amounts as from time to time may be reasonably required by the Authority.

3. Any insurance procured and maintained by the Authority or the BOCES pursuant to this Section, including any blanket insurance policy, may include deductible provisions reasonably satisfactory to the Authority and the BOCES. In determining whether or not any insurance required by this Section is reasonably obtainable or if the deductible on any such insurance is a reasonable deductible, the Authority may rely solely and exclusively upon the advice and judgment of any insurance consultant chosen by the BOCES and approved by the Authority, and any such decision by the Authority, based upon such advice and judgment, shall be conclusive.

4. No provision of this Section shall be construed to prohibit the BOCES from self insuring against any risk at the recommendation of any insurance consultant chosen by the BOCES and approved by the Authority provided, however, that self insurance plans shall not cover property, plant and equipment. The BOCES shall also cause an annual evaluation of such self insurance plans to be performed by an independent insurance consultant. The BOCES shall

provide adequate funding of such self insurance if and to the extent recommended by such insurance consultant and approved by the Authority.

5. Each policy maintained by the BOCES pursuant to subdivision 2 of this Section shall provide that the insurer writing such policy shall give at least thirty (30) days notice in writing to the Authority of the cancellation or non renewal or material change in the policy unless a lesser period of notice is expressly approved in writing by the Authority. The BOCES, not later than July 15 of each year, shall provide to the Authority and the Insurer certificate(s) of insurance describing all policies of insurance maintained as of June 30 by the BOCES pursuant to this Section stating with respect to each such policy (i) the insurer, (ii) the insured parties or loss payees, (iii) the level of coverage, and (iv) such other information as the Authority may have reasonably requested.

6. All policies of insurance shall be open to inspection by the Authority and the Trustee or their representatives at all reasonable times. If any change shall be made in any such insurance, a description and notice of such change shall be furnished to the Authority and the Trustee at the time of such change. The BOCES covenants and agrees not to make any change in any policy of insurance which would reduce the coverages or increase the deductible thereunder without first securing the prior written approval of the Authority.

7. All policies of insurance required pursuant to subdivision 2 of this Section, other than policies of workers' compensation insurance, shall include the Authority and the BOCES, and, to the extent that such proceeds are required to be paid to the Trustee hereunder or pursuant to the Resolution, the Trustee, as additional insureds or as loss payee as appropriate.

8. In the event the BOCES fails to provide the insurance required by subdivision 2 of this Section, the Authority may elect at any time thereafter to procure and maintain the insurance required by this Section at the expense of the BOCES. The policies procured and maintained by the Authority shall be open to inspection by the BOCES at all reasonable times, and, upon request of the BOCES, a complete list describing such policies as of the June 30 preceding the Authority's receipt of such request shall be furnished to the BOCES by the Authority.

**Section 5.06 Damage or Destruction.** The BOCES agrees to notify the Authority and the Trustee immediately in the case of damage to or destruction of the Leased Property or any portion thereof in an amount exceeding \$100,000 resulting from fire or other casualty. The Authority agrees that the net proceeds of any insurance relating to such damage or destruction, not exceeding \$100,000, may be paid directly to the BOCES.

In the event the Leased Property or any portion thereof is damaged or destroyed by fire or other casualty and the damage or destruction is estimated to exceed \$100,000, the net proceeds of any insurance shall be initially paid directly to the Authority for deposit and application as hereby provided. The BOCES shall within one hundred eighty (180) days after such damage or destruction determine whether or not to repair, reconstruct, restore or improve the Leased Property and give written notice of such determination to the Authority. If the BOCES elects to repair, reconstruct, restore or improve the Leased Property it shall proceed forthwith to repair, reconstruct, restore or improve the Leased Property to substantially the same condition as it existed prior to the event causing such damage or destruction. So long as the BOCES is not in



default under Section 8.0 1 (a) hereof, any net proceeds of insurance relating to such damage or destruction received by the Authority shall be deposited to the credit of the Construction Fund and applied to payment of the costs of such repairs, reconstruction, restoration or improvement in the same manner and upon the same conditions as set forth in the Resolution for the payment of the Costs of the Project from the Construction Fund.

It is further understood and agreed that in the event the BOCES shall elect to repair, reconstruct, restore or improve the Leased Property, the BOCES shall complete the repairs, reconstruction, restoration or improvement of the Leased Property.

In the event the BOCES elects not to repair, reconstruct, restore or improve the Leased Property, the net proceeds of any insurance shall be paid to the Authority, as a prepayment of the Rentals hereunder, for deposit to the Debt Service Fund and application to the redemption of Outstanding Bonds or for payment to the Trustee, to be held by the Trustee, in trust, pursuant to Section 12.01 of the Resolution for the payment of Outstanding Bonds in accordance with the written instructions of an Authorized Officer of the Authority.

**Section 5.07 Condemnation.** The Agreement and the interest of the BOCES shall terminate as to a Project or portion thereof on Leased Property and the Leased Property appertaining thereto condemned or taken by eminent domain when title thereto vests in the party condemning or taking the same (hereinafter referred to as the "termination date"). The BOCES hereby irrevocably assigns to the Authority all right, title and interest of the BOCES in and to any net proceeds of any award, compensation or damages (hereinafter referred to as an "award"), payable in connection with any such condemnation or taking during the Lease Term. Such net proceeds shall be initially paid to the Authority for deposit and application as hereinafter provided.

In the event of any such condemnation or taking the BOCES shall within ninety (90) days after the termination date therefor determine whether or not to repair, reconstruct, restore or improve such Project and give written notice of such determination to the Authority. If the BOCES elects to repair, reconstruct, restore or improve such Project, so long as the BOCES is not in default under Section 8.0 1(a) hereof, any such net proceeds received by the Authority shall be deposited to the credit of the Construction Fund and be applied to finance the costs of such repairs, reconstruction, restoration or improvements in the same manner and upon the same conditions set forth in the Resolution for the payment of the Costs of the Project from the Construction Fund.

In the event the BOCES elects not to repair, reconstruct, restore or improve such Project, the award shall be paid to the Authority, as a prepayment of the Rentals hereunder, for deposit to the Debt Service Fund and application to the redemption of Outstanding Bonds or for payment to the Trustee, to be held by the Trustee, in trust, pursuant to Section 12.01 of the Resolution for the payment of Outstanding Bonds in accordance with the written instructions of an Authorized Officer of the Authority.

The Authority shall cooperate fully with the BOCES in the handling and conduct of any prospective or pending condemnation proceedings with respect to a Project on Leased Property or any part thereof and will, to the extent it may lawfully do so, permit the BOCES to litigate in any such proceeding in the name and behalf of the Authority. In no event will the Authority

voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceedings with respect to a Project on Leased Property or any part thereof without the written consent of the BOCES.

**Section 5.08 Condition of Premises.** Immediately upon the availability of any part of a Project for use by the BOCES, the BOCES shall become thoroughly familiar with the physical condition of such part of the Project. The Authority makes no representations whatever in connection with the condition of the Project, and the Authority shall not be liable for any defects therein.

## **ARTICLE VI**

### **REPRESENTATIONS AND WARRANTIES**

The BOCES hereby represents and warrants as of the date of execution and delivery hereof as follows:

**Section 6.01 Legal Entity.** The BOCES is a body corporate created pursuant to Section 1950 of the State Education Law, duly created and validly existing under the Constitution and laws of the State.

**Section 6.02 Legal Authority.** The BOCES has the good right and lawful authority and power to execute and deliver this Agreement, to perform the obligations and covenants contained herein and to consummate the transactions contemplated hereby.

**Section 6.03 Due Authorization.** The BOCES has duly authorized by all necessary actions the execution and delivery hereof, the performance of its obligations and covenants hereunder, and the consummation of the transactions contemplated hereby. A referendum of the voters was conducted on November 14, 2019 in which the voters approved a proposition regarding the Project and the entering into of any and all agreements to effectuate the financing, all in accordance with the provisions of the State Education Law. The BOCES has complied with all requirements of law required of the BOCES in order to permit the Authority to provide the Project.

**Section 6.04 Validity and Enforceability.** This Agreement constitutes a legal, valid and binding obligation of the BOCES, enforceable against the BOCES in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors' rights generally or the availability of any particular remedy.

**Section 6.05 No Conflict.** This Agreement, the execution and delivery hereof and the consummation of the transactions contemplated hereby (i) do not and will not in any material respect conflict with, or constitute on the part of the BOCES a breach of or default under (a) any existing law, administrative regulation, judgment, order, decree or ruling by or to which it or its revenues, properties or operations are bound or subject or (b) any agreement or other instrument to which the BOCES is a party or by which it or any of its revenues, properties or operations are bound or subject which conflict, breach or default would adversely affect in any material respect the ability of the BOCES to perform its obligations hereunder or the validity or enforceability of

this Agreement and (ii) will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the BOCES's revenues, properties or operations which lien, charge or encumbrance could reasonably be expected to adversely affect in any material respect the ability of the BOCES to perform its obligations hereunder or the validity or enforceability of this Agreement.

**Section 6.06 Consents and Approvals.** All consents, approvals, authorizations or orders of, or filings, registrations or declarations with any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the BOCES of its obligations hereunder or the consummation of the transactions contemplated hereby have been duly obtained and are in full force and effect; provided, however, the BOCES makes no representation or warranty as to any consents, approvals, authorizations, orders, filings, registrations or declarations that may be required by any federal or state securities law.

**Section 6.07 No Defaults.** The BOCES is not in breach of or default under any agreement or other instrument to which the BOCES is a party or by or to which it or its revenues, properties or operations are bound or subject, or any existing administrative regulation, judgment, order, decree, ruling or other law by or to which it or its revenues, properties or operations are bound or subject, which breach or default could reasonably be expected to adversely affect in any material respect the ability of the BOCES to perform its obligations hereunder or the validity or enforceability of this Agreement; and no event has occurred and is continuing that with the passage of time or the giving of notice, or both, would constitute, under any such agreement or instrument, such a breach or default material to such transactions.

**Section 6.08 No Litigation.** Except as set forth in an official statement, prospectus, placement memorandum or other similar offering document prepared in connection with the issuance and sale of Bonds, no action, suit, proceeding or investigation, in equity or at law, before or by any court or governmental agency or body, is pending or, to the best knowledge of the BOCES, threatened wherein an adverse decision, ruling or finding would adversely affect in any material respect the transactions contemplated hereby or the validity or enforceability hereof.

## **ARTICLE VII**

### **SPECIAL COVENANTS**

The BOCES and the Authority each covenant with the other party hereto as follows:

**Section 7.01 BOCES's Right to Possession.** Except as otherwise provided herein, the BOCES shall be entitled to sole possession of the Project during the Lease Term subject to the terms of the BOCES Lease.

**Section 7.02 Quiet Enjoyment.** The BOCES, upon paying the Rentals and the other payments required hereunder and observing and performing all the terms, covenants, and conditions on the BOCES's part to be observed and performed, may peaceably and quietly have, hold and enjoy the Leased Property, subject to all the terms and provisions hereof.

**Section 7.03 Right of Inspection.** Upon prior reasonable notice, the BOCES will permit the Authority and the authorized agents and representatives of the Authority to enter the Leased Property at all times during usual business hours for the purpose of inspecting the same.

**Section 7.04 Assignment by BOCES.** The BOCES will not sell, sublease or otherwise dispose of or encumber its interest in a Project except as provided in Section 7.07 hereof. This Agreement may not be assigned in whole or in part by the BOCES.

**Section 7.05 Use of Project.** The BOCES agrees that the Project shall be occupied or used only by or for students, members of the faculty, staff and personnel, officers and employees of the BOCES, and the district superintendent of schools, in each case in connection with their respective duties, functions and responsibilities relating to the operation of the Project, or, on a temporary basis, by or for individuals connected with educational activities; provided, however, that any occupancy or use of the Project which is from time to time Authorized or permitted by the provisions of the Education Law of the State relating to boards of cooperative educational services shall be deemed to be authorized or permitted by this Section.

**Section 7.06 Restrictions on Religious Use.** The BOCES agrees that with respect to any Project or portion thereof, so long as such Project or portion thereof exists and unless and until such Project or portion thereof is sold for the fair market value thereof, such Project or any portion thereof shall not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination; provided, however, that the foregoing restriction shall not prohibit the free exercise of any religion and shall not restrict or inhibit compliance with the Equal Access Act, 20 U.S.C. Sections 4071-4074; and, further provided, however, that if at any time hereafter, in the opinion of Bond Counsel, the then applicable statutory and/or case law would permit the Project or a portion thereof to be used without regard to the above stated restriction, said restriction shall not apply to such Project and each portion thereof. The Authority and its agents may conduct such inspections as the Authority deems necessary to determine whether the Project or any portion of real property thereof financed by Bonds is being used for any purposed proscribed hereby. The BOCES hereby further agrees that prior to any disposition of any portion of the Project for less than fair market value, it shall execute and record in the appropriate real property records an instrument subjecting, to the satisfaction of the Authority, the use of such portion of such Project to the restriction that (i) so long as such portion of such Project (and, if included in such Project, the real property on or in which such portion of such Project is situated) shall exist and (ii) until such portion of such Project is sold or otherwise transferred to a person who purchases the same for the fair market value thereof at the time of such sale or transfer, such portion of such Project shall not be used for sectarian religious instruction or as a place of religious worship or used in connection with any part of the program of a school or department of divinity of any religious denomination. The instrument containing such restriction shall further provide that such restriction may be enforced at the instance of the Authority or the Attorney General of the State, by a proceeding in any court of competent jurisdiction, by injunction, mandamus or by other appropriate remedy. The instrument containing such restriction shall also provide that if at any time thereafter, in the opinion of Bond Counsel, the then applicable statutory and/or case law would permit such portion of such Project, or, if included in such Project, the real property on or in which such portion is situated, to be used without regard to the above stated restriction, then said restriction shall be without any force or effect. For the

purposes of this Section an involuntary transfer or disposition of the Project or a portion thereof, upon foreclosure or otherwise, shall be considered a sale for the fair market value thereof.

**Section 7.07 Sale; Subletting.** No Leased Property shall be sold by the BOCES, or any other person or entity succeeding to any of their respective interests, without the prior written consent of the Authority, accompanied by an opinion of Bond Counsel to the effect that such sale would not adversely affect the exclusion of the interest on any of the Bonds from gross income for federal income tax purposes.

No Leased Property shall be sublet by the BOCES, or any other person or entity succeeding to any of their respective interests without the prior written consent of the Authority, accompanied by an opinion of Bond Counsel to the effect that such sublease would not adversely affect the exclusion of the interest on any of the Bonds from gross income for federal income tax purposes.

The sale or subletting of Leased Property shall not reduce the Rentals payable hereunder and shall not otherwise affect the obligations of the BOCES hereunder.

**Section 7.08 Cooperation by the BOCES.** The BOCES, whenever requested by the Authority, shall provide and certify, or cause to be provided and certified, in form satisfactory to the Authority, such information concerning the BOCES, the operations and finances of the BOCES and such other matters that the Authority reasonably considers necessary to enable it to amend or supplement an official statement or other disclosure document prepared in connection with the sale of Bonds, or to enable the Authority to make any reports which, in the opinion of counsel acceptable to the BOCES, is required by law or regulations of any governmental authority.

**Section 7.09 Covenant not to Affect the Tax Exempt Status of the Bonds.** The BOCES, so long as it leases a Project and Leased Property hereunder, (i) will take no action, or permit any action to be taken, or omit to take any action, with respect to the Project or any Project which will adversely affect the exclusion of interest on any Bonds from gross income for purposes of federal income taxation; (ii) will not invest or otherwise use "gross proceeds" of the Bonds in a manner which would cause any Bond (other than a Bond designated as federally taxable) to be an "arbitrage bond" within the meaning of Section 148 of the Code, and any proposed or final regulations thereunder as are applicable to any Bond; and (iii) will not, nor will any "related person," as defined in Section 147(a)(2) of the Code, pursuant to an arrangement, formal or informal, purchase Bonds (other than Bonds designated as federally taxable) in an amount related to the amount of any obligation to be acquired by the Authority from the BOCES.

**Section 7.10 Environmental Quality Review and Historic Preservation.** The BOCES covenants that it shall comply or cause there to be complied with the provisions of all Environmental Laws, including, but not limited to, the provisions of Article 8 of the Environmental Conservation Law and any rules and regulations promulgated pursuant thereto and with the provisions of the Historic Preservation Act of 1980 of the State applicable to the Project, the alteration or expansion of the Project or additions thereto. The BOCES will cooperate with and provide assistance to the Authority in the performance of its duties as lead

agency, including the preparation and provision of such documents as may be reasonably requested of the BOCES as are necessary to enable the Authority to comply with such laws.

**Section 7.11 Budget.** The BOCES shall include all amounts payable hereunder in its annual budget as "administrative expenses." The BOCES hereby agrees to prepare annually a budget and to take all available action to require that the component school districts which comprise the BOCES shall annually include in the budget of such school district such school district's allocable share of the BOCES's administrative expenses and other costs to be paid by such school district to such BOCES and to obtain the payment of such amounts to the BOCES. Such budget of the BOCES and the budget of each component school district shall each be prepared in accordance with, and shall include at least the items mentioned in, Sections 1950 and 1951 of the Education Law of the State. The BOCES hereby agrees, at the request of the Authority to promptly file with the Authority and the Trustee a copy of the annual budget of the BOCES. The BOCES further agrees to file with the Comptroller of the State of New York, within sixty (60) days after the close of the fiscal year of the BOCES, the report of its financial condition required by Section 30 of the General Municipal Law.

**Section 7.12 Limitation of Authority Rights.** The Authority shall not, without the prior written consent of the BOCES, (i) call any Bond for redemption prior to maturity, other than through the application of mandatory Sinking Fund Installments, (ii) purchase any Bond, other than pursuant to Section 5.07(4) of the Resolution, (iii) change the dates on which an Option Bond is to be tendered for purchase or the period during which a Variable Interest Rate bond shall bear interest at a particular rate or (iv) convert a Variable Interest Rate Bond to bear interest at a fixed rate to its maturity.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

**Section 8.01 Events of Default.** An "event of default" or a "default" shall mean, whenever they are used herein, any one or more of the following events:

(a) Failure by the BOCES to pay or cause to be paid when due the Rentals to be paid hereunder which failure continues for a period of seven (7) days after payment thereof was due;

(b) Failure by the BOCES to pay or to cause to be paid when due any other payment required to be made hereunder which failure continues for a period of thirty (30) days after payment thereof was due, provided that written notice thereof shall have been given to the BOCES not less than thirty (30) days prior to the due date thereof;

(c) Failure by the BOCES to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subparagraphs (a) and (b) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the BOCES by the Authority or such longer period, as is required to cure such default, if by reason of the nature of such failure the same cannot be remedied within such thirty (30) day period and the BOCES has within such thirty (30) day period commenced to take appropriate actions to remedy such failure and is diligently pursuing such actions;

(d) Any representation or warranty of the BOCES contained herein shall have been at the time it was made untrue in any material respect; or

(e) The BOCES shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the BOCES seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it for any substantial part of its property; or the BOCES shall authorize any of the actions set forth above in this subparagraph (e).

**Section 8.02 Remedies.** Whenever any event of default referred to in Section 8.01 hereof shall have happened and be continuing, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the BOCES hereunder.

**Section 8.03 No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Authority or Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other

remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**Section 8.04 Waiver and Non-Waiver.** In the event any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No delay or omission by the Authority to exercise any right or power accruing upon default shall impair any right or power or shall be construed to be a waiver of any such default or acquiescence therein. In particular, failure of the Authority to provide the notices specified herein at the time specified shall not preclude the Authority from subsequently filing such notices.

## **ARTICLE IX**

### **MISCELLANEOUS**

**Section 9.01 Surrender of Possession.** At the termination of the term of any leasehold in a Leased Property, the BOCES agrees to surrender possession of such Leased Property and Project peacefully and promptly to the Authority in the condition in which the Leased Property is at such time, "AS IS", "WHERE IS" (including, without limitation, the results of any wear and tear or damages caused by condemnation, or by fire or other casualty).

**Section 9.02 Successors and Assigns.** This Agreement shall inure to the benefit of and shall be binding upon the BOCES, the Authority and their respective successors and assigns, subject, however, to the provisions of Sections 7.05, 7.07 and 7.10 hereof.

**Section 9.03 Severability.** In the event any one or more of the covenants, stipulations, promises, obligations and agreements herein on the part of the Authority or the BOCES to be performed should be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, obligation or obligations, or agreement or agreements shall be null and void, shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, obligations and agreements herein contained and shall in no way affect the validity or enforceability of the other provisions hereof.

**Section 9.04 Amendments, Changes and Modifications.** This Agreement may be amended, changed or modified in any respect provided that each amendment, change or modification is in writing signed by an Authorized Officer of the Authority and of the BOCES; provided, however, that no amendment, change or modification shall take effect unless and until (i) if the consent of Holders of Outstanding Bonds is required by Section 7.10 of the Resolution, there shall have been filed with the Trustee the written consents of the Holders of the percentages of Outstanding Bonds specified in Section 7.10 of the Resolution, (ii) if the consent of the Trustee is required by Section 7.10 of the Resolution, the Trustee shall have consented



thereto and (iii) an executed copy of such amendment, change or modification, certified by an Authorized Officer of the Authority, shall have been filed with the Trustee.

**Section 9.05 Amounts Remaining under Resolution.** It is agreed by the parties hereto that any amounts remaining in any fund or account created under the Resolution, upon termination of the Lease Term, as provided herein, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Resolution) and the fees, charges and expenses of the Trustee and paying agents and the Authority in accordance herewith and with the Resolution, shall belong to and be paid to the BOCES.

**Section 9.06 Compliance with Resolution.** The BOCES hereby approves of and agrees to the provisions of the Resolution. Upon request of the Authority, the BOCES agrees to do all reasonable things within its power in order to enable the Authority to comply with all requirements and to fulfill all covenants of the Resolution which require the BOCES to comply with requests or obligations so that the Authority will not be in default in the performance of any covenant, condition, agreement or provision of the Resolution.

**Section 9.07 Investment of Moneys.** The BOCES hereby acknowledges that the Authority may in its sole discretion invest or direct the investment of certain moneys held under the Resolution as provided therein and that no representation or warranty has been made by the Authority with respect to interest rates on, or the amount to be earned as a result of, any such investment. Neither the Authority nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of Article VI of the Resolution in the manner provided therein, for any depreciation in value of any investment or for any loss, direct or indirect, resulting from any such investment.

**Section 9.08 Disclaimer of Personal Liability.** No recourse shall be had against or liability incurred by any member of the Authority or any officer or employee of the Authority or of the BOCES, or any person executing this Agreement for any covenants and provisions hereof or for any claims based thereon.

**Section 9.09 Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 9.10 Headings.** The headings preceding the text of the several Articles and Sections hereof and the exhibits appended hereto and any table of contents appended hereto or to copies hereof shall be solely for convenience of reference and shall not constitute a part hereof nor shall they affect its meaning, construction or effect.

**Section 9.11 Notices.** Any notices or other instruments required to be given or delivered pursuant hereto shall be in writing and shall be delivered by hand against the written receipt therefor or sent by registered or certified mail, in the case of the Authority, addressed to it to the attention of the Authority's Executive Director with a copy to the Authority's General Counsel, at 515 Broadway, Albany, New York 12207; in the case of the BOCES, addressed to it to the

attention of the Superintendent, St. Lawrence-Lewis BOCES, [40 W. Main Street, P.O. Box 231, Canton, New York 13617], with a copy to Douglas Goodfriend, Esq., Orrick, Herrington & Sutcliffe LLP, 51 West 52" Street, New York, New York 10019; in the case of the Trustee, addressed to it at the principal corporate trust office of the Trustee at the addresses of such principal corporate trust office; or, in each case, to such other individual and at such other address as the person to be notified shall have specified by notice to the other persons.

**Section 9.12 Governing Laws.** This Agreement shall be governed and construed in accordance with the laws of the State of New York.

**Section 9.13 Intent of the Parties.** It is the intent of the Authority and the BOCES that in accordance with the Act this Agreement is entered into for the purpose of facilitating the financing or refinancing of the acquisition or construction, as applicable, of the Project financed or refinanced with the Series 2020B Bond proceeds and the payment of such Series 2020B Bonds. Further, it is also the intent of the Authority and the BOCES to execute this Agreement prior to the issuance of such Series 2020B Bonds in order for the parties to avail themselves of the protections afforded by subdivision 12 of Section 1689 of the Public Authorities Law.

IN WITNESS WHEREOF, the Authority and the BOCES have caused this instrument to be executed by their duly authorized officers, all as of the day and year first above written.

DORMITORY AUTHORITY OF THE STATE  
OF NEW YORK

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

Authorized Officer

BOARD OF COOPERATIVE EDUCATIONAL  
SERVICES FOR THE SOLE SUPERVISORY  
DISTRICT OF ST. LAWRENCE-LEWIS  
COUNTIES

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

Authorized Officer

STATE OF NEW YORK                    )  
  :SS,  
COUNTY OF \_\_\_\_\_              )

On the \_\_ day of \_\_\_\_\_in the year 20\_\_ before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that she/he/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf, of which the individual(s) acted, executed the instrument.

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Notary Public

STATE OF NEW YORK                    )  
  :ss,  
COUNTY OF \_\_\_\_\_              )

On the \_\_ day of \_\_\_\_\_in the year 20\_\_ before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that she/he/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf, of which the individual(s) acted, executed the instrument.

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Notary Public

## **EXHIBIT A**

### Description of Leased Property

## **EXHIBIT B**

### **Opinion of Counsel to the BOCES**

The opinion of the chief legal officer of the BOCES or other counsel for the BOCES shall be to the effect that

(i) the BOCES is a corporation of the State of New York, duly organized and existing under Section 1950(6) of the State Education Law;

(ii) the BOCES has the right, lawful authority and power to execute, make and deliver the Agreement and all of the other documents relating to the authorization, sale and issuance of the Bonds to which it is a party or to which by the signature of its Authorized Officer it has approved (collectively, the "BOCES Documents"), and to perform its obligations and covenants in such BOCES Documents;

(iii) the BOCES has duly authorized by all necessary actions the execution and delivery of the BOCES Documents and the performance of its obligations and covenants thereunder;

(iv) the BOCES Documents are legal, valid and binding obligations of the BOCES enforceable against the BOCES in accordance with their terms, except to the extent that the enforceability may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors' rights generally, by equitable principles generally or by the availability of any particular remedy;

(v) the execution and delivery of the BOCES Documents and the performance of its obligations thereunder, to the best knowledge of such counsel, do not and will not conflict with, or constitute on the part of the BOCES a breach of or default under any existing law, administrative regulation, judgment, order, decree, ruling, mortgage, agreement indenture or instrument by or to which it or its revenues, properties or operations are bound or subject which conflict, breach or default would have a material adverse affect on the BOCES's ability to perform its obligations under the BOCES Documents;

(vi) all consents, approvals, authorizations or orders of, or filings, registrations or declarations with any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the BOCES of its obligations under the BOCES Documents have been duly obtained and are in full force and effect;

(vii) except as disclosed in the Official Statement, to the knowledge of counsel no action, suit, proceeding or investigation, in equity or at law, before or by any court or governmental agency or body, is pending or, to the best knowledge of such counsel, threatened wherein an adverse decision, ruling or finding might materially adversely affect the transactions contemplated by the BOCES Documents;

(viii) the BOCES has duly authorized inclusion in the Official Statement of the information provided by the BOCES and contained therein and the information contained therein related to the BOCES, the Project, the refunding plan and the sources and uses of funds and, after reasonable investigation, no facts have come to such counsel's attention which would lead such counsel to believe that as of the date of the Official Statement and the date of its distribution, such information (with the exception of financial and statistical information included therein, as to which no opinion need be expressed, is or was not true and correct in all material respects or contains or contained any untrue statement of a material fact or omits or omitted to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading;

(ix) to the knowledge of counsel, based solely on our review of the title insurance policy of the BOCES, the BOCES has good and insurable title to the Leased Property; and

(x) the Lease Agreement creates in favor of the Authority a security interest in the rights of the BOCES in the Series 2020B Pledged Revenues as security for the BOCES's obligations under the Lease Agreement and such security interest will be perfected upon proper filing of the UCC financing statements to the extent perfection may be accomplished by filing a UCC financing statement.



NEW ISSUE



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**DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
MASTER BOCES PROGRAM LEASE REVENUE BONDS  
(ST. LAWRENCE-LEWIS ISSUE), SERIES 2020**

**Dated: Date of Delivery****Due: As shown on the inside cover**

**Payment and Security:** The Series 2020 Bonds (as defined herein) will be special obligations of the Dormitory Authority of the State of New York ("DASNY") payable solely from and secured by a pledge of certain payments to be made by the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence and Lewis Counties ("SLL BOCES") pursuant to a Lease and Agreement, dated as of January 8, 2020 (the "Agreement") between DASNY and SLL BOCES and all funds and accounts (except the Arbitrage Rebate Fund) authorized under DASNY's Master BOCES Program Lease Revenue Bond Resolution, adopted August 15, 2001, as amended and supplemented (the "Master Resolution"), and established by DASNY's Series Resolution authorizing up to \$\_\_\_\_\_ Master BOCES Program Lease Revenue Bonds (St. Lawrence and Lewis Issue), Series 2020, adopted \_\_\_\_\_, 2020 (the "Series 2020 Resolution" and, together with the Master Resolution, the "Resolutions").

The Agreement, which is a general obligation of SLL BOCES, requires SLL BOCES to pay, or cause to be paid, amounts sufficient to pay the principal and Redemption Price of and interest on the Series 2020 Bonds as such payments become due (the "Basic Rent"), as well as additional rental fees and expenses of DASNY and the Trustee (collectively with the Basic Rent, the "Rentals"). Payment of SLL BOCES' obligations under the Agreement shall be made pursuant to the provisions of the Act (as hereinafter defined) which provides that the Comptroller of the State of New York shall deduct from any State funds payable to SLL BOCES an amount equal to the amount payable by SLL BOCES to DASNY under the Agreement for the ensuing school year. To secure its payment of all of the Rentals due under the Agreement, including the Basic Rent, SLL BOCES will assign and pledge to DASNY a portion of any and all public funds apportioned by the State of New York (the "State") to SLL BOCES sufficient to pay such amounts (the "Pledged Revenues"). The Series 2020 Bonds will be secured by the pledge and assignment to the Trustee of the Basic Rent payments to be paid by SLL BOCES to DASNY under the Agreement and DASNY's interest in the Pledged Revenues. The apportionment of State aid is based on a statutory formula. Both the determination of the amount of State aid and the apportionment of such State aid are legislative acts and the State Legislature may amend or repeal the statutes relating to State aid and the formulas which determine the amount of State aid payable to SLL BOCES. Such amendments could result in the increase, decrease or elimination of the amount of State aid available for the payment of debt service on the Series 2020 Bonds. The financial condition of the State may affect the amount of State aid appropriated by the State Legislature. See "PART 2 – SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS."

SLL BOCES does not levy or collect taxes. The component school districts of SLL BOCES, however, are required to levy taxes to pay their allocable share of SLL BOCES' administrative expenses, including the payment of each component school district's proportionate share of the amount due from SLL BOCES to DASNY under the Agreement. See "PART 4 – BOARDS OF COOPERATIVE EDUCATIONAL SERVICES" and "PART 5 – SLL BOCES."

**The Series 2020 Bonds will not be a debt of the State of New York nor will the State be liable thereon. DASNY has no taxing power.**

**Description:** The Series 2020 Bonds will be issued as fully registered bonds in denominations of \$5,000 or any integral multiple thereof. Interest (due February 15, 2021, August 15, 2021 and each February 15<sup>th</sup> and August 15<sup>th</sup> thereafter) on the Series 2020 Bonds will be payable by check mailed to the registered owners thereof and principal will be payable at the corporate trust office of The Bank of New York Mellon, New York, New York, Trustee and Paying Agent. The Series 2020 Bonds will be issued initially under a Book-Entry Only System, registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"). Individual purchases of beneficial interests in the Series 2020 Bonds will be made in Book-Entry form (without certificates). So long as DTC or its nominee is the registered owner of the Series 2020 Bonds, payments of the principal and Redemption Price of and interest on the Series 2020 Bonds will be made directly to DTC or its nominee. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners is the responsibility of DTC participants. See "PART 3 – THE SERIES 2020 BONDS – Book-Entry Only System" herein.

**Redemption:** The Series 2020 Bonds are subject to redemption prior to maturity as more fully described herein.

**Tax Matters:** In the opinion of Bryant Rabbino LLP, Bond Counsel to DASNY, under existing law and assuming continuing compliance by DASNY and SLL BOCES with certain tax covenants described herein, and the accuracy and completeness of certain representations and certifications made by DASNY and SLL BOCES described herein, (i) interest on the Series 2020 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and (ii) interest on the Series 2020 Bonds is not an item of tax preference for purposes of calculating the federal alternative minimum tax under the Code. In addition, Bond Counsel is of the opinion that under the existing law interest on the Series 2020 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof, including The City of New York. See "PART 11 – TAX MATTERS" herein regarding certain other tax considerations.

*The Series 2020 Bonds are offered when, as and if issued and received by the Underwriter. The offer of the Series 2020 Bonds may be subject to prior sale or may be withdrawn or modified at any time without notice. The offer is subject to the approval of legality by DASNY'S Bond Counsel, Bryant Rabbino LLP, New York, New York, and to certain other conditions. Certain legal matters will be passed upon for the Underwriter by its counsel, Trespasz & Marquardt, LLP, Syracuse, New York and for SLL BOCES by its counsel, Orrick, Herrington & Sutcliffe LLP, New York, New York. DASNY expects to deliver the Series 2020 Bonds in definitive form in New York, New York, on or about April \_\_, 2020.*

**Roosevelt & Cross Incorporated**

April \_\_, 2020

\*Preliminary, subject to change

This Preliminary Official Statement and the information contained herein are subject to change, completion or amendment without notice. DASNY will make available its final Official Statement with respect to the Series 2020 Bonds. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2020 Bonds in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

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**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**MASTER BOCES PROGRAM LEASE REVENUE BONDS**  
**(ST. LAWRENCE AND LEWIS ISSUE), SERIES 2020**

<u>Due</u> <u>August 15,</u>	<u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP<sup>(1)</sup></u>	<u>Due</u> <u>August 15,</u>	<u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP<sup>(1)</sup></u>
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\$[\_\_\_\_\_] [\_\_\_\_]% Term Bond Due August 15, [\_\_\_\_] Yield [\_\_\_\_]% CUSIP Number [\_\_\_\_\_] <sup>(1)</sup>

\*Preliminary, subject to change

- (1) Copyright 2009 American Bankers Association. CUSIP numbers have been assigned by an organization not affiliated with DASNY and are included solely for the convenience of the holders of the Series 2020 Bonds. Neither DASNY nor the Underwriter is responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Series 2020 Bonds or as indicated above. The CUSIP number for a specific maturity is subject to change after the issuance of the Series 2020 Bonds as a result of various subsequent actions including but not limited to, a refunding in whole or part of such maturity or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Series 2020 Bonds.

No dealer, broker, salesperson or other person has been authorized by DASNY, SLL BOCES or the Underwriter to give any information or to make any representations with respect to the Series 2020 Bonds, other than the information and representations contained in this Official Statement. If given or made, such information or representations must not be relied upon as having been authorized by DASNY, SLL BOCES or the Underwriter.

This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be a sale of the Series 2020 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale.

The information set forth herein relating to DASNY under the heading “DASNY” has been obtained from DASNY. All other information herein has been obtained by the Underwriter or from SLL BOCES and other sources deemed to be reliable by the Underwriter and is not to be construed as a representation by DASNY or the Underwriter. In addition, DASNY does not warrant the accuracy of the statements contained herein relating to the SLL BOCES nor does it directly or indirectly guarantee, endorse or warrant (1) the creditworthiness or credit standing of SLL BOCES, (2) the sufficiency of the security for the Bonds or (3) the value or investment quality of the Bonds.

Certain information in this Official Statement has been supplied by SLL BOCES and other sources that DASNY believes are reliable. Neither DASNY nor the Underwriter guarantees the accuracy or completeness of such information and such information is not to be construed as a representation of DASNY or of the Underwriter.

SLL BOCES has reviewed the parts of this Official Statement describing its BOCES, Estimated Sources and Uses of Funds, Continuing Disclosure and “PART 5 – SLL BOCES.” SLL BOCES shall certify as of the dates of sale and delivery of the Series 2020 Bonds that such parts do not contain any untrue statements of a material fact and do not omit any material facts necessary to make the statements made therein, in the light of the circumstances under which the statements are made, not misleading. SLL BOCES makes no representation as to the accuracy or completeness of any other information included in this Official Statement.

The New York State Department of Education (the “Department”) has reviewed the parts of this Official Statement relating to SLL BOCES generally and the Department’s participation in the transaction contemplated herein. The Department shall certify as of the date of delivery of the Series 2020 Bonds that such parts do not contain any untrue statements of a material fact and do not omit any material facts necessary to make the statements made therein, in the light of the circumstances under which the statements are made, not misleading. The Department makes no representation as to the accuracy or completeness of any other information included in this Official Statement.

References in this Official Statement to the Act, the Resolutions, the Agreement and the Agreement of Lease (as defined herein) do not purport to be complete. Refer to the Act, the Resolutions, the Agreement and the Agreement of Lease for full and complete details of their provisions. Copies of the Resolutions, the Agreement and the Agreement of Lease are on file with DASNY and the Trustee.

The order and placement of material in this Official Statement, including its appendices, are not to be deemed a determination of relevance, materiality or importance and all material in this Official Statement, including its appendices, must be considered in its entirety.

Under no circumstances shall the delivery of this Official Statement, or any sale made after its delivery, create any implication that the affairs of DASNY or SLL BOCES have remained unchanged after the date of this Official Statement.

IN CONNECTION WITH THE OFFERING OF THE SERIES 2020 BONDS, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICES OF THE SERIES 2020 BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

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**DORMITORY AUTHORITY – STATE OF NEW YORK**  
**REUBEN R. McDANIEL, III – ACTING PRESIDENT**

**515 BROADWAY ALBANY, N.Y. 12207**  
**ALFONSO L. CARNEY, JR., ESQ. – CHAIR**

**OFFICIAL STATEMENT RELATING TO**  
**\$ \_\_\_\_\_ \***  
**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**MASTER BOCES PROGRAM LEASE REVENUE BONDS**  
**(ST. LAWRENCE AND LEWIS ISSUE), SERIES 2020**

**PART 1 – INTRODUCTION**

**Purpose of the Official Statement**

The purpose of this Official Statement, including the cover and the inside cover page and appendices, is to provide information about the Dormitory Authority of the State of New York (“DASNY”) and the Board of Cooperative Services for the Sole Supervisory District of St. Lawrence and Lewis Counties (the “SLL BOCES”) in connection with the offering by DASNY of \$\_\_\_\_\_ aggregate principal amount of the Master BOCES Program Lease Revenue Bonds (St. Lawrence and Lewis Issue), Series 2020 (the “Series 2020 Bonds”).

The following is a description of certain information concerning the SLL BOCES, the Series 2020 Bonds, DASNY and the Project (as hereafter described). A more complete description of such information and additional information that may affect decisions to invest in the Series 2020 Bonds is contained throughout this Official Statement, which should be read in its entirety. Certain terms used in this Official Statement are defined in Appendix A hereto.

**Purpose of the Issue**

The Series 2020 Bonds are being issued and proceeds thereof will be used together with other available moneys to (i) pay Costs of the Project; (ii) make a deposit to the Debt Service Reserve Fund; and (iii) pay a portion of the Costs of Issuance of the Series 2020 Bonds. See “PART 6 – THE PROJECT” and “PART 7 – ESTIMATED SOURCES AND USES OF FUNDS.”

**Authorization of Issuance**

The Act empowers DASNY, among other things, to issue its bonds for the purpose of financing or refinancing the acquisition, construction or improvement of “board of cooperative educational services school facilities.” The Act further authorizes any board of cooperative educational services in the State (a “BOCES”), when authorized by its voters, to convey a leasehold interest in property owned by such BOCES to DASNY and to lease the property back from DASNY for purposes of financing such BOCES’ school facilities. Consistent with the Act, SLL BOCES will lease certain property on which the Project is to be located to DASNY pursuant to an Agreement of Lease dated as of January 8, 2020 (an “Agreement of Lease” or the “BOCES Leases”), and DASNY will sublease the Project back to SLL BOCES pursuant to a Lease and Agreement dated as of \_\_\_\_\_, 2020 (the “Agreement”).

The Series 2020 Bonds will be issued pursuant to the Act, the Master Resolution and the Series 2020 Resolution. The Master Resolution and the Series 2020 Resolution are herein collectively referred to as the “Resolutions.”

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\* Preliminary, subject to change

The Master Resolution authorizes the issuance of multiple Series of Bonds for BOCES throughout the State. Each Series of Bonds is to be separately secured by (i) the funds and accounts, including a debt service reserve fund, but excluding the Arbitrage Rebate Fund, established pursuant to a Series Resolution, (ii) certain payments to be made under an agreement to be executed by and between DASNY and a BOCES for whose benefit the Series of Bonds is to be issued and (iii) the pledge and assignment by such BOCES in its agreement of a portion of State aid payable to such BOCES sufficient to pay the amounts due under such agreement. Neither the funds and accounts established under any Series Resolution nor any agreement nor the pledge and assignment of State aid for one Series of Bonds shall secure any other Series of Bonds, except that an additional Series of Bonds issued to finance a project for a BOCES for which Bonds have already been issued may be secured on a subordinate basis to the Outstanding Series of Bonds for such BOCES.

In 2007 DASNY issued \$10,500,000 of its Master BOCES Lease Revenue Bonds (St. Lawrence-Lewis Issue), Series 2007 (the “Series 2007 Bonds”). The Series 2007 Bonds were issued to (i) pay costs of a capital reconstruction project and (ii) pay all or a portion of the costs of issuance of the Series 2007 Bonds, including the payment of the premium for the reserve fund facility and payment of the premium for the municipal bond insurance policy. The project consisted of repairs, renovations and alterations to the BOCES’ Southwest Tech, Seaway Tech and Northwest Tech campuses. In 2015, DASNY issued its Master BOCES Lease Revenue Refunding Bonds (St. Lawrence-Lewis Issue), Series 2015 (the “Series 2015 Bonds”) to advance refund the Series 2007 Bonds. All of the outstanding Series 2007 Bonds were redeemed on \_\_\_\_ \_\_, 20\_\_.

In 2011 DASNY issued \$6,800,000 of its Master BOCES Lease Revenue Bonds (St. Lawrence-Lewis Issue), Series 2011 (the “Series 2011 Bonds”). The Series 2011 Bonds were issued to finance the acquisition of an approximately 69,966 square foot office building located on a 5.56 acre parcel of land at 40 West Main Street, Canton, New York for use as a primary administrative office building for the St. Lawrence-Lewis BOCES.

## **DASNY**

DASNY is a public benefit corporation of the State, created for the purpose of financing and constructing a variety of public-purpose facilities for certain educational, governmental and not-for-profit institutions. See “PART 8 – DASNY.”

## **SLL BOCES**

The SLL BOCES was established in the early 1950s and provides shared services to 18 school districts in St. Lawrence and Lewis Counties, New York that together have approximately 15,133 students. The SLL BOCES shared services are intended to enhance local district educational programs and to provide educational programs to component school districts which individual school districts could not themselves provide efficiently or economically. Thus, BOCES programs generally offer advantages to school districts of specialization and economy of scale. SLL BOCES is one of 37 BOCES in New York State. The financial statements of SLL BOCES for the fiscal year ended June 30, 2019 are set forth in Appendix B hereto. See “PART 5 – SLL BOCES.”

## **The Series 2020 Bonds**

The Series 2020 Bonds will be dated and bear interest from their delivery date, payable each February 15 and August 15, commencing February 15, 2021. The Series 2020 Bonds will bear interest at the rates and mature at the times set forth on the inside cover page of this Official Statement. See “PART 3 – THE SERIES 2020 BONDS – Description of the Series 2020 Bonds.”

## **Payment of the Series 2020 Bonds**

The Series 2020 Bonds are special obligations of DASNY payable solely from the Basic Rent payments to be made by SLL BOCES under the Agreement. Pursuant to the Master Resolution, such payments and DASNY’s right to receive the same have been pledged to the Trustee.

The Act provides that the Comptroller of the State of New York is to deduct from any State funds payable to SLL BOCES an amount equal to the amount payable by SLL BOCES to DASNY under the Agreement for the ensuing school year. Such amount will be paid directly to the Trustee. The apportionment of State aid is based on a statutory

formula. Both the determination of the amount of State aid and the apportionment of such State aid are legislative acts and the State Legislature may amend or repeal the statutes relating to State aid and the formulas which determine the amount of State aid payable to SLL BOCES. Such amendments could result in the increase, decrease or elimination of the amount of State aid available for the payment of debt service on the Series 2020 Bonds. The financial condition of the State may affect the amount of State aid appropriated by the State Legislature. See "PART 2 – SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS."

SLL BOCES has no power to levy and collect taxes. The component school districts of SLL BOCES, however, are required to levy real property taxes to pay their allocable share of expenses related to the Project. The Act provides that the amount due from SLL BOCES to DASNY under the Agreement constitutes either an "administrative expense" or a "capital expense", as determined by the Commissioner of the State Education Department. See "PART 4 – BOARDS OF COOPERATIVE EDUCATIONAL SERVICES."

### **Security for the Series 2020 Bonds**

The Series 2020 Bonds will be separately secured by the pledge and assignment to the Trustee of Basic Rent payable under the Agreement, the proceeds from the sale of the Series 2020 Bonds (until disbursed as provided by the Master Resolution) and all funds and accounts authorized by the Master Resolution and established by the Series 2020 Resolution (with the exception of the Arbitrage Rebate Fund), which include a separate Debt Service Reserve Fund for the Series 2020 Bonds. The Agreement requires SLL BOCES to pay Basic Rent to DASNY as well as additional rental fees and expenses of DASNY and the Trustee (together with Basic Rent, the "Rentals"). To secure the payment of the Rentals, SLL BOCES will assign and pledge to DASNY a portion of any and all public funds apportioned by the State to SLL BOCES in an amount sufficient to pay such Rentals. The funds and accounts established by a Series Resolution secure only the Bonds of such Series and do not secure any other Series of Bonds issued under the Master Resolution. The Series 2020 Bonds are the fourth series of bonds issued for SLL BOCES under the Master Resolution. The Series 2020 Bonds will be paid on a subordinate basis to the Series 2011 Bonds and the Series 2015 Bonds, which were the second and third series, respectively, of Bonds issued under the Master Resolution. The first series of bonds issued under the Master Resolution for the SLL BOCES was redeemed in full on \_\_\_\_\_, 20\_\_.

### **The Project**

The Project consists of the construction of additions to and the renovation of the BOCES' technical centers. See "PART 6 – THE PROJECT."

## **PART 2 – SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS**

*Set forth below is a narrative description of certain contractual and statutory provisions relating to the sources of payment and security for the Bonds, including the Series 2020 Bonds, issued under the Master Resolution. These provisions have been summarized and this description does not purport to be complete. Reference should be made to the Act, the Resolutions, the Agreement and the Agreement of Lease for a more complete description of such provisions. Copies of the Resolutions, the Agreement and the Agreement of Lease are on file with DASNY and the Trustee. See also "Appendix C – Summary of Certain Provisions of the Lease and Agreement" and "Appendix D – Summary of Certain Provisions of the Master Resolution" for a more complete statement of the rights, duties and obligations of the parties thereto.*

### **Payment of the Series 2020 Bonds**

The Series 2020 Bonds are special obligations of DASNY. The principal and Redemption Price of and interest on Series 2020 Bonds are payable solely from the Revenues. The Revenues applicable to the Series 2020 Bonds consist of the Basic Rent required to be paid by SLL BOCES under the Agreement on account of the principal of and Redemption Price of and interest on the Series 2020 Bonds and to maintain the Debt Service Reserve Fund at the Debt Service Reserve Fund Requirement as well as the Pledged Revenues and DASNY's right to receive same. See "Appendix A – Definitions – Revenues." The Revenues and the right to receive them have been pledged to the Trustee for the benefit of the owners of the Series 2020 Bonds.

SLL BOCES is to assign and pledge to DASNY a portion of any and all public funds payable by the State to SLL BOCES in an amount sufficient to pay all Rentals due under the Agreement. State aid is normally paid to SLL BOCES by the State on or about February 1, June 1 and September 1 of each year (but such schedule may be changed by the State in its discretion). The Act provides that the Comptroller of the State of New York (the “State Comptroller”) is to deduct from any State funds to become due to SLL BOCES an amount equal to the amount payable by SLL BOCES to DASNY under the Agreement for the ensuing school year and pay such amount to DASNY. It is expected that the September 1 payment of State aid to SLL BOCES will be sufficient to pay the Basic Rent due on such date (i.e., an amount sufficient to pay principal of and interest on the Series 2020 Bonds on the succeeding February 15 and August 15). To the extent that payments from the State Comptroller to the Trustee are less than the Basic Rent due on September 1, SLL BOCES would be required to make such payment (with amounts paid later by the State or with other monies of SLL BOCES) by January 15 (with respect to the February 15 debt service payment) and July 15 (with respect to the August 15 debt service payment).

The Basic Rent payable in connection with the Series 2020 Bonds is to be paid to the Trustee on or about September 1 of each year commencing on September 1, [2020] in accordance with the provisions of the Act and the terms of the Memorandum of Understanding by and among the New York State Department of Education, the State Comptroller and DASNY. Basic Rent, with respect to the Series 2020 Bonds, is equal to the interest and principal coming due on the next succeeding February 15 and August 15 for the Series 2020 Bonds. In addition, the installment due on or about September 1 of any year includes the amount, if any, required to restore the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement.

#### **Direct Payment by State Comptroller**

The Act requires DASNY to certify annually to the Commissioner of Education (the “Commissioner”) the total amount payable to DASNY in each year by SLL BOCES. The Commissioner is then required by law to certify to the State Comptroller the amount of State aid payable to SLL BOCES and the amount to be paid by SLL BOCES to DASNY for the ensuing school year. The State Comptroller is thereafter required by law to deduct the amount so certified as payable to DASNY from any State aid to become due to SLL BOCES and pay it to or upon the order of DASNY.

The State is not legally obligated to appropriate any moneys for the purpose of providing State aid or assistance to SLL BOCES or any other BOCES. The apportionment of State aid is based on a statutory formula. Both the determination of the amount of State aid and the apportionment of such State aid are legislative acts and the State Legislature may amend or repeal the statutes relating to State aid and the formulas which determine the amount of State aid payable to BOCES. Such amendments could result in the increase, decrease or elimination of the amount of State aid available for the payment of debt service on the Series 2020 Bonds. The financial condition of the State may affect the amount of State aid appropriated by the State Legislature.

SLL BOCES has no power to levy and collect taxes. The component school districts of SLL BOCES, however, are required to levy taxes to pay their allocable share of administrative and capital expenses, including the payment of each component school district’s proportionate share of the amount due from SLL BOCES to DASNY under the Agreement. See “PART 4 – BOARDS OF COOPERATIVE EDUCATIONAL SERVICES.” No BOCES, nor the component school districts thereof, are obligated to pay administrative or capital expenses of any other BOCES.

The Series 2020 Bonds will not be a debt of the State nor will the State be liable thereon. DASNY has no taxing power.

#### **Tax Levy Limitation Law**

Historically, the amount of state aid provided to SLL BOCES exceeded the expected amount due on the Series 2020 Bonds to be issued by DASNY for the benefit of SLL BOCES. However, in the event that the amount of state aid due to SLL BOCES in a particular calendar year (subject to intercept by the Comptroller) is less than the amount that SLL BOCES owes DASNY in that calendar year, the component school districts of SLL BOCES will be obligated to levy taxes to pay their allocable share of SLL BOCES’ administrative expenses, subject to any restrictions provided in State law.



On June 24, 2011, Chapter 97 of the Laws of 2011 was signed into law by the Governor (“Chapter 97” or the “Tax Levy Limitation Law”). The Tax Levy Limitation Law applies to all local governments, including school districts (with the exception of New York City, and the counties comprising New York City and school districts in New York City, Buffalo, Rochester, Syracuse, and Yonkers.) While the BOCES does not have the power to levy property taxes, the Component School Districts upon which it relies for payments do.

Prior to the enactment of the Tax Levy Limitation Law, there was no statutory limitation on the amount of real property taxes that a school district could levy as part of its budget if its budget had been approved by a simple majority of its voters. In the event the budget had been defeated by the voters, the school district was required to adopt a contingency budget. Under a contingency budget, school budget increases were limited to the lesser of four percent (4%) of the prior year’s budget or one hundred twenty percent (120%) of the consumer price index (“CPI”).

Chapter 97 requires that a school district submit its proposed tax levy to the voters each year, which requirement commenced with the 2012-2013 fiscal year.

Chapter 97 restricts, among other things, the amount of real property taxes that may be levied by or on behalf of a school district in a particular year. It expires on June 15, 2020 unless other legislation is extended. [It is unknown whether Chapter 97 will be extended or whether it will expire or be replaced on June 15, 2020.] Pursuant to the Tax Levy Limitation Law, the tax levy of a school district cannot increase by more than the lesser of (i) two percent (2%) or (ii) the annual increase in the CPI, over the amount of the prior year’s tax levy. Certain adjustments would be permitted for taxable real property full valuation increases due to changes in physical or quantity growth in the real property base as defined in Section 1220 of the Real Property Tax Law. A school district could exceed the tax levy limitation for the coming fiscal year only if the voters of such school district first approve a tax levy by at least 60% affirmative vote of those voting to override such limitation for such coming fiscal year only. Tax levies that do not exceed the limitation will only require approval by at least 50% of those voting. In the event that the voters reject a tax levy and the district does not go out for a second vote, or if a second vote is likewise defeated, Chapter 97 provides that the tax levy for the new fiscal year may not exceed the tax levy for the prior fiscal year.

A school district’s calculation of each fiscal year’s tax levy limit is subject to review by the Commissioner of Education and the Commissioner of Taxation and Finance prior to adoption of each fiscal year budget.

There are exceptions for school districts to the tax levy limitation provided in Chapter 97, including expenditures made on account of certain tort settlements and certain increases in the average actuarial contribution rates of the New York State and Local Employees’ Retirement System, and the Teachers’ Retirement System. School districts are also permitted to carry forward a certain portion of their unused levy limitation from a prior year.

There is also an exception for school districts for “Capital Local Expenditures” subject to voter approval where required by law. This term is defined in a manner that does not include certain items for which a school district may issue debt including the payment of judgments or settled claims, including tax certiorari payments, and cashflow borrowings including tax anticipation notes, revenue anticipation notes, budget notes and deficiency notes. “Capital Local Expenditures” are defined as “the taxes associated with budgeted expenditures resulting from the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of or otherwise providing for school district capital facilities or school district capital equipment, including debt service and lease expenditures, and transportation capital debt service, subject to the approval of the qualified voters where required by law”. The portion of the tax levy necessary to support “Capital Local Expenditures” is defined as the “Capital Tax Levy”, and this is an exclusion from the tax levy limitation.

On February 20, 2013, the New York State United Teachers (“NYSUT”) organization filed a lawsuit against the State challenging the Tax Levy Limitation Law as applied to school districts on multiple federal and state constitutional grounds. On September 23, 2014, a justice of the New York State Supreme Court dismissed each of NYSUT’s causes of action but granted NYSUT’s motion to amend the complaint. After the ruling, NYSUT amended its complaint to include a challenge to the Real Property Tax Rebate, also on federal and state constitutional grounds. On March 16, 2015, all causes of action contained in the amended complaint were dismissed. NYSUT has stated that the organization will appeal the decision; therefore, the ultimate outcome of this litigation cannot be determined at this time.

Real Property Tax Rebate. Chapter 59 of the Laws of 2014 (“Chapter 59”), a recently adopted State budget bill includes provisions which provide a refundable personal income tax credit to real property taxpayers in school districts and certain municipal units of government. Real property owners in school districts became eligible for this credit in the 2014 and 2015 taxable years of those property owners. Real property taxpayers in certain other municipal units of government became eligible for this credit in the 2015 and 2016 taxable years of those real property taxpayers. The eligibility of real property taxpayers for the tax credit in each year depends on such jurisdiction’s compliance with the provisions of the Tax Levy Limitation Law. School districts’ budgets were required to comply in their 2014-2015 and 2015-2016 fiscal years. Other municipal units of government were required to have their budgets in compliance for their 2015 and 2016 fiscal years. Such budgets must be within the tax cap limits set by the Tax Levy Limitation Law for the real property taxpayers to be eligible for this personal income tax credit. The affected jurisdictions include counties, cities (other than any city with a population of one million or more and its counties), towns, villages, school districts (other than the dependent school districts of New York City, Buffalo, Rochester, Syracuse and Yonkers, the latter four of which are indirectly affected by applicability to their respective city) and independent special districts.

Certain additional restrictions on the amount of the personal income tax credit are set forth in Chapter 59 in order for the tax cap to qualify as one which will provide the tax credit benefit to such real property taxpayers. The refundable personal income tax credit amount is increased in the second year if compliance occurs in both taxable years.

For the second taxable year of the program, the refundable personal income tax credit for real property taxpayers is additionally contingent upon adoption by the school district or municipal unit of a state approved “government efficiency plan” which demonstrates “three year savings and efficiencies of at least one per cent per year from shared services, cooperation Agreement and/or mergers or efficiencies”.

Municipalities, school districts and independent special districts must provide certification of compliance with the requirements of the new provisions to certain state officials in order to render their real property taxpayers eligible for the personal income tax credit.

While the provisions of Chapter 59 do not directly further restrict the taxing power of the affected municipalities, school districts and special districts, they do provide an incentive for such tax levies to remain within the tax cap limits established by the Tax Levy Limitation Law. The implications of Chapter 59 for future tax levies and for operations and services of SLL BOCES are uncertain at this time.

### **Security for the Series 2020 Bonds**

The Series 2020 Bonds will be secured by the pledge and assignment to the Trustee of the Basic Rent, the proceeds from the sale of the Series 2020 Bonds (until disbursed as provided by the Master Resolution and the Series Resolution) and all funds and accounts authorized by the Master Resolution and established by the Series Resolution (with the exception of the Arbitrage Rebate Fund), which include a separate Debt Service Reserve Fund, and DASNY’s security interest in the Pledged Revenues. The Series 2020 Bonds are the second series of bonds issued for SLL BOCES under the Master Resolution. The Series 2020 Bonds will be paid on a subordinate basis to the Series 2015 Bonds, which were the first series of Bonds issued under the Master Resolution. Pursuant to the terms of the Resolutions, the funds and accounts established by a Series Resolution secure only the Series 2020 Bonds and do not secure any other Series of Bonds issued under the Master Resolution. The Series 2020 Bonds are the [second] series of Bonds issued for SLL BOCES under the Master Resolution. The only Outstanding Bonds following the issuance of the Series 2020 Bonds will be the Series 2015 Bonds and the Series 2020 Bonds. The Series 2020 Bonds will be paid and secured on a subordinate basis to the Series 2015 Bonds, which were the [first] series of Bonds issued under the Master Resolution. See “Issuance of Additional Bonds” herein.

### **Lease Payments**

Consistent with the Act, SLL BOCES will, pursuant to its Agreement of Lease, lease certain property on which the Project is located to DASNY and DASNY will in turn sublease such property and the Project back to SLL BOCES pursuant to the Agreement. No Series 2020 Bonds are secured by any real estate interest in a Project. The Agreement is a general obligation of SLL BOCES. SLL BOCES’ obligation to pay Rentals under the Agreement is absolute and unconditional without any right of set-off, recoupment or counterclaim against DASNY.

DASNY has covenanted for the benefit of the Holders of the Series 2020 Bonds that it will not create, or cause to be created, any lien or charge upon the Revenues or its interest in the Pledged Revenues, the proceeds of the Series 2020 Bonds or the funds or accounts established under the Master Resolution, which is prior to, or equal to, the pledge made by the Master Resolution other than the lien or charge created in connection with the Series 2015 Bonds.

### **Pledge and Assignment of State Aid**

As additional security for the payment of the Rentals, including Basic Rent, to DASNY, SLL BOCES will pledge and assign to DASNY, a portion of any and all public funds payable by the State to SLL BOCES in an amount sufficient to pay such Rentals. SLL BOCES further agrees that all State and local officials concerned are authorized to apportion and pay to or upon the order of DASNY all such pledged funds. The pledge and assignment will be irrevocable (in accordance with the Act) and will continue until the date on which the liabilities of DASNY incurred as a result of the issuance of the Series 2020 Bonds have been paid or otherwise discharged. None of the public funds pledged by SLL BOCES is to be applied to pay Rentals payable by any other BOCES.

Such pledge and assignment is subordinate to the pledge and assignment made by the SLL BOCES in order to secure the Series 2015 Bonds, if any shall remain Outstanding. As a result, any State aid payable to SLL BOCES and received by the Trustee shall be applied first to the payments to be made by SLL BOCES on Outstanding Series 2015 Bonds and then to the payments to be made by SLL BOCES for the Series 2020 Bonds.

### **Debt Service Reserve Fund**

The Master Resolution requires that the Debt Service Reserve Fund with respect to Series 2020 Bonds be maintained at its applicable requirement, which is an amount, with respect to Series 2020 Bonds, equal to one-half of the amount equal to the greatest amount required in the then current or any future calendar year to pay the sum of the principal and Sinking Fund Installments of and interest on the Outstanding Bonds of such Series payable during such calendar year subject to any limitation imposed by the Internal Revenue Code of 1986, as amended (the "Code"). The Debt Service Reserve Requirement is initially \$\_\_\_\_\_ and will be funded with a portion of the proceeds of the Series 2020 Bonds. The Series 2020 Debt Service Reserve Requirement will be recalculated not less often than annually and, if necessary, reduced.

In lieu of or in substitution for moneys, DASNY may deposit or cause to be deposited with the Trustee a Reserve Fund Facility (including a surety bond, insurance policy or letter of credit) for the benefit of the Holders of a Series of the Bonds for all or any part of the Debt Service Reserve Requirement.

Moneys in the Debt Service Reserve Fund are to be withdrawn and deposited in the Debt Service Fund whenever the amount in the Debt Service Fund on the fourth Business Day preceding any interest payment date is less than the amount which is necessary to pay the principal and Sinking Fund Installments, if any, of and interest on Outstanding Series 2020 Bonds payable on such interest payment date. The Master Resolution requires, and the Agreement provides that the amount necessary to restore the Debt Service Reserve Fund to its requirement is to be included in the Basic Rent. Moneys in the Debt Service Reserve Fund in excess of its requirement may be deposited in other funds and accounts for the Series 2020 Bonds and applied by the Trustee in accordance with the Master Resolution. See "Appendix D – Summary of Certain Provisions of the Master Resolution."

### **Issuance of Additional Bonds**

In addition to the Series 2020 Bonds, the Master Resolution authorizes the issuance of other Series of Bonds for SLL BOCES and other BOCES for other specified purposes. The Series 2020 Bonds, issued under the Master Resolution, will be secured by the pledge and assignment of the Revenues, DASNY's interest in the Pledged Revenues, the proceeds from the sale of such Series of Bonds and all funds and accounts (with the exception of the Arbitrage Rebate Fund) authorized by the Series Resolution. Any additional Series of Bonds issued to finance or refinance a project for SLL BOCES would be paid and secured on a subordinate basis to the Series 2020 Bonds unless otherwise consented to by a majority of the holders of the Series 2020 Bonds. Therefore, to the extent Pledged Revenues or SLL BOCES payments of Basic Rent are insufficient to pay for the Outstanding Series 2011 Bonds, the Outstanding Series 2015 Bonds, the Outstanding Series 2020 Bonds and such additional Bonds, amounts would be

applied first to pay the Outstanding Series 2011 Bonds, second to pay the Outstanding Series 2015 Bonds, third to pay the Outstanding 2020 Bonds and then such additional Bonds.

The Series 2020 Bonds will not be a debt of the State of New York nor will the State be liable thereon. DASNY has no taxing power. See “PART 8 – DASNY.”

#### **Defaults and Remedies under the Agreement**

Among the events that would constitute an “event of default” under the Agreement are the failure by SLL BOCES to pay the Rentals within seven days after they become due or to observe or perform any of the covenants, conditions or agreement contained in the Agreement which continues for the grace period after notice of such failure has been given to SLL BOCES. In the event any such event of default will have happened and be continuing, DASNY may exercise such remedies available at law or in equity other than termination of the Agreement. In no event will an “event of default” under the Agreement cause an acceleration of the Rentals due under the Agreement.

#### **Defaults and Remedies under the Master Resolution**

“Events of Default” under the Master Resolution and the Series 2020 Resolution include: (i) the failure to pay principal, Sinking Fund Installments, if any, or Redemption Price of, and interest on the Series of the Series 2020 Bonds when due; (ii) the failure to comply with the provisions of the Code applicable to the Series 2020 Bonds necessary to maintain the exclusion of interest thereon from gross income under Section 103 of the Code, with the result that interest on the Series 2020 Bonds is no longer excludable from the gross income of the Holders thereof for purposes of federal income taxation; and (iii) a default by DASNY in the due and punctual performance of any other of the covenants, conditions, Agreement and provisions contained in the Master Resolution, the Series Resolution or in the Series 2020 Bonds on the part of DASNY to be performed and such default continues for 30 days after written notice specifying such default and requiring same to be remedied will have been given to DASNY by the Trustee, which may give such notice in its discretion and will give such notice at the written request of the Holders of not less than 25% in principal amount of Outstanding Series 2020 Bonds, unless, if such default is not capable of being cured within 30 days, DASNY has commenced to cure such default within said 30 days and diligently prosecutes the cure thereof.

The Resolutions provide that if an “event of default” occurs and continues, the Trustee may proceed, and upon the written request of the Insurer, if any, or the Facility Provider of a Reserve Fund Facility, if any, or the written request of the Holders of not less than 25% in principal amount of the Outstanding Series 2020 Bonds (in either case, with the consent of the Insurer, if any), or, in the case of a happening and continuance of an “event of default” specified in clause (ii) above, upon the written request of the Holders of not less than 25% in principal amount of the Outstanding Series 2020 Bonds (with the consent of the Insurer, if any), the Trustee will proceed (subject to the provisions of the Master Resolution), to protect and enforce its rights and the rights of the Bondholders or of such Facility Provider under the Resolutions or under the laws of the State by such suits, actions or special proceedings in equity or at law, either for the specific performance of any covenant contained under the Resolutions or in aid or execution of any power therein granted, or for an accounting against DASNY as if DASNY were the trustee of an express trust, or for the enforcement of any proper legal or equitable remedy as the Trustee deems most effectual to protect and enforce such rights. In no event will an “event of default” cause an acceleration of the Series 2020 Bonds under the Resolutions.

In the enforcement of any remedy under the Resolutions, the Trustee may sue for, enforce payment of, and receive any and all amounts then, or during any default becoming, and at any time remaining, due from DASNY for principal or interest or otherwise under any of the provisions of the Resolutions or of the Series 2020 Bonds, with interest on overdue payments of the principal of or interest on the Series 2020 Bonds at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and of all proceedings under the Resolutions and under such Series 2020 Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders of such Series 2020 Bonds and to recover and enforce a judgment or decree against DASNY but solely as provided in the Resolutions and in such Series 2020 Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect in any manner provided by law, the moneys adjudged or decreed to be payable.

## **PART 3 – THE SERIES 2020 BONDS**

### **Description of the Series 2020 Bonds**

The Series 2020 Bonds will be issued pursuant to the Master Resolution, will be dated the date of delivery and will bear interest at the rates and mature at the times set forth on the inside cover page of this Official Statement.

The Series 2020 Bonds will be issued as fully registered bonds. The Series 2020 Bonds will be issued in denominations of \$5,000 or any integral multiple thereof. The Series 2020 Bonds will be registered in the name of Cede & Co., as nominee of DTC, pursuant to DTC's Book-Entry Only System. Purchases of beneficial interests in the Series 2020 Bonds will be made in book-entry form, without certificates. If at any time the Book-Entry Only System is discontinued for the Series 2020 Bonds, the Series 2020 Bonds will be exchangeable for other fully registered Series 2020 Bonds in any other authorized denominations of the same maturity without charge except the payment of any tax, fee or other governmental charge to be paid with respect to such exchange, subject to the conditions and restrictions set forth in the Master Resolution. See "Book Entry Only System" herein and "Appendix D – Summary of Certain Provisions of the Master Resolution."

Interest on the Series 2020 Bonds will be payable by check or draft mailed to the registered owners thereof at the address thereof as it appears on the registry books held by the Trustee, provided however, that interest on the Series 2020 Bonds of a Series may be authorized to be paid at the option of a Holder of at least \$1,000,000 in principal amount of the Series 2020 Bonds of such Series by wire transfer to the Holder of such Series 2020 Bonds, each as of the close of business on February 1 and August 1, as applicable, next preceding an interest payment date. The principal or redemption price of the Series 2020 Bonds will be payable in lawful money of the United States of America at the principal corporate trust office of The Bank of New York Mellon, the Trustee and Paying Agent. As long as the Series 2020 Bonds are registered in the name of Cede & Co., as nominee of DTC, such payments will be made directly to DTC. See "Book-Entry Only System" herein.

For a more complete description of the Series 2020 Bonds, see "Appendix D – Summary of Certain Provisions of the Master Resolution."

### **Redemption Provisions**

#### *Optional Redemption*

The Bonds maturing on or before [\_\_\_\_\_, 20\_\_] are not subject to optional redemption prior to maturity. The Bonds maturing after [\_\_\_\_\_, 20\_\_] are subject to redemption prior to maturity on or after [\_\_\_\_\_, 20\_\_] in any order (a) from amounts in the Debt Service Fund in excess of moneys required to pay interest, principal and Sinking Fund Installments and in excess of amounts on deposit therein for special redemption, as a whole at any time or in part on any interest payment date, or (b) at the option of DASNY, as a whole or in part at any time, at par plus accrued interest to the redemption date.

#### *Special Redemption*

The Series 2020 Bonds are subject to redemption, in whole or in part, at 100% of the principal amount thereof, at the option of DASNY on any interest payment date, from proceeds of a condemnation or insurance award, which proceeds are not used to repair, restore or replace the Project or upon the abandonment of the Project due to a legal or regulatory impediment.

#### *Mandatory Redemption*

The Series 2020 Bonds of certain maturities are subject to redemption, in part, through application of Sinking Fund Installments at a Redemption Price equal to 100% of the principal amount of Series 2020 Bond to be redeemed, plus accrued interest to the date of redemption. Unless none of the Series 2020 Bonds of a maturity to be so redeemed are then Outstanding and, subject to the provisions of the Series 2020 Resolution permitting amounts to be credited to part or all of any one or more Sinking Fund Installments, there shall be due and DASNY shall be required to pay for the retirement of the Series 2020 Bonds maturing on August 15 of each of the years set forth in the following tables, the amount set forth opposite such year:

**Series 2020 Bonds**  
**Maturing August 15, 20\_\_**  
**Year   Sinking Fund Installment**

† Final maturity.

There will be credited against and in satisfaction of the Sinking Fund Installment payable on any date, the principal amount of Series 2020 Bonds entitled to such Sinking Fund Installment (A) purchased with moneys in the Debt Service Fund pursuant to the Resolutions, (B) redeemed at the option of DASNY, (C) purchased by SLL BOCES or DASNY and delivered to the Trustee for cancellation or (D) deemed to have been paid in accordance with the Resolutions. Series 2020 Bonds purchased with moneys in the Debt Service Fund will be applied against and in fulfillment of the Sinking Fund Installment of the Series 2020 Bonds so purchased payable on the next succeeding August 15. Series 2020 Bonds redeemed at the option of DASNY, purchased by DASNY or SLL BOCES (other than from amounts on deposit in the Debt Service Fund) and delivered to the Trustee for cancellation or deemed to have been paid in accordance with the Resolutions will be applied in satisfaction, in whole or in part, of one or more Sinking Fund Installments as DASNY may direct in its discretion. To the extent DASNY's obligation to make Sinking Fund Installments in a particular year is so satisfied, the likelihood of redemption through mandatory Sinking Fund Installments of a Bondholder's Series 2020 Bonds of the maturity so purchased will be reduced for such year.

***Selection of Bonds to be Redeemed***

In the case of redemptions of less than all of the Series 2020 Bonds other than through mandatory Sinking Fund Installments, DASNY will select the maturities to be redeemed. If less than all Series 2020 Bonds within a maturity are to be redeemed, as long as the Series 2020 Bonds are in book-entry form registered in the name of Cede & Co., as nominee of DTC, DTC will determine by lot the amount of the interest of each DTC Direct Participant in such maturity to be redeemed. If the Series 2020 Bonds are no longer in book-entry form registered in the name of Cede & Co., as nominee of DTC, the Bonds or portions thereof to be redeemed shall be selected for redemption by the Trustee, by lot, using such method of selection as the Trustee shall consider proper in its discretion.

***Notice of Redemption***

Generally, the Trustee is to give notice of the redemption of the Series 2020 Bonds in the name of DASNY, by first-class mail, postage prepaid, not less than 30 days nor more than 60 days prior to the redemption date to the registered owners of any Series 2020 Bonds which are to be redeemed, at their last known addresses appearing on the registration books of DASNY not more than 10 Business Days prior to the date such notice is given.

If on the redemption date moneys for the redemption of the Series 2020 Bonds of like maturity to be redeemed, together with interest thereon to the redemption date, are held by the Trustee so as to be available for payment of the redemption price, and if notice of redemption has been mailed, then interest on the Series 2020 Bonds of such maturity will cease to accrue from and after the redemption date and such Series 2020 Bonds will no longer be considered to be Outstanding.

***Purchase in Lieu of Optional Redemption***

The Series 2020 Bonds maturing on or before [\_\_\_\_\_ 20\_\_] are not subject to purchase in lieu of optional redemption prior to maturity. The Series 2020 Bonds maturing after [\_\_\_\_\_ 20\_\_], are subject to purchase in lieu of optional redemption prior to maturity on or after [\_\_\_\_\_ 20\_\_], at the option of SLL BOCES with the prior written consents of DASNY, as a whole or in part at any time, at a purchase price of 100% of the principal amount to be purchased (the "Purchase Price") plus accrued interest to the date set for purchase (the "Purchase Date"). Notice of Purchase in Lieu of Optional Redemption of the Series 2020 Bonds will be given in the name of SLL BOCES to the registered owners of the Series 2020 Bonds to be purchased by first-class mail, postage prepaid, not less than 30 days nor more than 60 days prior to the Purchase Date specified in such notice. The Series

2020 Bonds to be purchased are required to be tendered on the Purchase Date to the Trustee. Series 2020 Bonds to be purchased that are not so tendered will be deemed to have been properly tendered for purchase. If the Series 2020 Bonds are called for purchase in lieu of an optional redemption, such purchase will not extinguish the indebtedness of DASNY evidenced thereby or modify the terms of the Series 2020 Bonds. Such Series 2020 Bonds need not be cancelled, and will remain Outstanding under the Resolutions and continue to bear interest. SLL BOCES' obligation to purchase a Series 2020 Bond to be purchased or cause it to be purchased is conditioned upon the availability of sufficient money to pay the Purchase Price for all of the Series 2020 Bonds to be purchased on the Purchase Date. If sufficient money is available on the Purchase Date to pay the Purchase Price of the Series 2020 Bonds to be purchased, the former registered owners of such Series 2020 Bonds will have no claim thereunder or under the Resolutions or otherwise for payment of any amount other than the Purchase Price. If sufficient money is not available on the Purchase Date for payment of the Purchase Price, the Series 2020 Bonds tendered or deemed tendered for purchase will continue to be registered in the name of the registered owners on the Purchase Date, who will be entitled to the payment of the principal of and interest on such Series 2020 Bonds in accordance with their respective terms. If not all of the Outstanding Series 2020 Bonds are to be purchased, the Series 2020 Bonds to be purchased will be selected by lot in the same manner as Series 2020 Bonds to be redeemed in part are to be selected.

For a more complete description of the redemption and other provisions relating to the Series 2020 Bonds, see "Appendix D – Summary of Certain Provisions of the Master Resolution." Also see "Book-Entry Only System" below for a description of the notices of redemption to be given to Beneficial Owners of the Series 2020 Bonds when the Book-Entry Only System is in effect.

### **Book-Entry Only System**

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Series 2020 Bonds. The Series 2020 Bonds will be issued as fully-registered securities in the name of Cede & Co. (DTC's partnership nominee), or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2020 Bond certificate will be issued for each maturity of the Series 2020 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission.

Purchases of the Series 2020 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2020 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2020 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2020 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not

receive certificates representing their ownership interests in the Series 2020 Bonds, except in the event that use of the book-entry system for the Series 2020 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2020 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2020 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2020 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2020 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Series 2020 Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2020 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to DASNY as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2020 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption premium, if any, and interest payments on the Series 2020 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from DASNY or the Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or DASNY, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, redemption premium, if any, and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of DASNY or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DASNY and the Trustee may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2020 Bonds registered in its name for the purposes of payment of the principal and redemption premium, if any, of, and interest on, the Series 2020 Bonds, giving any notice permitted or required to be given to registered owners under the Resolutions, registering the transfer of the Series 2020 Bonds, or other action to be taken by registered owners and for all other purposes whatsoever. DASNY and the Trustee shall not have any responsibility or obligation to any Direct or Indirect Participant, any person claiming a beneficial ownership interest in the Series 2020 Bonds under or through DTC or any Direct or Indirect Participant, or any other person which is not shown on the registration books of DASNY (kept by the Trustee) as being a registered owner, with respect to the accuracy of any records maintained by DTC or any Direct or Indirect Participant; the payment by DTC or any Direct or Indirect Participant of any amount in respect of the principal, redemption premium, if any, or interest on the Series 2020 Bonds; any notice which is permitted or required to be given to registered owners thereunder or under the conditions to transfers or exchanges adopted by DASNY; or other action taken by DTC as registered owner. Interest, redemption premium, if any, and principal will be paid by the Trustee to DTC, or its nominee. Disbursement of such payments to the Direct or Indirect Participants is the responsibility of DTC and disbursement of such payments to the Beneficial Owners is the responsibility of the Direct or Indirect Participants.



DTC may discontinue providing its service as depository with respect to the Series 2020 Bonds at any time by giving reasonable notice to DASNY and the Trustee. Under such circumstances, in the event that a successor depository is not obtained, the Series 2020 Bond certificates are required to be printed and delivered.

DASNY may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, the Series 2020 Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that DASNY believes to be reliable, but DASNY takes no responsibility for the accuracy thereof.

Each person for whom a Participant acquires an interest in the Series 2020 Bonds, as nominee, may desire to make arrangements with such Participant to receive a credit balance in the records of such Participant, and may desire to make arrangements with such Participant to have all notices of redemption or other communications of DTC, which may affect such persons, to be forwarded in writing by such Participant and to have notification made of all interest payments. **NEITHER DASNY NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE SERIES 2020 BONDS.**

So long as Cede & Co. is the registered owner of the Series 2020 Bonds, as nominee for DTC, references herein to the Bondholders or registered owners of the Series 2020 Bonds (other than under the caption "PART 11—TAX MATTERS" herein) shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners of the Series 2020 Bonds.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference only relates to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they will be sent by the Trustee to DTC only.

For every transfer and exchange of Series 2020 Bonds, the Beneficial Owner may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.

DASNY, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Series 2020 Bonds if DASNY determines that (i) DTC is unable to discharge its responsibilities with respect to the Series 2020 Bonds or (ii) a continuation of the requirement that all of the Outstanding Series 2020 Bonds be registered in the registration books kept by the Trustee in the name of Cede & Co., as nominee of DTC, is not in the best interests of the Beneficial Owners. In the event that no substitute securities depository is found by DASNY or restricted registration is no longer in effect, Series 2020 Bond certificates will be delivered as described in the Resolutions and the Bond Series Certificate.

**NEITHER DASNY, SLL BOCES NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY BENEFICIAL OWNER WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT, OR ANY INDIRECT PARTICIPANT; (II) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2020 BONDS UNDER THE RESOLUTIONS; (III) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF A SERIES OF THE SERIES 2020 BONDS; (IV) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SERIES 2020 BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE SERIES 2020 BONDS; OR (VI) ANY OTHER MATTER.**

## **Debt Service Requirements**

The following table sets forth the amounts required to be paid by SLL BOCES during each twelve-month period ending August 15 of the Bond Years shown for the payment of debt service on the Series 2020 Bonds. SLL BOCES is required to pay on September 1 of each year an amount equal to the debt service on the Series 2020 Bonds on the succeeding February 15 and August 15. See “PART 2 – SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS.”

<b><u>12-Month Period Ended August 15</u></b>	<b><u>Debt Service Requirements</u></b>
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## **PART 4 – BOARDS OF COOPERATIVE EDUCATIONAL SERVICES**

A general description of BOCES, State Aid to BOCES and obligations of component school districts which are generally applicable to all BOCES in the State is included in this PART 4. Certain financial and economic information for SLL BOCES is included in PART 5. The financial statements of SLL BOCES for the fiscal year ended June 30, 2019 are set forth in Appendix B hereto.

### **General Description of BOCES**

The ability to create a Board of Cooperative Educational Services was first established in 1948 and is found in section 1950 of the State Education Law. Initially, the legislation was aimed at enabling small rural school districts to combine their resources to provide services that otherwise would have been uneconomical, inefficient or unavailable. Under the legislation, BOCES are formed regionally (usually by a county or adjoining counties) as a consortium of the public school districts within the region. At present there are 37 BOCES, serving 687 of the 696 school districts in the State. BOCES membership is not available to the five large city school districts in the State: New York City, Buffalo, Rochester, Syracuse and Yonkers.

A BOCES is formed under the State Education Law by the school districts of a supervisory district for the purpose of providing various educational services for such school districts on a cooperative or shared basis, which services may either be too expensive or duplicative for each school district to provide for itself. A BOCES is usually formed by an order of the Commissioner of Education (the “Commissioner”) after a petition has been made requesting the establishment of a BOCES by the respective Boards of Education of the various school districts to be included in the proposed BOCES. The decision to establish a BOCES is not subject to voter approval.

The number of school districts comprising an individual BOCES varies. In each case, the territory within which the BOCES operates encompasses the territory of its component school districts. A school district may decide to join an established BOCES by vote of its board of education without voter approval. Once it has joined, however, a school district may not withdraw and is thereafter obligated for its share of BOCES administrative and capital expenses (including the Rentals due to DASNY under an applicable agreement).

Once formed by the Commissioner, a BOCES is governed by a Board, whose members are elected by the boards of education of the component school districts. A Board consists of five to fifteen members. Members of a BOCES Board are elected at its annual meeting and serve for terms of three years.

BOCES operate under the Education Law and the Rules and Regulations of the Commissioner of Education. The powers of a BOCES are set forth in the Education Law, which provides for their relationship with the local school districts and specifies their duties and responsibilities. A BOCES is not authorized to enter into an agreement with DASNY unless a proposition authorizing the acquisition, construction, reconstruction or financing of a board of cooperative education services school facility and specifying the costs is approved by a majority vote of the voters

throughout a BOCES' component school districts. In addition, a BOCES may not begin construction on any Project unless and until it has been approved by the Commissioner.

Each BOCES is authorized to provide such program services as the Commissioner may approve and must provide any educational service that is (a) requested by the component school districts and (b) approved by the Commissioner, who first determines that the proposed program service meets an educational need and can most effectively be provided on a regional, rather than local, level. Except for BOCES administrative and capital expenses, which are allocated to and are a responsibility of the component school districts to the extent provided by the Education Law, each school district is responsible for the costs of only those educational programs or services in which it decides to participate.

The legislation permits BOCES to provide a wide variety of programs and services, which include:

*General Education*, including summer school.

*Career Education* – Vocational training in agriculture, distributive education, health, home economics, business and office programs, technical education and trade, industrial and service education.

*Special Education* – Educational services for children with special needs.

*Management and Instructional Support Services* – A wide variety of administrative, educational and extracurricular activities.

*Education in the Arts*

*Environmental Education*

#### **State Aid to BOCES**

A BOCES has no taxing authority and except for certain Federal grants and payments for services rendered under certain contracts with public agencies, colleges and other entities, derives all of its financial support for operations from its component school districts and the State. State law provides that State aid is paid to a BOCES, and then is to be paid by the BOCES to the component school districts to partially reimburse them for payments made to the BOCES, based upon the amount paid by the component school districts for program services and administrative and capital expenses. The component school districts pay for these expenses through real property tax levies. See "PART 2 – SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS - Tax Levy Limitation Law."

Program services are funded by component school districts based on the district's participation in a specific program. Administrative and capital expenses of a BOCES (including the Rentals due to DASNY under an applicable agreement) are shared on a pro rata apportioned basis (based on attendance or enrollment formulas or property values) by the component school districts. Though the Commissioner may designate Rentals due to DASNY as either administrative or capital expenses, for purposes of apportionment of public monies to the BOCES, such payments shall be aided in the same manner as administrative expenses (subject to certain exceptions outlined below). All State aid payable to a BOCES, including services aid and facilities aid, as well as administrative aid, is available to be applied to pay Rentals.

BOCES costs are paid, and aided by the State, in the following manner:

#### *BOCES Services Aid*

When a school district decides to subscribe to one of the BOCES programs, it agrees to pay a tuition or service fee. The aggregate amount of fees equals the BOCES' costs of providing the service. Each participating school district pays its pro-rata share of the program's costs.

The participating school district pays its fee in installments during the school year in which the BOCES provides the service, enabling the BOCES to meet payroll and other expenses. These payments are made on an estimated basis during the year. At the end of the school year, the exact cost is determined by audit.

The audited cost then becomes the basis on which State aid is calculated. These moneys are then paid to the BOCES in the school year following the school year in which the service was provided. The BOCES, in turn, allocates and pays this money to the component school districts as a reimbursement in the same school year that the BOCES receives it from the State. Therefore, in any given year, a school district will be paying to the BOCES its share of the estimated cost of the program it is currently participating in and will also be receiving moneys from the BOCES from State aid intended to partially reimburse such school districts for its share of audited educational costs paid by it to the BOCES in the prior year.

The amount of State aid paid to each BOCES is the sum of the amounts determined for each component school district by applying a State aid formula, which is prescribed by statute. Since this formula includes in its calculation the tax rate and actual valuation of taxable property of the various component school districts, the amount of the aid actually paid to each BOCES varies depending upon these tax rates and property valuations. In all cases, the amount of State aid is less than the total costs of each BOCES program services. Each school district is therefore directly responsible to its BOCES for its share of the cost of educational programs in which it participates, with State aid reimbursing a portion of the school district's share.

#### *BOCES Administrative Aid*

BOCES administrative and capital expenses, including the Rentals due to DASNY under an applicable agreement, are charged against all component school districts based upon attendance or enrollment formulas or property values and regardless of their participation in any BOCES educational program.

Rentals due to DASNY are aided by the State in the same manner as administrative expenses with two exceptions. First, certain BOCES administrative expenses cannot exceed in the aggregate, for purposes of State aid payments, 10% of the total BOCES expenses, including the program operating expenses. However, the entire amount of BOCES payments to DASNY, as well as certain other BOCES expenses, is not subject to the 10% limit in calculating State aid. Second, unlike State aid for BOCES program operating expenses, which is received by each BOCES (and therefore by its component school districts) in the school year following the school year of expenditure, State aid for BOCES payments to DASNY may be received by each BOCES in the current school year in which such payment is made. The State appropriations for this aid are made on an estimated basis and are paid to each BOCES. In all cases, the amount of State aid for administrative expenses is less than the actual amount of these administrative expenses. Each school district is therefore directly responsible to its BOCES for its share of administrative expenses, with State aid reimbursing a portion of the school district's share.

#### *BOCES Facilities Aid*

BOCES' facilities expenses are capital expenses and are charged against all component school districts based upon attendance or enrollment formulas or property values and regardless of their participation in any BOCES educational program.

BOCES facilities aid may be claimed for approved expenditures for facility construction, purchase or lease incurred for approved projects. The amount of aid payable on account of approved expenses is determined by multiplying the approved expenses by the aid ratio established by the State Education Law. Approved expenses are those incurred by the component school district during the current school year for approved debt service payments on debt instruments used to finance BOCES construction, for expenditures in support of BOCES construction and for expenditures for lease of BOCES facilities. In all cases, the amount of State aid for facilities expenses is less than the actual amount of these facilities expenses. Each school district is therefore directly responsible to its BOCES for its share of facilities expenses, with State aid reimbursing a portion of the school district's share of the costs of approved projects.

### **State Appropriations**

The State has made appropriations to the BOCES program in each year since 1949 when the program was initiated. The amount of State aid payable to each BOCES has varied in accordance with a statutory formula set forth in the Education Law, except that payments in lieu of BOCES aid were made for the school year ending June 30, 2002 in an amount specified by the Legislature. The amount apportioned by the State for payment to a BOCES during a BOCES school year, which ends June 30th, is payable in installments, approximately 25% of which is payable in

February, approximately 30% of which is payable in June, and the remaining balance is payable in September. During BOCES fiscal year, the State aid payment made in February is made in one State fiscal year, and the State aid payments made in June and September occur in the subsequent State fiscal year.

All of the State aid payable to a BOCES is subject to intercept by the State Comptroller under the Act up to the amount of the Rentals payable by such BOCES under its Agreement with DASNY. *While the BOCES program has received State aid in each year since its inception, both the determination of the amount of State aid and the apportionment of such State aid are legislative acts and the State Legislature may amend or repeal the statutes relating to State aid and the formulas which determine the amount of State aid payable to each BOCES. Such amendments could result in the increase, decrease or elimination of the amount of State aid available for the payment of debt service on the Series 2020 Bonds. The financial condition of the State may affect the amount of State aid appropriated by the State Legislature.*

### **Obligations of Component School Districts**

All component school districts are required to pay their allocable share of BOCES administrative and capital expenses notwithstanding that they may elect not to participate in any of BOCES educational programs. Each component school district pays a proportional share of the BOCES' administrative and capital expenses (based on attendance or enrollment formulas or property values) through tax levies and local school boards vote on BOCES administrative and capital budgets each spring. See "PART 2 -SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS – Tax Levy Limitation Law." The portion of the budget allocated to payments to DASNY, however, is not subject to such vote of the local school boards. The Education Law requires that each component school district add the amount of its share of BOCES administrative expenses to its budget and pay such amount to the BOCES. The moneys collected for and on behalf of a BOCES by each component school district are required by law to be paid by the school district to such BOCES treasurer. Under other provisions of New York law, component school districts of a BOCES are political subdivisions of the State of New York and (with certain exceptions) have the power to levy and collect ad valorem taxes on real property.

Under New York law, if the budget of a school district is not approved by the voters, provision is made for the board of education of the school district to adopt, without voter approval, a contingent budget to pay for the basic or minimal needs of the school district subject to statutory caps which will include its allocable share of BOCES administrative and capital expenses.

All the taxable property of each such school district is subject to levy of ad valorem taxes, without limitation as to rate or amount, to pay the school district's allocable share of the BOCES' administrative and capital expenses. See "PART 2 – SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS – Tax Levy Limitation Law." In addition, each county or other political subdivision having responsibility for the enforcement of delinquent school taxes is required to pay to the school districts the full amount of school taxes which remain uncollected before the end of the school year.

### **Pension Payments**

Eligible BOCES employees participate in the New York State Employee Retirement System ("ERS") or the Teachers Retirement System ("TRS"). See PART 5 for a table of payments made by SLL BOCES to ERS and TRS for the 2014–2015 through 2018–2019 fiscal years.

### **Other Post-Employment Benefits**

Healthcare Benefits. It should also be noted that SLL BOCES provides employment healthcare benefits to various categories of former employees. These costs may be expected to rise substantially in the future. There is now an accounting rule that requires governmental entities, such as SLL BOCES, to account for employment healthcare benefits as it accounts for vested pension benefits.

School districts and Boards of Cooperative Educational Services, unlike other municipal units of government in the State, have been prohibited from reducing health benefits received by or increasing health care contributions paid by retirees below the level of benefits or contributions afforded to or required from active employees since the implementation of Chapter 729 of the Laws of 1994. Legislative attempts to provide similar protection to retirees of

other local units of government in the State have not succeeded as of this date. Nevertheless, many such retirees of all varieties of municipal units in the State do presently receive such benefits.

*OPEB*. OPEB refers to "other post-employment benefits," meaning other than pension benefits, disability benefits and OPEB consist primarily of health care benefits and may include other benefits such as disability benefits and life insurance. Until now, these benefits have generally been administered on a pay-as-you-go basis and have not been reported as a liability on governmental financial statements.

*GASB 75*. In 2015, the Governmental Accounting Standards Board ("GASB") released new accounting standards for public Other Post-Employment Benefits ("OPEB") plans and participating employers. These standards, GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions* ("GASB 75"), have substantially revised the valuation and accounting requirements previously mandated under GASB Statements No. 43 and 45. For the fiscal year ended June 30, 2018, SLL BOCES implemented GASB 75. The implementation of this statement requires BOCES' to report OPEB liabilities, OPEB expenses, deferred outflow of resources and deferred inflow of resources related to OPEB. GASB Statement No. 75 replaced GASB Statement 45, which also required SLL BOCES to calculate and report a net OPEB obligation. However, under GASB 45, BOCES could amortize the OPEB liability over a period of years, whereas GASB 75 requires BOCES to report the entire OPEB liability on the statement of net position.

See PART 5 for a discussion of the impact of GASB 75 on SLL BOCES.

## **PART 5 – SLL BOCES**

There follows in this PART 5 a brief description of the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence and Lewis Counties ("SLL BOCES"), together with certain information concerning its history, operations, governance, facilities, financial information and future financing plans.

### **History**

The St. Lawrence-Lewis BOCES was established in the early 1950s and provides shared services to 18 school districts in St. Lawrence and Lewis Counties, New York that together have approximately 15,133 students. The St. Lawrence-Lewis BOCES shared services are intended to enhance local district educational programs and to provide educational programs to component school districts which individual school districts could not themselves provide efficiently or economically. Thus, BOCES programs generally offer advantages to school districts of specialization and economy of scale. The St. Lawrence-Lewis BOCES is one of 37 BOCES in New York State.

### **Operations**

St. Lawrence-Lewis BOCES programs and services for school districts are divided into seven departments as follows:

*Special Education* – Offers a spectrum of programs for children who are moderately to severely impaired, from age 3 to age 21. Center-based programs serve children with appropriate educational programs and a full range of therapies, with the goal of equipping children to live productive and independent lives. This department also provides support services to help districts meet their special education students' needs in their own schools.

*Career and Technical Education and Alternative Education* – There are currently 16 different CTE programs available at the three Centers. The CTE program strives to provide relevant career and college preparation to secondary students and adult residents of the SLL BOCES region. In addition, many articulation agreements and dual enrollment agreements between colleges, in and out of state, and the St. Lawrence-Lewis BOCES are in effect to grant academic credit to CTE Center graduates. Evening CTE courses are offered to adults in conjunction with the Adult and Continuing Education program of study. A Unique Occupations program, designed to provide career exploration and community-based work experience to interested high school seniors throughout the county offers opportunities in career areas that could not otherwise be studied in the CTE Centers or the traditional high school setting. Allied Health,

a college prep course offered at the CTE Centers, provides an opportunity for interested senior students to explore careers in health occupations.

*Curriculum, Instruction and Technology* – Integrates the areas of curriculum, instruction and instructional technology. Designed to be a cohesive force for instructional planning with school districts, the department is able to address district needs and provide a single clear-cut line of access for support in related areas. Staff members within the department work together to help local districts integrate technology into instructional programs. Seeking to assist educators in their efforts to help students meet the new higher standards, the department’s comprehensive, year round, professional development program provides teachers and administrators with the latest information about instructional strategies, new assessment tools and curriculum development. The department’s services are loosely grouped as: 1) Planning and Assessment, 2) Professional Development, 3) Instructional Technology, and 4) Library Resources and Educational Communications.

*Communications and Agency Planning* – Offers school districts professional resources in public relations. The department brings together teams of experts, and can plan and implement comprehensive communications programs including budget campaigns, electronic media, special events and crisis consulting.

*Business Services* – Comprises all of the functions related to the financial management of St. Lawrence-Lewis BOCES, including budgeting, payroll, billing and purchasing, plus the maintenance and food services offices. The department includes the Graphic Arts and Printing program which produces a wide variety of printed materials. The department also offers a Co-operative Bidding Program that offers school districts access to joint, high-volume bids.

*Human Resources* – Manages the recruitment, hiring and retention of St. Lawrence-Lewis BOCES personnel, and provides support to all St. Lawrence-Lewis BOCES departments in employee relations, staff development and other human resources concerns. The department also makes available several services to school districts: the Regional Certification Office, Labor Relations Management, Teacher Recruitment, and an employee assistance program consortium.

### **Component School Districts**

The component school districts (the “Component School Districts”) which comprise the BOCES are as follows:

Brasher Falls	Hammond	Massena
Canton	Harrisville	Morristown
Clifton-Fine	Hermon-DeKalb	Norwood-Norfolk
Colton-Pierrepont	Heuvelton	Ogdensburg
Edwards-Knox	Lisbon	Parishville-Hopkinton
Gouverneur	Madrid-Waddington	Potsdam

### **Form of BOCES Administration**

The St. Lawrence-Lewis BOCES carries out its programs through a nine-member board and a staff of approximately 624 salaried staff members. The St. Lawrence-Lewis BOCES Board members are elected by the boards of education of the 18 component school districts, and each serves for a period of three years, unless appointed or elected in a special election to serve out the term of office of a St. Lawrence-Lewis BOCES Board member who has resigned. They serve without compensation, but are reimbursed for some expenses incurred in carrying out their responsibilities.

All authority rests with the St. Lawrence-Lewis BOCES Board as a whole, and not with any individual member or any group of members in any committee. The St. Lawrence-Lewis BOCES Board has responsibility for the governance of St. Lawrence-Lewis BOCES and for all final policy decisions.

St. Lawrence-Lewis BOCES Board Members serve at large; each term of office is for three years. BOCES Board Members either currently sit on component school Boards of Education or are retired from a component school Board of Education.

### **Budgetary Procedures**

Pursuant to the Education Law, the Board of BOCES annually prepares, prior to the annual meeting of the Boards of Education of the Component School Districts, a tentative budget for the BOCES program. A meeting of the Boards of Education of the Component School Districts is held in the month of April at which time the tentative budget is available for inspection by said Boards of Education. After such annual meeting, the Board of BOCES adopts the budget for the ensuing year. The administrative budget is voted on in April by the Component School Districts.

Such budget, when so adopted, after deducting applicable State aid grants and other revenues is charged against all of the Component School Districts in accordance with applicable provisions of the Education Law. The school authorities of each Component School District are required to add such amount to the budget of such Component School District, levy and collect the same at the same time and in the same manner as such BOCES collects other taxes for its own use and pay such amounts to the Treasurer of the BOCES. In the event the tentative budget of a Component School District is not approved by a majority of the voters, such charge from the BOCES may be raised by such Component School District as an ordinary contingent expense in a like manner as if the same had been voted by the voters.

### **Investment Policy**

Pursuant to the statutes of the State of New York, the BOCES is permitted to invest only in the following investments: (1) special time deposits or certificates of deposits in a bank or trust company located and authorized to do business in the State of New York; (2) obligations of the United States of America; (3) obligations guaranteed by agencies of the United States of America where the payment of principal and interest is guaranteed by the United States of America; (4) obligations of the State of New York; (5) with the approval of the New York State Comptroller, tax anticipation notes and revenue anticipation notes issued by any New York municipality or district corporation, other than the BOCES; (6) obligations of a New York public corporation which are made lawful investments by the BOCES pursuant to another provision of law; (7) certain certificates of participation issued on behalf of political subdivisions of the State of New York; and, (8) in the case of BOCES moneys held in certain reserve funds established pursuant to law, obligations issued by the BOCES. These statutes further require that all bank deposits, in excess of the amount insured under the Federal Deposit Insurance Act, be secured by either a pledge of eligible securities, an eligible surety bond or an eligible letter of credit, as those terms are defined in the law.

Consistent with the above statutory limitations, it is the BOCES' current policy to invest in: (1) certificates of deposit or time deposit accounts that are fully secured as required by statute, (2) obligations of the United States of America or (3) obligations guaranteed by agencies of the United States of America where the payment of principal and interest is guaranteed by the United States of America. In the case of obligations of the United States government, the BOCES may purchase such obligations pursuant to a written repurchase agreement that requires the purchased securities to be delivered to a third party custodian.

The Treasurer is authorized to contract for the purchase of investments, including through a written repurchase agreement with a third party custodian, from an authorized trading partner. The BOCES does not invest in reverse repurchase agreement on other derivative type investments.

### **Contractual Agreement**

Upon adoption of the budget for the ensuing fiscal year, contracts are drafted and executed by the BOCES and each respective Component School District. Said contracts are based on the budget estimates.

The contracts, along with the State required COSER form (which specifies program content of the proposed services to be performed by the BOCES) must be forwarded to the State Commissioner of Education by July 1. During the month of July, the State Commissioner of Education notifies the BOCES of any programs or services he deems ineligible for State aid. With the knowledge of approved program contents for State aid, the BOCES and Component



School Districts may modify the aforementioned contracts. Said contracts are also adjusted for more accurate cost projections and then resubmitted to the State Commissioner of Education by August 1. All contracts must be approved by the Commissioner's office by September 1. Such approval is then usually routinely granted, however, the contracts are not valid and binding until such approval is obtained. Each Component School District is billed pursuant to its contract, and remits to the Treasurer of the BOCES 10% of its total liability monthly from September through June.

All contracts and COSER forms for the 2018-19 and 2019-20 fiscal years have been approved by the Component School Districts and will be submitted to the State Commissioner of Education for her approval. **Percentage of Contractual Liability**

The percentage of contractual liability by Component School Districts for the 2019-20 contracts is as follows:

<u>Component School District</u>	<u>Total Amount Paid</u>	<u>Percentage</u> <u>Share of Total</u>	<u>Amount Allocated to</u>	<u>Percentage</u> <u>Share of</u>
	<u>to BOCES</u>	<u>BOCES</u>	<u>Administrative</u>	<u>Administrative</u>
		<u>Receipts</u>	<u>Expenses</u>	<u>Expenses</u>
Brasher Falls	\$3,539,946	5.45%	\$511,602	6.94%
Canton	4,901,290	7.55%	614,205	8.33%
Clifton-Fine	1,333,331	2.06%	145,233	1.97%
Colton-Pierrepont	1,396,184	2.15%	164,447	2.23%
Edwards-Knox	2,077,915	3.18%	252,058	3.42%
Gouverneur	5,182,761	7.98%	724,772	9.83%
Hammond	1,498,922	2.30%	128,837	1.75%
Harrisville	1,637,892	2.52%	189,273	2.57%
Hermon-Dekalb	2,126,926	3.27%	185,526	2.52%
Heuvelton	3,725,221	5.74%	266,112	3.61%
Lisbon	2,792,469	4.30%	277,825	3.77%
Madrid-Waddington	2,861,452	4.41%	322,794	4.38%
Massena	9,567,035	14.73%	1,293,536	17.54%
Morristown	1,991,907	3.06%	160,230	2.17%
Norwood-Norfolk	4,670,562	7.19%	480,212	6.51%
Ogdensburg	7,329,147	11.28%	810,507	10.99%
Parishville-Hopkinton	2,642,485	4.07%	205,204	2.78%
Potsdam	5,685,384	8.75%	643,250	8.72%
Total	\$64,960,828	100.00%	\$7,375,623	100.00%

Each Component School District is severally liable for the payment of its own contractual obligation only.

### **State Appropriations**

The Component School Districts are eligible for State aid for payments made to the BOCES at levels commensurate with other operating expenditures. However, such aid is received in the ensuing fiscal year by the BOCES less deductions for the Retirement Systems. (See "Status and Financing of Employee Pension Benefits")

The BOCES remits the applicable State aid to each Component School District on the following schedule: 25% on or about Feb. 1, 30% in June and the balance in September (of the next fiscal year).

There can be no assurance that the State appropriation for State aid to school districts will be continued in future years, either pursuant to existing formulas or in any form whatsoever. State aid appropriated and apportioned to the District can be paid only if the State has such monies available therefor. The availability of such monies and the timeliness of such payment could be affected by a delay in the adoption of the State budget. In any event, State aid appropriated and apportioned to the District can be paid only if the State has such monies available therefor.

The following chart presents the amount of State aid accrued by St. Lawrence-Lewis BOCES during the past eight school years ended June 30 of the years shown, although a portion of such amount may have been received by St. Lawrence-Lewis BOCES in the next school year. State aid for administrative services expenses is based on the preceding year's expenditures, while capital and facilities rental aid is based on the St. Lawrence-Lewis BOCES budget for the year in which it is received.

#### **State Aid Appropriations to St. Lawrence-Lewis BOCES**

<u>School Year Ending June 30,</u>	<u>Accrued Sept. Payment State Aid</u>	<u>Total Annual Payments State Aid</u>	<u>% General Fund Budget</u>
2013	\$ 7,725,999	\$ 16,381,989	47.16%
2014	9,360,736	18,561,973	50.43%
2015	9,472,698	19,525,456	48.51%
2016	9,435,119	20,531,354	45.95%
2017	9,383,864	20,583,358	45.59%
2018	10,300,893	22,392,788	46.00%
2019	10,367,463	22,613,759	45.80%
2020 (Budgeted)	10,663,395	23,696,434	45.00%

#### **Recent Events Affecting State Aid to New York School Districts**

*School District fiscal year (2015-2016):* The 2015-2016 State budget included a partial reduction in the Gap Elimination Adjustment with \$603 million in GEA cuts being restored, and provided an additional \$428 million in foundation aid and \$268 million in expense base aids which reimbursed School Districts for prior year expenses in school construction, transportation, District and special education services.

*School District fiscal year (2016-2017):* The 2016-17 State budget included a school aid increase of \$991 million over 2015-16, \$863 million of which consists of traditional operating aid. In addition to full-funding of expense based aids (\$408 million), the budget also includes a \$266 million increase in Foundation Aid and an \$189 million restoration to the Gap Elimination Adjustment. The bulk of the remaining increase includes \$100 million in Community Schools Aid, a newly adopted aid category, to support School Districts that wish to create community schools. The funds may only be used for certain purposes such as providing health, mental health and nutritional services to students and their families. Further information may be obtained at the official website of the New York State Division of Budget and the New York State Education Department.

*School district fiscal year (2017-2018):* The State 2017-2018 Enacted Budget increased State aid to education by \$1.1 billion, including a \$700 million increase in Foundation Aid, bringing the total amount of State aid to education to \$25.8 billion or an increase of 4.4%. Expense-based aids to support school construction, pupil transportation, BOCES and special education were continued in full, as is the State's usual practice. Transportation aid increased by 5.5% and building aid increased by 4.8%. The State 2017-18 Enacted Budget continued to link school aid increases for 2017-2018 and 2018-2019 to teacher and principal evaluation plans approved by September 1 of the current year in compliance with Education Law Section 3012-d. The State 2017-2018 Enacted Budget allowed the Governor to reduce aid to school districts mid-year if receipts from the federal government were less than what was expected. The Legislature then will have 90 days to approve the Governor's plan.

*School district fiscal year (2018-2019):* The State's 2018-2019 Enacted Budget included nearly \$1 billion in additional education funding, representing a 3.9% increase over 2017-2018. Approximately \$859 million of that increase was comprised of traditional public school aid, including increased Foundation Aid and full-funding of expense-based aids. Formula-based school aid stood at \$26.03 billion statewide, a 3.4% increase over the prior year. The State's 2018-19 Enacted Budget included an increase of \$618 million in Foundation Aid for school districts. Foundation Aid totaled nearly \$17.8 billion statewide. For the seventh consecutive year, the Foundation Aid increase was distributed using a one year, off formula methodology. The State's 2018-2019 Enacted Budget guaranteed that all school districts receive an increase in Foundation Aid over their 2017-2018 levels. \$50 million of the Foundation

Aid increase was “set aside” for certain school districts to fund community schools. The State’s 2018-2019 Enacted Budget fully funded all expense-based aid for 2018-2019, including building, transportation, BOCES and special education aid. These categories served as State reimbursements for school district expenses made in the prior year, based on school district-specific aid ratios. A total of \$240 million was approved for increases in all expense-based aids in 2018-2019. The State 2018-2019 Enacted Budget continued to allow the Governor to reduce aid to school districts mid-year if receipts from the Federal government are less than what was expected.

*School district fiscal year (2019-2020):* The State’s 2019-2020 Enacted Budget includes a total of \$27.69 billion for School Aid, a year-to-year funding increase of \$956 million or 3.6 percent and will provide additional funding for Foundation Aid of \$338.0 million and \$409.65 million in reimbursements for expense-based aids. In addition, the 2019-2020 Enacted Budget increases the Community Schools set-aside funding amount by \$49.99 million to a total of \$250.0 million. This increased funding is targeted to districts with failing schools and/or districts experiencing significant growth in English language learners. The 2019-2020 Enacted Budget increases the minimum community schools funding amount from \$75,000 to \$100,000. This ensures all high-need districts across the State can apply the funds to a wide-range of activities.

### *State Aid Litigation*

In January 2001, the State Supreme Court issued a decision in Campaign for Fiscal Equity v. New York mandating that the system of apportionment of State aid to school districts within the State be restructured by the Governor and the State Legislature. On June 25, 2002, the Appellate Division of the State Supreme Court reversed that decision. On June 26, 2003, the State Court of Appeals, the highest court in the State, reversed the Appellate Division, holding that the State must, by July 30, 2004, ascertain the actual cost of providing a sound basic education, enact reforms to the system of school funding and ensure a system of accountability for such reforms. The Court of Appeals further modified the decision of the Appellate Division by deciding against a Statewide remedy and instead limited its ruling solely to the New York City school system.

After further litigation, on appeal in 2006, the Court of Appeals held that \$1.93 billion of additional funds for the New York City schools – as initially proposed by the Governor and presented to the Legislature as an amount sufficient to provide a sound basic education – was reasonably determined. State legislative reforms in the wake of The Campaign for Fiscal Equity decision included increased accountability for expenditure of State funds and collapsing over 30 categories of school aid for school districts in the State into one classroom operating formula referred to as foundation aid. The stated purpose of foundation aid is to prioritize funding distribution based upon student need. As a result of the Court of Appeals ruling schools were to receive \$5.5 billion increase in foundation aid over a four fiscal year phase-in covering 2007 to 2011.

In school district fiscal year 2009-2010, foundation aid funding was frozen by the State Legislature to the prior fiscal year level, and in the fiscal year thereafter foundation aid funding was reduced through a “gap elimination adjustment” as described above, and other aid adjustments. The final phase-in of foundation aid as originally projected has not occurred as of this date.

A case related to the Campaign for Fiscal Equity, Inc. v. State of New York was heard on appeal on May 30, 2017 in New Yorkers for Students’ Educational Rights v. State of New York (“NYSER”) and a consolidated case on the right to a sound basic education. The NYSER lawsuit asserts that the State has failed to comply with the original decision in the Court of Appeals in the Campaign for Fiscal Equity case, and asks the Court of Appeals to require the State to develop new methodologies, formulas and mechanisms for determining State aid, to fully fund the foundation aid formula, to eliminate the supermajority requirement for voter approval of budgets which increase school district property tax levies above the property tax cap limitation, and related matters. On June 27, 2017, the Court of Appeals held that the plaintiffs causes of action were properly dismissed by the earlier Appellate Division decision except insofar as two causes of action regarding accountability mechanisms and sufficient State funding for a “sound basic education” as applicable solely to the school districts in New York City and Syracuse. The Court emphasized its previous ruling in the CFE case that absent “gross education inadequacies”, claims regarding state funding for a “sound basic education” must be made on a district-by-district basis based on the specific facts therein.

There can be no assurance that the State appropriation for building aid and other State aid to school districts will be continued in future years, either pursuant to existing formulas or in any form whatsoever. State aid, including building aid appropriated and apportioned to the Component School Districts, can be paid only if the State has such monies available therefor. The availability of such monies and the timeliness of such payment could be affected by a delay in the adoption of the State budget or their elimination therefrom.

### **Obligations of Component School Districts**

All component School Districts are required to pay their allocable share of BOCES administrative and capital expenses notwithstanding that they may elect not to participate in any of BOCES educational programs. Each component school district pays a proportional share of BOCES administrative and capital expenses (based on attendance or enrollment formulas or property values) through tax levies and local school boards vote on BOCES administrative and capital budgets each spring. The portion of the budget allocated to payments to the Authority, however, is not subject to such vote of the local school boards. The Education Law requires that each component school district add the amount of its share of BOCES administrative expenses to its budget and pay such amount to BOCES. The moneys collected for and on behalf of a BOCES by each component school district are required by law to be paid by the school districts to such BOCES treasurer. Under other provisions of New York law, component school districts of a BOCES are political subdivisions of the State of New York and (with certain exceptions) have the power to levy and collect ad valorem taxes on real property.

Under New York law, if the budget of a school district is not approved by the voters, provision is made for the board of education of the school district to adopt, without voter approval, a contingent budget to pay for the basic or minimal needs of the school district subject to statutory caps which will include its allocable share of BOCES administrative and capital expenses.

All the taxable property of each such school district is subject to levy of ad valorem taxes, without limitation as to rate or amount, to pay the school district's allocable share of BOCES administrative and capital expenses. In addition, each county or other political subdivision having responsibility for the enforcement of delinquent school taxes is required to pay to the school districts the full amount of school taxes which remain uncollected before the end of the school year.

### **Employees**

The BOCES employs a total of 624 employees. Instructional employees are represented as follows:

<u>Employees</u>	<u>Union Representation</u>	<u>Contract Expiration Date</u>
184	St. Lawrence - Lewis BOCES Teachers' Association	June 30, 2021
291	St. Lawrence - Lewis BOCES Federation of Instructional Support Personnel	June 30, 2023
104	St. Lawrence-Lewis BOCES Non-Instructional Support Staff Association	June 30, 2018 <sup>(1)</sup>

<sup>(1)</sup> Currently under negotiation.

### **Status and Financing of Employee Pension Benefits**

Professional employees (teachers and administrators) are members of the New York State Teachers' Retirement System ("TRS"). All non-professional employees of the BOCES eligible for pension or retirement benefits under the Retirement and Social Security Law of the State of New York are members of the New York State and Local Employees' Retirement System ("ERS") and collectively with TRS, the "Retirement Systems". These Retirement Systems are cost-sharing multiple public employer retirement systems. The obligation of employers and employees to contribute and the benefits to employees are governed by the New York State Retirement System and Social Security Law (the "Retirement System Law"). The Retirement Systems offer a wide range of plans and benefits which are related to years of service and final average salary, vesting of retirement benefits, death and disability benefits and optional methods of benefit payments. All benefits generally begin vesting after five (5) years of credited service.

The Retirement System Law generally provides that all participating employers in the Retirement Systems are jointly and severally liable for any unfunded amounts. Such amounts are collected through annual billings to all participating employers. Generally, all employees, except certain part-time employees, participate in the Retirement Systems. The Retirement Systems are non-contributory with respect to members hired prior to July 27, 1976. All members hired on or after July 1, 1976, with less than 10 years of service, must contribute 3% of their gross annual salary toward the costs of retirement programs until they attain ten years in the Retirement System, at such time contributions become voluntary. New professional hires as members of TRS will be required to contribute 3.5% under recent new legislature.

On December 12, 2009, the new Tier V was signed into law. The legislation created a new Tier V pension level, the most significant reform of the State's pension system in more than a quarter-century. Key components of Tier V include:

- Raising the minimum age at which most civilians can retire without penalty from 55 to 62 and imposing a penalty of up to 38% for any civilian who retires prior to age 62.
- Requiring employees to continue contributing 3% of their salaries toward pension costs so long as they accumulate additional pension credits.
- Increasing the minimum years of service required to draw a pension from 5 years to 10 years.
- Capping the amount of overtime that can be considered in the calculation of pension benefits for civilians at \$15,000 per year, and for police and firefighters at 15% of non-overtime wages.

Additionally, on March 16, 2012, the Governor signed into law the new Tier VI pension program, effective for new ERS and TRS employees hired after April 1, 2012. The Tier VI legislation provides for increased employee contribution rates of between 3% and 6%, an increase in the retirement age from 62 years to 63 years, a readjustment of the pension multiplier, and a change in the time period for final average salary calculation from 3 years to 5 years. Tier VI employees will vest in the system after ten years of employment and will continue to make employee contributions throughout employment.

The BOCES payments to ERS and TRS since the 2014-15 fiscal year, the budgeted payments for the 2019-20 fiscal year are as follows:

<u>Fiscal Year</u>	<u>ERS</u>	<u>TRS</u>
2014-15	\$ 1,363,901	\$ 3,062,235
2015-16	1,189,665	3,350,469
2016-17	1,116,579	2,681,207
2017-18	1,124,922	1,643,437
2018-19	1,152,802	1,786,172
2019-20 (Budgeted)	1,291,004	1,630,628

Pursuant to various laws enacted between 1991 and 2002, the State Legislature authorized local governments to make available certain early retirement incentive programs to its employees. The BOCES currently does not have any early retirement incentives.

*Historical Trends and Contribution Rates.* Historically there has been a State mandate requiring full (100%) funding of the annual actuarially required local governmental contribution out of current budgetary appropriations. With the strong performance of the Retirement System in the 1990s, the locally required annual contribution declined to zero. However, with the subsequent decline in the equity markets, the pension system became underfunded. As a result, required contributions increased substantially to 15% to 20% of payroll for the employees' and the police and fire retirement systems, respectively. Wide swings in the contribution rate resulted in budgetary planning problems for many participating local governments.

A chart of average ERS and TRS rates as a percent of payroll (2016 to 2020) is shown below:

<u>Year</u>	<u>ERS</u>	<u>TRS</u>
2015-16	18.2%	13.26%
2016-17	15.5	11.72
2017-18	15.3	9.80
2018-19	14.9	10.62
2019-20	14.6	8.86

In 2003, Chapter 49 of the Laws of 2003 amended the Retirement and Social Security Law and the Local Finance Law. The amendments empowered the State Comptroller to implement a comprehensive structural reform program for ERS. The reform program established a minimum contribution for any local governmental employer equal to 4.5% of pensionable salaries for bills which were due December 15, 2003 and for all fiscal years thereafter, as a minimum annual contribution where the actual rate would otherwise be 4.5% or less due to the investment performance of the fund. In addition, the reform program instituted a billing system to match the budget cycle of municipalities and school districts that will advise such employers over one year in advance concerning actual pension contribution rates for the next annual billing cycle. Under the previous method, the requisite ERS contributions for a fiscal year could not be determined until after the local budget adoption process was complete. Under the new system, a contribution for a given fiscal year is based on the valuation of the pension fund on the prior April 1 of the calendar year preceding the contribution due date instead of the following April 1 in the year of contribution so that the exact amount may now be included in a budget.

Chapter 57 of the Laws of 2010 (Part TT) amended the Retirement and Social Security Law to authorize participating employers, if they so elect, to amortize an eligible portion of their annual required contributions to ERS when employer contribution rates rise above certain levels. The option to amortize the eligible portion began with the annual contribution due February 1, 2011. The amortizable portion of an annual required contribution is based on a “graded” rate by the State Comptroller in accordance with formulas provided in Chapter 57. Amortized contributions are to be paid in equal annual installments over a ten-year period, but may be prepaid at any time. Interest is to be charged on the unpaid amortized portion at a rate to be determined by the State Comptroller, which approximates a market rate of return on taxable fixed rate securities of a comparable duration issued by comparable issuers. The interest rate is established annually for that year’s amortized amount and then applies to the entire ten years of the amortization cycle of that amount. When in any fiscal year, the participating employer’s graded payment eliminates all balances owed on prior amortized amounts, any remaining graded payments are to be paid into an employer contribution reserve fund established by the State Comptroller for the employer, to the extent that amortizing employer has no currently unpaid prior amortized amounts, for future such use.

The BOCES is not amortizing any pension payments nor does it intend to do so in the foreseeable future.

Stable Rate Pension Contribution Option: The 2013-14 State Budget included a provision that provides local governments and school districts, including the BOCES, with the option to “lock-in” long-term, stable rate pension contributions for a period of years determined by the State Comptroller and ERS and TRS. The stable rates would be 12% for ERS and 14% for TRS. The pension contribution rates under this program would reduce near-term payments for employers, but will require higher than normal contributions in later years.

The BOCES did not participate in the Stable Rate Pension Contribution Option nor does it intend to do so in the foreseeable future.

The investment of monies, and assumptions underlying same, of the Retirement Systems covering the BOCES’ employees is not subject to the direction of the BOCES. Thus, it is not possible to predict, control or prepare for future unfunded accrued actuarial liabilities of the Retirement Systems (“UAALs”). The UAAL is the difference between total actuarially accrued liabilities and actuarially calculated assets available for the payment of such benefits. The UAAL is based on assumptions as to retirement age, mortality, projected salary increases attributed to inflation, across-the-board raises and merit raises, increases in retirement benefits, cost-of-living adjustments, valuation of current assets, investment return and other matters. Such UAALs could be substantial in the future, requiring significantly increased contributions from the BOCES which could affect other budgetary matters. Concerned investors should

contact the Retirement Systems administrative staff for further information on the latest actuarial valuations of the Retirement Systems.

### Other Post-Employment Benefits

Healthcare Benefits. It should also be noted that the District provides employment healthcare benefits to various categories of former employees. These costs may be expected to rise substantially in the future. There is now an accounting rule that requires governmental entities, such as the District, to account for employment healthcare benefits as it accounts for vested pension benefits.

School districts and Boards of Cooperative Educational Services, unlike other municipal units of government in the State, have been prohibited from reducing health benefits received by or increasing health care contributions paid by retirees below the level of benefits or contributions afforded to or required from active employees since the implementation of Chapter 729 of the Laws of 1994. Legislative attempts to provide similar protection to retirees of other local units of government in the State have not succeeded as of this date. Nevertheless, many such retirees of all varieties of municipal units in the State do presently receive such benefits.

OPEB. OPEB refers to "other post-employment benefits," meaning other than pension benefits, disability benefits and OPEB consist primarily of health care benefits, and may include other benefits such as disability benefits and life insurance. Until now, these benefits have generally been administered on a pay-as-you-go basis and have not been reported as a liability on governmental financial statements.

GASB 75. In 2015, the Governmental Accounting Standards Board ("GASB") released new accounting standards for public Other Post-Employment Benefits ("OPEB") plans and participating employers. These standards, GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions* ("GASB 75"), have substantially revised the valuation and accounting requirements previously mandated under GASB Statements No. 43 and 45. For the fiscal year ended June 30, 2018, the District implemented GASB 75. The implementation of this statement requires District's to report OPEB liabilities, OPEB expenses, deferred outflow of resources and deferred inflow of resources related to OPEB. GASB Statement No. 75 replaced GASB Statement 45, which also required the District to calculate and report a net OPEB obligation. However, under GASB 45 districts could amortize the OPEB liability over a period of years, whereas GASB 75 requires districts to report the entire OPEB liability on the statement of net position.

The District contracted with Armory Associates, an actuarial firm, to calculate its actuarial valuation under GASB 75 for the fiscal years ending June 30, 2018 and 2019. Prior valuations performed under GASB 45 guidelines have not been restated and are not reflected in historic exhibits.

The following outlines the changes to the Total OPEB Liability during the past two fiscal years, by source.

	Balance beginning at:	June 30, 2017	June 30, 2018
		\$ 205,899,842	\$ 187,953,018
<u>Changes for the year:</u>			
Service cost		8,080,556	6,113,323
Interest		6,046,105	6,915,960
Differences between expected and actual experience		-	2,892,449
Changes in benefit terms		-	(164,648)
Changes in assumptions or other inputs		(28,400,816)	1,997,814
Benefit payments		(3,672,669)	(3,912,746)
Net Changes		\$ (17,946,824)	\$ 13,842,152
	Balance ending at:	June 30, 2018	June 30, 2019
		<u>\$ 187,953,018</u>	<u>\$ 201,795,170</u>

Note: The above table is not audited. For additional information see "APPENDIX - G" attached hereto.

There is no authority in current State law to establish a trust account or reserve fund for this liability. The District has reserved \$0 towards its OPEB liability. The District funds this liability on a pay-as-you-go basis.

The District's unfunded actuarial accrued OPEB liability could have a material adverse impact upon the District's finances and could force the District to reduce services, raise taxes or both.

Actuarial valuation will be required every 2 years for OPEB plans with more than 200 members, every 3 years if there are fewer than 200 members.

In April 2015, the State Comptroller announced legislation to create an optional investment pool to help the State and local governments fund retiree health insurance and other post-employment benefits. The proposed legislation would allow the following:

- Authorize the creation of irrevocable OPEB trusts, not part of the New York State Common Retirement Fund, so that New York state and its local governments can, at their option, help fund their OPEB liabilities;
- Establish an OPEB investment fund in the sole custody of the State Comptroller for the investment of OPEB assets of the state and participating eligible local governments;
- Designate the president of the Civil Service Commission as the trustee of the state's OPEB trust and the governing boards as trustee for local governments; and
- Allow school districts to transfer certain excess reserve balances to an OPEB trust once it is established.

Under the State Comptroller's proposal, there are no restrictions on the amount a government can deposit into the trust. The proposed legislation was not enacted into law in the last two legislative sessions. It is not possible to predict whether the Comptroller's proposed legislation will be reintroduced or enacted if introduced.

#### **Other Information**

The statutory authority for the power to spend money for the object or purpose, or to accomplish the object or purpose, for which the Notes are to be issued is the Education Law and the Local Finance Law.

No principal or interest upon any obligation of the BOCES is past due.

The fiscal year of the BOCES is July 1 to June 30.

#### **Financial Statements**

The BOCES retains Independent Certified Public Accountants. The last audited report covers the period ending June 30, 2019 and may be found attached hereto as "APPENDIX-G" to this Official Statement.

Certain summary financial information of the BOCES can also be found attached as Appendices to this Official Statement. This Official Statement also includes a summary of financial data of each Component School District having power to levy taxes within its respective school district.

The BOCES complies with the Uniform System of Accounts as prescribed by the State Comptroller for BOCES in New York State. This system differs from generally accepted accounting principles as prescribed by the American Institute of Certified Public Accountants' Industry Audit Guide, "Audits of State and Local Governmental Units", and codified in Government Accounting, Auditing and Financial Reporting (GAAFR), published by the Governmental Accounting Standards Board (GASB).

Beginning with the fiscal year ending June 30, 2003 the BOCES is required to issue its financial statements in accordance with GASB Statement No. 34. This statement includes reporting of all assets including infrastructure and depreciation in the Government Wide Statement of Activities, as well as the Management's Discussion and Analysis. The BOCES is in compliance with Statement No. 34.



## **The State Comptroller's Fiscal Stress Monitoring System**

The New York State Comptroller has reported that New York State's school districts and municipalities are facing significant fiscal challenges. As a result, the Office of the State Comptroller developed a Fiscal Stress Monitoring System ("FSMS") to provide independent, objectively measured and quantifiable information to school districts and municipal officials, taxpayers and policy makers regarding the various levels of fiscal stress under which the State's school districts and municipalities are operating.

The fiscal stress scores are based on financial information submitted as part of each school districts ST-3 report filed with the State Education Department annually, and each municipality's annual report filed with the State Comptroller. Using financial indicators that include year-end fund balance, cash position and patterns of operating deficits, the system creates an overall fiscal stress score which classifies whether a school district or municipality is in "significant fiscal stress", in "moderate fiscal stress," as "susceptible to fiscal stress" or "no designation". Entities that do not accumulate the number of points that would place them in a stress category will receive a financial score but will be classified in a category of "no designation." This classification should not be interpreted to imply that the entity is completely free of fiscal stress conditions. Rather, the entity's financial information, when objectively scored according to the FSMS criteria, did not generate sufficient points to place them in one of the three established stress categories.

The BOCES itself has not been classified pursuant to this system.

The most recent applicable report of the State Comptroller for fiscal year ending 2018 classifies all component school districts of the BOCES under the category of "No Designation."

Additional details regarding the Fiscal Stress Monitoring System can be found on the New York State Comptroller's official website. Reference to websites implies no warranty of accuracy of information therein.

## **New York State Comptroller Report of Examination**

The State Comptroller's office, i.e., the Department of Audit and Control, periodically performs a compliance review to ascertain whether the BOCES has complied with the requirements of various State and Federal statutes. These audits can be found by visiting the Audits of Local Governments section of the Office of the State Comptroller website.

The State Comptroller's office released an audit report of the BOCES on December 23, 2016. The purpose of the audit was to evaluate the accuracy of BOCES' payroll payments for the period July 1, 2014 through May 31, 2016.

### Key Findings:

- BOCES officials established and adhered to good procedures for processing and verifying payroll payments.

### Key Recommendations:

- There were no recommendations as a result of this audit.

The BOCES provided a complete response to the State Comptroller's office on December 5, 2016. A copy of the complete report and response can be found via the website of the Office of the New York State Comptroller.

There are no State Comptroller's audits of the BOCES that are currently in progress or pending release.

Note: Reference to website implies no warranty of accuracy of information therein.

## Tax Collection Procedure of Component School Districts

Tax payments in each of the Component School Districts are due September 1. On November 15, uncollected taxes are returnable to the respective counties for collection. The Component School Districts receive the uncollected amount from said counties prior to the end of the Component School Districts' fiscal year, thereby assuring 100% collection annually.

## Capital Projects and Financings

Outstanding Debt. On June 14, 2007 the Dormitory Authority of the State of New York delivered \$10,500,000 Dormitory Authority of the State of New York Master BOCES Lease Revenue Bonds (St. Lawrence-Lewis Issue), Series 2007. The Series 2007 Bonds were issued and will be used together with other available moneys to (i) pay costs of a capital reconstruction project and (ii) pay all or a portion of the costs of issuance of the Series 2007 Bonds, including the payment of the premium for the reserve fund facility and payment of the premium for the municipal bond insurance policy. The project consists of repairs, renovations and alterations to the Southwest Tech, Seaway Tech and Northwest Tech campuses. In 2015, the Dormitory Authority of the State of New York refunded and refinanced the \$10,500,000 Series 2007 Bonds and issued \$7,860,000 in Refunding Bonds.

The remaining BOCES payments under this agreement are as follows:

<u>Maturity Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
8/15/2020	\$ 710,000	\$ 129,694	\$ 839,694
8/15/2021	725,000	115,494	840,494
8/15/2022	735,000	100,994	835,994
8/15/2023	755,000	84,456	839,456
8/15/2024	770,000	66,525	836,525
8/15/2025	795,000	46,313	841,313
8/15/2026	<u>815,000</u>	<u>24,450</u>	<u>839,450</u>
Total	\$ 5,305,000	\$ 567,926	\$ 5,872,926

On July 22, 2011 the Dormitory Authority of the State of New York delivered \$6,800,000 Dormitory Authority of the State of New York Master BOCES Lease Revenue Bonds (St. Lawrence-Lewis Issue), Series 2011. The Series 2011 Bonds were issued and will be used together with other available moneys to finance an additional project, which consists of the acquisition of an approximately 69,966 square foot office building located on a 5.56 acre parcel of land at 40 West Main Street, Canton, New York for use as a primary administrative office building for the St. Lawrence-Lewis BOCES.

The remaining BOCES payments under this agreement are as follows:

<u>Maturity Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
8/15/2020	\$ 325,000	\$ 228,763	\$ 553,763
8/15/2021	335,000	218,200	553,200
8/15/2022	350,000	206,894	556,894
8/15/2023	360,000	194,644	554,644
8/15/2024	380,000	174,844	554,844
8/15/2025	400,000	153,944	553,944
8/15/2026	420,000	131,944	551,944
8/15/2027	445,000	108,844	553,844
8/15/2028	470,000	83,813	553,813
8/15/2029	495,000	57,375	552,375
8/15/2030	<u>525,000</u>	<u>29,531</u>	<u>554,531</u>
Total	\$ 4,505,000	\$ 1,588,796	\$ 6,093,796

Current Capital Projects and Financing. On October 9, 2018 voters approved the \$43.5 million capital project to renovate and add space the BOCES' technical centers. It is anticipated that construction will begin in the summer 2020. This project will include: development of additional separate classroom space for high-bay shop programs;

building electrical service switchgear replacement and electrical distribution improvements; energy efficient lighting; new culinary kitchen construction to address both major sanitary plumbing issues, code compliance, and current design for culinary specific instruction; and two new additional high bay shops for additional programs, and various Handicap Accessibility Compliance Upgrades, and asphalt surfacing improvements. The BOCES expects the project to cost approximately \$43,500,000. The proceeds of the Bonds will provide new monies for the above mentioned project. The second financing is expected in the Spring of 2021 for \$21.5 million.

The BOCES is also considering a smaller capital project to build storage buildings at the three technical centers. This project would be funded with capital outlay monies, without any borrowing. The current cost estimate for the project is \$2.4 million.

Other than noted above, the BOCES has no other active capital projects nor any contemplated at this time.

### **Other Obligations**

The BOCES enters into installment purchase contracts and offers lease purchase agreements to its component school districts for the purchase of equipment. While the BOCES is obligated under these equipment installment purchase contracts, it expects to be made whole by its agreements with the school districts. Total expenditures on such leases for the fiscal year ended June 30, 2020 are anticipated to be approximately \$382,428. The future minimum lease payments by year are as follows.

<u>Fiscal Year</u>	<u>Amount</u>
2020	\$ 382,428
2021	329,798
2022	263,426
2023	205,756
2024	<u>69,968</u>
Total Minimum Lease Payments	1,251,376
Less Amount Representing Interest	<u>(111,164)</u>
Total	\$ 1,140,212

Source: Audited Financial Statements of the BOCES see "APPENDIX - B" attached hereto.

The BOCES leases certain equipment, office space and personal property under the terms of various non-cancelable leases. Rental expense for the year ended June 30, 2019 was \$330,079. Minimum annual rentals for each of the remaining years of the lease at June 30, 2019 are as follows:

<u>Fiscal Year</u>	<u>Amount</u>
2020	\$ 314,387
2021	269,869
2022	188,835
2023	116,204
2024	<u>19,412</u>
Total	\$ 492,627

Source: Audited Financial Statements of the BOCES see "APPENDIX - B" attached hereto.

## **PART 6 – THE PROJECT**

On October 9, 2018 voters approved the \$43.5 million capital project to renovate and add space the BOCES' technical centers. It is anticipated that construction will begin in the summer 2020. This project will include: development of additional separate classroom space for high-bay shop programs; building electrical service switchgear replacement and electrical distribution improvements; energy efficient lighting; new culinary kitchen construction to address both major sanitary plumbing issues, code compliance, and current design for culinary specific instruction; and two new additional high bay shops for additional programs, and various Handicap Accessibility Compliance Upgrades, and asphalt surfacing improvements. The BOCES expects the project to cost approximately

\$43,500,000. The proceeds of the Bonds will provide new monies for the above mentioned project. The second financing is expected in the Spring of 2021 for \$21.5 million.

## **PART 7 – ESTIMATED SOURCES AND USES OF FUNDS**

Estimated sources and uses of funds are as follows:

### **Sources of Funds**

Principal Amount of the Series 2020 Bonds	\$
Net Original Issue Premium	
Total Sources	\$

### **Uses of Funds**

Costs of the Project	\$
Deposit to the Debt Service Reserve Fund	
Costs of Issuance <sup>1</sup>	
Underwriter's Discount	
Total Uses	\$

<sup>1</sup> Includes certain legal fees, issuer fees, rating agency fees and other expenses.

## **PART 8 – DASNY**

### **Background, Purposes and Powers**

DASNY is a body corporate and politic constituting a public benefit corporation. DASNY was created in 1944 to finance and build dormitories at State teachers' colleges to provide housing for the large influx of students returning to college on the G.I. Bill following World War II. Over the years, the State Legislature has expanded DASNY's scope of responsibilities. Today, pursuant to the Dormitory Authority Act, DASNY is authorized to finance, design, construct or rehabilitate facilities for use by a variety of public and private not-for-profit entities.

DASNY provides financing services to its clients in three major areas: public facilities; not-for-profit healthcare; and independent higher education and other not-for-profit institutions. DASNY issues State-supported debt, including State Personal Income Tax Revenue Bonds and State Sales Tax Revenue Bonds, on behalf of public clients such as The State University of New York, The City University of New York, the Departments of Health and Education of the State, the Office of Mental Health, the Office of People with Developmental Disabilities, the Office of Addiction Services and Supports, the Office of General Services, and the Office of General Services of the State on behalf of the Department of Audit and Control. Other public clients for whom DASNY issues debt include Boards of Cooperative Educational Services ("BOCES"), State University of New York, the Workers' Compensation Board, school districts across the State and certain cities and counties that have accessed DASNY for the purpose of providing court facilities. DASNY's private clients include independent colleges and universities, private hospitals, certain private secondary schools, special education schools, facilities for the aged, primary care facilities, libraries, museums, research centers and government-supported voluntary agencies, among others.

To carry out its programs, DASNY is authorized to issue and sell negotiable bonds and notes to finance the construction of facilities for such institutions, to issue bonds or notes to refund outstanding bonds or notes and to lend funds to such institutions. At December 31, 2019, DASNY had approximately \$56.1 billion aggregate principal amount of bonds and notes outstanding. DASNY also is authorized to make tax-exempt leases, with its Tax-Exempt Leasing Program (TELP). As part of its operating activities, DASNY also administers a wide variety of grants authorized by the State for economic development, education and community improvement and payable to both public and private grantees from proceeds of State Personal Income Tax Revenue Bonds issued by DASNY.

DASNY is a conduit debt issuer. Under existing law, and assuming continuing compliance with tax law, interest on most bonds and notes issued by DASNY has been determined to be excludable from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. All of DASNY's

outstanding bonds and notes, both fixed and variable rate, are special obligations of DASNY payable solely from payments required to be made by or for the account of the client institution for which the particular special obligations were issued. DASNY has no obligation to pay its special obligations other than from such payments. DASNY has always paid the principal of and interest on all of its obligations on time and in full; however, as a conduit debt issuer, payments on DASNY's special obligations are solely dependent upon payments made by DASNY's client for which the particular special obligations were issued and the security provisions relating thereto.

DASNY also offers a variety of construction services to certain educational, governmental and not-for-profit institutions in the areas of project planning, design and construction, monitoring project construction, purchasing of furnishings and equipment for projects, interior design of projects and designing and managing projects to rehabilitate older facilities.

In connection with the powers described above, DASNY has the general power to acquire real and personal property, give mortgages, make contracts, operate certain facilities and fix and collect rentals or other charges for their use, contract with the holders of its bonds and notes as to such rentals and charges, borrow money and adopt a program of self-insurance.

DASNY has a staff of approximately 536 employees located in three main offices (Albany, New York City and Buffalo) and at approximately 47 field sites across the State.

### **Governance**

DASNY is governed by an eleven-member board. Board members include the Commissioner of Education of the State, the Commissioner of Health of the State, the State Comptroller or one member appointed by him or her who serves until his or her successor is appointed, the Director of the Budget of the State, one member appointed by the Temporary President of the State Senate, one member appointed by the Speaker of the State Assembly and five members appointed by the Governor, with the advice and consent of the Senate, for terms of three years. The Commissioner of Education of the State, the Commissioner of Health of the State and the Director of the Budget of the State each may appoint a representative to attend and vote at DASNY meetings. The members of DASNY serve without compensation, but are entitled to reimbursement of expenses incurred in the performance of their duties. The appointment to the Board by the Speaker of the State Assembly is currently vacant.

The Governor of the State appoints a Chair from the members appointed by him or her and the members of DASNY annually choose the following officers, of which the first two must be members of DASNY: Vice-Chair, Secretary, Treasurer, Assistant Secretaries and Assistant Treasurers. The office of Secretary is currently vacant.

The current members of DASNY are as follows:

ALFONSO L. CARNEY, JR., *Chair*, New York.

Alfonso L. Carney, Jr. was reappointed as a Member of DASNY by the Governor on June 19, 2013. Mr. Carney is a principal of Rockwood Partners, LLC, which provides medical consulting services in New York City. He has served as Acting Chief Operating Officer and Corporate Secretary for the Goldman Sachs Foundation in New York where, working with the President of the Foundation, he managed the staff of the Foundation, provided strategic oversight of the administration, communications and legal affairs teams, and developed selected Foundation program initiatives. Mr. Carney has held senior level legal positions with Altria Group Inc., Philip Morris Companies Inc., Philip Morris Management Corporation, Kraft Foods, Inc. and General Foods Corporation. Mr. Carney holds a Bachelor's degree in philosophy from Trinity College and a Juris Doctor degree from the University of Virginia School of Law. His term expired on March 31, 2016 and by law he continues to serve until a successor shall be chosen and qualified.

JOHN B. JOHNSON, JR., *Vice-Chair*, Watertown.

John B. Johnson, Jr. was reappointed as a Member of DASNY by the Governor on June 19, 2013. Mr. Johnson is Chairman of the Board of the Johnson Newspaper Corporation, which publishes the Watertown Daily Times, Batavia Daily News, Malone Telegram, Catskill Daily Mail, Hudson Register Star, Ogdensburg Journal, Massena-Potsdam Courier Observer, seven weekly newspapers and three shopping newspapers. He holds a Bachelor's degree from Vanderbilt University, and Master's degrees in Journalism and Business Administration from the Columbia University Graduate School of Journalism and Business. Mr. Johnson was awarded an Honorary Doctor of Science degree from Clarkson University. Mr. Johnson's term expired on March 31, 2016 and by law he continues to serve until a successor shall be chosen and qualified.

BERYL L. SNYDER, J.D., *Secretary*, New York.

Beryl L. Snyder was reappointed as a member of DASNY by the Governor on June 19, 2013. Ms. Snyder is a principal in HBJ Investments, LLC, an investment company where her duties include evaluation and analysis of a wide variety of investments in, among other areas: fixed income, equities, alternative investments and early stage companies. She holds a Bachelor of Arts degree in History from Vassar College and a Juris Doctor degree from Rutgers University. Her current term expired on August 31, 2016 and by law she continues to serve until a successor shall be chosen and qualified.

JONATHAN H. GARDNER, ESQ., Buffalo.

Jonathan H. Gardner was appointed as a Member of DASNY by the Governor on June 17, 2014. Mr. Gardner is a partner of the law firm Kavinoky Cook, LLP in Buffalo, New York. His practice areas include corporate and securities law, commercial transactions, private placements, venture capital financing and business combinations representing private and public companies. Mr. Gardner is also an adjunct professor at the University of Buffalo Law School. He holds a Bachelor of Arts degree from Brown University and a Juris Doctor degree from the University of Chicago Law School. Mr. Gardner's term expired on March 31, 2015 and by law he continues to serve until a successor shall be chosen and qualified.

WELLINGTON Z. CHEN, Queens.

Wellington Z. Chen was appointed as a Member of DASNY by the Governor on June 20, 2018. Mr. Chen is the Executive Director of the Chinatown Partnership Development Corporation. In this capacity, he leads the Chinatown Partnership in implementing initiatives in infrastructure, post 9/11 rebuilding and public space improvements in a comprehensive effort to improve the environmental and the business conditions. He is a graduate of the School of Architecture and Environmental Studies at The City College of New York. Mr. Chen's term expires on March 31, 2020.

JOAN M. SULLIVAN, Slingerlands.

Joan M. Sullivan was appointed as a Member of DASNY by the New York State Comptroller on March 26, 2019. Ms. Sullivan is President of On Wavelength Consulting LLC, a firm that assists governmental entities with development of public procurements and private companies with the preparation of effective responses to government solicitations. She possesses over 40 years of experience working in and for the government of New York State, including an expansive career at the NYS Office of State Comptroller where she last served as Executive Deputy Comptroller before accepting an appointment as Executive Director of The NYS Forum, Inc. Ms. Sullivan holds a Bachelor of Arts degree in Business Administration (Accounting) from Siena College.

GERARD ROMSKI, ESQ., Mount Kisco.

Gerard Ronski was reappointed as a Member of DASNY by the Temporary President of the State Senate on May 9, 2016. He is Counsel and Project Executive for "Arverne by the Sea," where he is responsible for advancing and overseeing all facets of "Arverne by the Sea," one of New York City's largest mixed-use developments located in Queens, New York. Mr. Ronski is also of counsel to the New York City law firm of Rich, Intelisano & Katz, LLP. Mr. Ronski holds a Bachelor of Arts degree from the New York Institute of Technology and a Juris Doctor degree from Brooklyn Law School.

SHANNON TAHOE, *Acting Commissioner of Education of the State of New York*, Cohoes; ex-officio.

Shannon Tahoe assumed the role of Acting Commissioner of Education and Acting President of the University of the State of New York effective November 16, 2019. Since September 2006, Ms. Tahoe has served in various capacities within the Department, including Deputy Counsel and Assistant Counsel for Legislation. In October 2019, she was appointed Acting Counsel and Deputy Commissioner for Legal Affairs. This appointment will continue to remain in effect along with her appointment as Acting Commissioner of Education and Acting President of the University of the State of New York. Ms. Tahoe has provided legal advice and counsel on critical policy matters and key initiatives. She is familiar with all aspects of the work of the Department, having managed the day-to-day operations of the Office of Counsel as Deputy Counsel and now Acting Counsel. During her tenure, Ms. Tahoe has also assisted with the successful management of a broad array of critical Departmental functions and responsibilities. She holds a Juris Doctorate degree from Syracuse University and Bachelor of Science degree from the University of Rochester.

ROBERT F. MUJICA, JR., *Budget Director of the State of New York, Albany; ex-officio.*

Robert F. Mujica Jr. was appointed Director of the Budget by the Governor and began serving on January 14, 2016. He is responsible for the overall development and management of the State's fiscal policy, including overseeing the preparation of budget recommendations for all State agencies and programs, economic and revenue forecasting, tax policy, fiscal planning, capital financing and management of the State's debt portfolio. Prior to his appointment, Mr. Mujica was Chief of Staff to the Temporary President and Majority Leader of the Senate and concurrently served as the Secretary to the Senate Finance Committee. For two decades, he advised various elected and other government officials in New York on State budget, fiscal and policy issues. Mr. Mujica received his Bachelor of Arts degree in Sociology from Brooklyn College at the City University of New York. He received his Master's degree in Government Administration from the University of Pennsylvania and holds a Juris Doctor degree from Albany Law School.

HOWARD A. ZUCKER, M.D., J.D., *Commissioner of Health of the State of New York, Albany; ex-officio.*

Howard A. Zucker, M.D., J.D., was appointed Commissioner of Health on May 5, 2015 after serving as Acting Commissioner of Health since May 5, 2014. Prior to that, he served as First Deputy Commissioner leading the State Department of Health's preparedness and response initiatives in natural disasters and emergencies. Before joining the State Department of Health, Dr. Zucker was professor of Clinical Anesthesiology at Albert Einstein College of Medicine of Yeshiva University and a pediatric cardiac anesthesiologist at Montefiore Medical Center. He was also an adjunct professor at Georgetown University Law School where he taught biosecurity law. Dr. Zucker earned his medical degree from George Washington University School of Medicine. He also holds a Juris Doctor degree from Fordham University School of Law and a Master of Laws degree from Columbia Law School.

The principal staff of DASNY are as follows:

REUBEN R. McDANIEL, III is the Acting President and chief executive officer of DASNY, responsible for the overall management of DASNY's administration and operations. Mr. McDaniel possesses more than 30 years of experience in financial services, including public finance, personal wealth management, corporate finance and private equity. During his career in public finance, he participated in more than \$75 billion in tax-exempt bond issuances throughout the country. He has also managed investment portfolios and business assets for a variety of professionals. He previously served as Chair of the Atlanta Board of Education for Public Schools. Mr. McDaniel holds an undergraduate degree in Economics and Mathematics from the University of North Carolina at Charlotte and a Master of Business Administration from the University of Texas at Austin.

PAUL G. KOOPMAN is the Vice President of DASNY and assists the President in the administration and operation of DASNY. Mr. Koopman joined DASNY in 1995 managing the Accounts Payable and Banking and Investment Units followed by management positions in the Construction Division including Managing Senior Director of Construction where he was the primary relationship manager for some of DASNY's largest clients and provided oversight of DASNY's construction administration functions. Most recently, Mr. Koopman served as Managing Director of Executive Initiatives of DASNY where he worked closely with executive staff on policy development, enterprise risk management, and strategic planning. His career in public service began in 1985 with the NYS Division of the Budget, and then continued as Chief Budget Analyst for the New York State Facilities Development Corporation. A graduate of the Rockefeller College of Public Affairs, he holds a Master of Arts degree in Public Administration with a Public Finance concentration, and a Bachelor of Arts degree in Political Science from the State University of New York, University at Albany.

KIMBERLY J. NADEAU is the Chief Financial Officer and Treasurer of DASNY. As Chief Financial Officer and Treasurer, Ms. Nadeau is responsible for supervising DASNY's investment program, general accounting, accounts payable, accounts receivable, financial reporting functions, budget, payroll, insurance and information services, as well as the development and implementation of financial policies, financial management systems and internal controls for financial reporting. She previously was Vice President-Accounting and Controller for US Light Energy. Prior to that she was Vice President-Accounting and Controller for CH Energy Group, Inc. and held various positions culminating in a director level position at Northeast Utilities. Ms. Nadeau also held various positions with increasing responsibility at Coopers & Lybrand LLP. She holds a Bachelor of Science degree in Accounting, a Master of Business Administration with a concentration in Management and a Juris Doctor degree from the University of Connecticut. She is licensed to practice law in New York and Connecticut.

MICHAEL E. CUSACK is General Counsel to DASNY. Mr. Cusack is responsible for all legal services including legislation, litigation, contract matters, and the legal aspects of all DASNY financings. In addition, he is responsible for the supervision of DASNY's environmental affairs unit. He is licensed to practice law in the State of

New York and the Commonwealth of Massachusetts, as well as the United States District Court for the Northern District of New York. Mr. Cusack has over twenty years of combined legal experience, including management of an in-house legal department and external counsel teams (and budgets) across a five-state region. He most recently served as of counsel to the Albany, New York law firm of Young/Sommer, LLC, where his practice included representation of upstate New York municipalities, telecommunications service providers in the siting of public utility/personal wireless service facilities and other private sector clients. He holds a Bachelor of Science degree from Siena College and a Juris Doctor degree from Albany Law School of Union University.

PORTIA LEE is the Managing Director of Public Finance and Portfolio Monitoring. She is responsible for supervising and directing DASNY bond issuance in the capital markets, implementing and overseeing financing programs, overseeing DASNY's compliance with continuing disclosure requirements and monitoring the financial condition of existing DASNY clients. Ms. Lee previously served as Senior Investment Officer at the New York State Comptroller's Office where she was responsible for assisting in the administration of the long-term fixed income portfolio of the New York State Common Retirement Fund, as well as the short-term portfolio, and the Securities Lending Program. From 1995 to 2005, Ms. Lee worked at Moody's Investors Service where she most recently served as Vice President and Senior Credit Officer in the Public Finance Housing Group. She holds a Bachelor of Arts degree from the State University of New York at Albany.

STEPHEN D. CURRO is the Managing Director of Construction. Mr. Curro is responsible for DASNY's construction groups, including design, project management, resource acquisition, contract administration, interior design, real property, sustainability and engineering, as well as other technical services. Mr. Curro joined DASNY in 2001 as Director of Technical Services, and most recently served as Director of Construction Support Services. He is a registered Professional Engineer in New York and has worked in the construction industry for more than 30 years. He holds a Bachelor of Science in Civil Engineering from the University of Rhode Island, a Master of Engineering in Structural Engineering from Rensselaer Polytechnic Institute and a Master of Business Administration from Rensselaer Polytechnic Institute's Lally School of Management.

CAROLINE V. GRIFFIN is the Chief of Staff of DASNY. She is responsible for overseeing intergovernmental relations and managing the Communications & Marketing Department, as well as coordinating policy and operations across DASNY's multiple business lines. Ms. Griffin most recently served as the Director of Intergovernmental Affairs for Governor Andrew M. Cuomo where she worked as the Governor's liaison with federal, state and local elected officials and managed staff serving in various capacities in the Governor's Office. Prior to that she served as the Assistant Executive Deputy Secretary for Governor Andrew M. Cuomo overseeing the operations staff and Assistant Secretary for Intergovernmental Affairs for both Governor David A. Paterson and Governor Eliot Spitzer. She holds a Bachelor of Arts degree in Communications from Boston College.

### **Claims and Litigation**

Although certain claims and litigation have been asserted or commenced against DASNY, DASNY believes that such claims and litigation either are covered by insurance or by bonds filed with DASNY, or that DASNY has sufficient funds available or the legal power and ability to seek sufficient funds to meet any such claims or judgments resulting from such matters.

There is not now pending any litigation against DASNY (i) restraining or enjoining the issuance or delivery of the Series 2020 Bonds or (ii) challenging the validity of the Series 2020 Bonds or the proceedings and authority under which DASNY will issue the Series 2020 Bonds.

### **Other Matters**

#### *New York State Public Authorities Control Board*

The New York State Public Authorities Control Board (the "PACB") has authority to approve the financing and construction of any new or reactivated projects proposed by DASNY and certain other public authorities of the State. The PACB approves the proposed new projects only upon its determination that there are commitments of funds sufficient to finance the acquisition and construction of the projects. DASNY obtains the approval of the PACB for the issuance of all of its bonds and notes.

#### *Legislation*

From time to time, bills are introduced into the State Legislature which, if enacted into law, would affect DASNY and its operations. DASNY is not able to represent whether such bills will be introduced or become law in the future. In addition, the State undertakes periodic studies of public authorities in the State (including DASNY) and



their financing programs. Any of such periodic studies could result in proposed legislation which, if adopted, would affect DASNY and its operations.

#### *Environmental Quality Review*

DASNY complies with the New York State Environmental Quality Review Act and with the New York State Historic Preservation Act of 1980, and the respective regulations promulgated thereunder to the extent such acts and regulations are applicable.

#### *Independent Auditors*

The accounting firm of KPMG LLP audited the financial statements of DASNY for the fiscal year ended March 31, 2019. Copies of the most recent audited financial statements are available upon request at the offices of DASNY.

## **PART 9 – LEGALITY OF THE SERIES 2020 BONDS FOR INVESTMENT AND DEPOSIT**

Under New York State law, the Series 2020 Bonds are securities in which all public officers and bodies of the State and all municipalities and municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, administrators, guardians, executors, trustees, committees, conservators and other fiduciaries of the State may properly and legally invest funds in their control. However, enabling legislation or bond resolutions of individual public benefit corporations and authorities of the State may limit the investment of funds of such authorities in the Series 2020 Bonds.

The Series 2020 Bonds may be deposited with the State Comptroller to secure deposits of State moneys in banks, trust companies and industrial banks.

## **PART 10 – NEGOTIABLE INSTRUMENTS**

The Series 2020 Bonds shall be negotiable instruments as provided in the Act, subject to the provisions for registration and transfer contained in the Master Resolution and in the Series 2020 Bonds.

## **PART 11 – TAX MATTERS**

### **General**

In the opinion of Bond Counsel, under existing law and assuming continuing compliance by DASNY and SLL BOCES with certain tax covenants described herein, and the accuracy and completeness of certain representations and certifications made by DASNY and SLL BOCES described herein, (i) interest on the Series 2020 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and (ii) interest on the Series 2020 Bonds is not an item of tax preference for purposes of calculating the alternative minimum tax under the Code.

In addition, Bond Counsel is of the opinion that under existing law interest on the Series 2020 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof, including The City of New York.

The Code establishes certain requirements that must be met as of and subsequent to the issuance and delivery of the Series 2020 Bonds for interest thereon to be and remain excludable from gross income for federal income tax purposes. Included among these requirements are requirements regarding, among other matters, the use, expenditure and investment of the proceeds of the Series 2020 Bonds, the use of the facilities financed with the proceeds of the Series 2020 Bonds, the yield and other restrictions on investment of gross proceeds of the Series 2020 Bonds, and the arbitrage rebate requirement that certain earnings on gross proceeds of the Series 2020 Bonds be rebated to the United States Treasury. Failure to comply with the requirements of the Code applicable to the Series 2020 Bonds may cause interest on the Series 2020 Bonds to be included in gross income for purposes of federal income tax retroactive to the

date of original execution and delivery of the Series 2020 Bonds, regardless of the date on which the event causing such inclusion occurs.

DASNY shall covenant in the Tax Certificate and Agreement to be executed and delivered by DASNY and SLL BOCES in connection with the issuance of the Series 2020 Bonds (the “Tax Certificate”) to comply with the requirements of the Code applicable to the Series 2020 Bonds in order to maintain the exclusion of the interest on the Series 2020 Bonds from gross income for federal income tax purposes under Section 103 of the Code. SLL BOCES shall covenant in the Tax Certificate to comply with the requirements of the Code applicable to the Series 2020 Bonds in order to maintain the exclusion of the interest on the Series 2020 Bonds from gross income for federal income tax purposes under Section 103 of the Code. SLL BOCES has covenanted in the Agreement and shall further covenant in the Tax Certificate, that it will not take any action, permit any action to be taken, or omit to take any action, which action or omission will adversely affect the exclusion of interest on the Series 2020 Bonds from gross income for federal income tax purposes under Section 103 of the Code.

The Code contains other provisions (some of which are noted below) that could result in tax consequences, upon which Bond Counsel renders no opinion, as a result of ownership of the Series 2020 Bonds or the inclusion in certain computations of interest that is excluded from gross income.

In rendering its opinion with respect to the Series 2020 Bonds, Bond Counsel has relied on certain representations, undertakings, certifications of fact and statements of reasonable expectations made by DASNY and SLL BOCES, and Bond Counsel has assumed compliance by DASNY and SLL BOCES with certain ongoing covenants to carry out such undertakings and comply with applicable requirements of the Code to assure the exclusion of interest on the Series 2020 Bonds from gross income under Section 103 of the Code. Bond Counsel will not independently verify the accuracy of those representations, undertakings, certifications of fact and statements of reasonable expectations.

Certain requirements and procedures contained or referred to in the Resolutions, the Agreement, the Tax Certificate and other relevant documents may be changed, and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents, upon the advice or with the approving opinion of Bond Counsel. The opinion of Bond Counsel states that Bond Counsel expresses no opinion as to the effect on the exclusion from gross income of interest on the Series 2020 Bond if any such change occurs or action is taken or not taken after the date of delivery of the Series 2020 Bonds in reliance on the opinion or advice of counsel other than Bond Counsel.

### **Certain Collateral Federal Tax Consequences**

Ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty and life insurance companies, certain foreign corporations doing business in the United States, certain S-corporations with excess passive income, individual recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations and taxpayers who may be eligible for the earned income tax credit. Prospective purchasers should consult their tax advisers as to any possible collateral consequences of their ownership of, accrual or receipt of interest on, or disposition of the Series 2020 Bonds. Bond Counsel expresses no opinion regarding any such collateral federal income tax consequences.

### **Original Issue Discount**

The excess, if any, of the amount payable at maturity of any maturity of the Series 2020 Bonds purchased as part of the initial public offering over the issue price thereof constitutes original issue discount. The amount of original issue discount that has accrued and is properly allocable to an owner of any maturity of the Series 2020 Bonds with original issue discount (the “Discount Bonds”) will be excluded from gross income for purposes of federal income taxation to the same extent as interest on such Series 2020 Bonds. In general, the issue price of a maturity of the Series 2020 Bonds is the first price at which a substantial amount of such maturity was sold to the public (excluding sales to bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers) and the amount of original issue discount accrues in accordance with a constant yield method based on the compounding of interest. A purchaser’s adjusted basis in a Discount Bond is increased by the amount of such

accruing discount for purposes of determining taxable gain or loss on the sale or other disposition of such Discount Bond for purposes of federal income taxation. Owner of a Discount Bond should be aware that the accrual of original issue discount in each taxable year may affect some of the collateral federal income tax consequences described herein although such owner has not received cash attributable to such original issue discount in such taxable year.

Prospective purchasers of Discount Bonds should consult their tax advisors with respect to the tax consequences of acquiring, owning and disposing of Discount Bonds.

### **Bond Premium**

The excess, if any, of the tax adjusted basis of a maturity of any Series 2020 Bonds purchased as part of the initial public offering by a purchaser (other than a purchaser who holds such Series 2020 Bonds as inventory, stock in trade or for sale to customers in the ordinary course of business) over the amount payable at maturity constitutes “bond premium.” Owners of a maturity of the Series 2020 Bonds with bond premium (a “Premium Bond”) will be subject to requirements under the Code relating to tax cost reduction associated with the amortization of bond premium and, under certain circumstances, the initial owner of a Premium Bond may realize taxable gain upon disposition of Premium Bonds even though sold or redeemed for an amount less than or equal to such owner’s original cost of acquiring such Premium Bonds. In general, bond premium is amortized over the term of a Premium Bond for Federal income tax purposes in accordance with constant yield principles based on the owner’s yield over the remaining term of such Premium Bond (or, in the case of a bond with bond premium callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). The owner of a Premium Bond is required to decrease such owner’s adjusted basis in such Premium Bond by the amount of amortizable bond premium attributable to each taxable year such Premium Bond is held. The amortizable bond premium on such Premium Bond attributable to a taxable year is not deductible for federal income tax purposes; however, bond premium attributable to a taxable year is treated as an offset to qualified stated interest received on such Premium Bond during such taxable year.

Prospective purchasers of Premium Bonds should consult their tax advisors with respect to the tax consequences of acquiring, owning and disposing of Premium Bonds.

### **Information Reporting and Backup Withholding**

Interest paid on the Series 2020 Bonds will be subject to information reporting to the Internal Revenue Service (the “IRS”) in a manner similar to interest paid on taxable obligations. Although such reporting requirement does not, in and of itself, affect the excludability of such interest from gross income for federal income tax purposes, such reporting requirement causes the payment of interest on the Series 2020 Bonds to be subject to backup withholding if such interest is paid to beneficial owners who (a) are not “exempt recipients”, and (b) either fail to provide certain identifying information (such as the beneficial owner’s taxpayer identification number) in the required manner or have been identified by the IRS as having failed to report all interest and dividends required to be shown on their income tax returns. Generally, individuals are not exempt recipients, whereas corporations and certain other entities generally are exempt recipients. Amounts withheld under the backup withholding rules from a payment to a beneficial owner would be allowed as a refund or credit against such beneficial owner’s federal income tax liability provided the required information is furnished to the IRS.

### **Miscellaneous**

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authority and represents Bond Counsel’s judgment as to the proper treatment of the Series 2020 Bonds for federal income tax purposes. Such opinion is not binding on the IRS or the courts. Current and future legislative proposals, if enacted into law, administrative actions or court decisions, at either the federal or state level, may cause interest on the Series 2020 Bonds to be subject, directly or indirectly, to federal income taxation or to be subjected to State or local income taxation, or otherwise have an adverse impact on the potential benefits of the exclusion from gross income of the interest on the Series 2020 Bonds for federal or state income tax purposes. The introduction or enactment of any such legislative proposals, administrative actions or court decisions may also affect, perhaps significantly, the value or marketability of the Series 2020 Bonds. Prospective purchasers of the Series 2020 Bonds should consult their own advisers regarding the foregoing matters.

The engagement of Bond Counsel with respect to the Series 2020 Bonds ends with the issuance of the Series 2020 Bonds and, unless separately engaged, Bond Counsel is not obligated to defend DASNY, SLL BOCES or the bondholders regarding the tax-exempt status of the Series 2020 Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than DASNY, SLL BOCES and their appointed counsel, including the bondholders, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which DASNY legitimately disagrees may not be practicable. Any action of the IRS, including but not limited to selection of the Series 2020 Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market price for, or the marketability of, the Series 2020 Bonds, and may cause DASNY, SLL BOCES or the bondholders to incur significant expense.

The proposed form of the opinion of Bond Counsel relating to the Series 2020 Bonds is set forth in Appendix F hereto.

## **PART 12 – STATE NOT LIABLE ON THE SERIES 2020 BONDS**

The Act provides that notes and bonds of DASNY shall not be a debt of the State nor shall the State be liable thereon, nor shall such notes or bonds be payable out of any funds other than those of DASNY. The Master Resolution specifically provides that the Series 2020 Bonds shall not be a debt of the State nor shall the State be liable thereon.

## **PART 13 – COVENANT BY THE STATE**

The Act states that the State pledges and agrees with the holders of DASNY's notes and bonds that the State will not limit or alter the rights vested in DASNY to fulfill the terms of any Agreement made with the holders of DASNY's notes and bonds or in any way impair the rights and remedies of the holders of such notes or bonds until such notes or bonds and interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of such notes or bonds are fully met and discharged. Notwithstanding the State's pledges and Agreement contained in the Act, the State may, in the exercise of its sovereign power, enact or amend its laws which, if determined to be both reasonable and necessary to serve an important public purpose, could have the effect of impairing these pledges and Agreement with DASNY and with the holders of DASNY's notes or bonds. The Act specifically provides that the State covenants with holders of the Bonds not to repeal, revoke, rescind or modify the provisions of the Act so as to limit, impair or impede the security afforded by that portion of the Act requiring the Comptroller of the State of New York to deduct from any State funds appropriated to a BOCES an amount equal to the amount payable by such BOCES to DASNY under the Agreement for the ensuing school year and further provides that no lien or charge which is prior in time or superior in right to such deduction shall be created; provided however, that nothing in the Act shall require the State to continue the payment of State aid to boards of cooperative educational services or prevent the State repealing or amending any law providing for the apportionment of such aid.

## **PART 14 – LEGAL MATTERS**

Certain legal matters incidental to the authorization and issuance of the Series 2020 Bonds by DASNY are subject to the approval of Bryant Rabbino LLP, Bond Counsel to DASNY, whose approving opinion will be delivered with the Series 2020 Bonds. The proposed form of opinion to be delivered by Bryant Rabbino LLP, Bond Counsel, is set forth in Appendix F hereto. Certain legal matters will be passed upon for the Underwriter by its counsel, Trespasz & Marquardt, LLP, Syracuse, New York and for SLL BOCES by its counsel, Orrick, Herrington & Sutcliffe LLP, New York, New York.

There is no pending litigation restraining or enjoining the issuance or delivery of the Series 2020 Bonds or questioning or affecting the validity of the Series 2020 Bonds or the proceedings and authority under which they are to be issued.

## **PART 15 – UNDERWRITING**

Roosevelt & Cross Incorporated (the “Underwriter”) has agreed, subject to certain conditions, to purchase the Series 2020 Bonds from DASNY at an aggregate purchase price of \$\_\_\_\_\_ and to make a public offering of the Series 2020 Bonds at prices that are not in excess of the public offering prices stated on the inside cover page of this Official Statement. The Underwriter will be obligated to purchase all Series 2020 Bonds if any are purchased.

The Series 2020 Bonds may be offered and sold to certain dealers (including the Underwriter) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriter.

## **PART 16 – CONTINUING DISCLOSURE**

In order to assist the Underwriter in complying with Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”), SLL BOCES will enter into a written agreement (the “Continuing Disclosure Agreement”) with Digital Assurance Certification LLC (“DAC”), as disclosure dissemination agent, and the Trustee. The proposed form of the Continuing Disclosure Agreement is attached hereto as Appendix E.

### **Historical Compliance**

SLL BOCES has complied in the previous five years, in all material respects, with any previous limited disclosure undertakings pursuant to Rule 15c2-12.

## **PART 17 – RATINGS**

Moody’s Investors Service assigned a rating of \_\_\_\_, on the Series 2020 Bonds.

The rating reflects only the rating agency issuing such rating and is not a recommendation by such rating agency to purchase, sell or hold the obligations rated or as to the market price or suitability of such obligations for a particular investor. Generally, a rating agency bases its rating and outlook, if any, on the information and material furnished to it and on investigations, studies and assumptions of its own. An explanation of the significance of any rating may be obtained only from the rating agency furnishing such rating. There is no assurance that such ratings will be in effect for any given period of time or that they will not be revised upward or downward or withdrawn entirely by any or all of such rating agencies if, in the judgment of any or all of them, circumstances so warrant. Any such downward revision or withdrawal of such rating or ratings may have an adverse effect on the market price or marketability of the Series 2020 Bonds.

## **PART 18 – SOURCES OF INFORMATION AND CERTIFICATIONS**

Certain information concerning SLL BOCES included in this Official Statement has been furnished or reviewed and authorized for use by DASNY by such sources as described below. While DASNY believes that these sources are reliable, DASNY has not independently verified this information and does not guarantee the accuracy or completeness of the information furnished by the respective sources. DASNY is relying on certificates from each source, to be delivered at or prior to the time of delivery of the Series 2020 Bonds, as to the accuracy of such information provided or authorized by it.

The information set forth herein relating to DASNY under the heading “DASNY” has been obtained from DASNY. All other information herein has been obtained by the Underwriter or from SLL BOCES and other sources deemed to be reliable by the Underwriter and is not to be construed as a representation by DASNY or the Underwriter. In addition, DASNY does not warrant the accuracy of the statements contained herein relating to the SLL BOCES nor does it directly or indirectly guarantee, endorse or warrant (1) the creditworthiness or credit standing of SLL BOCES, (2) the sufficiency of the security for the Bonds or (3) the value or investment quality of the Bonds.

*SLL BOCES.* The information in “PART 4 – BOARDS OF COOPERATIVE EDUCATIONAL SERVICES,” “PART 5 – SLL BOCES,” “PART 6 – THE PROJECT,” and “PART 7 – ESTIMATED SOURCES AND USES OF FUNDS” was supplied by SLL BOCES. DASNY believes that this information is reliable, but DASNY makes no representations or warranties whatsoever to the accuracy or completeness of this information.

*The New York State Department of Education* (the “Department”). The information contained herein relating to BOCES generally and to the Department’s participation in the transactions contemplated herein has been reviewed for accuracy by the Department. DASNY believes that this information is reliable, but DASNY makes no representations or warranties whatsoever to the accuracy or completeness of this information.

*DTC.* The information regarding DTC and DTC’s book-entry only system has been furnished by DTC. DASNY believes that this information is reliable but makes no representations or warranties whatsoever to the accuracy or completeness of this information.

*Bond Counsel.* “Appendix A – Definitions,” “Appendix C – Summary of Certain Provisions of the Lease and Agreement,” “Appendix D – Summary of Certain Provisions of the Master Resolution” and “Appendix F – Form of Approving Opinion of Bond Counsel” have been prepared by Bryant Rabbino LLP.

DASNY will certify that, both as of the date of this Official Statement and on the date of delivery of the Series 2020 Bonds, the information contained under the heading “DASNY” in this Official Statement is and will be fairly presented in all material respects, and that such information does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading.

The references herein to the Act, other laws of the State, the Resolutions, the Agreement and the Agreement of Lease are brief outlines of certain provisions thereof. Such outlines do not purport to be complete and reference should be made to each for a full and complete statement of its provisions. The Agreement of DASNY with the registered owners of the Series 2020 Bonds are fully set forth in the Resolutions, and neither any advertisement of the Series 2020 Bonds nor this Official Statement is to be construed as a contract with the purchasers of the Series 2020 Bonds. So far as any statements are made in this Official Statement involving matters of opinion or an estimate, whether or not expressly so stated, they are intended merely as such and not as representations of fact. Copies of the documents mentioned in this paragraph are on file at the offices of DASNY and the Trustee.

The execution and delivery of this Official Statement by an Authorized Officer have been duly authorized by DASNY.

**DORMITORY AUTHORITY OF  
THE STATE OF NEW YORK**

By: \_\_\_\_\_  
Authorized Officer

## **DEFINITIONS**



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## DEFINITIONS

The following are definitions of certain of the terms defined herein, or in the Master Resolution or the Agreement and used in this Official Statement.

*Accreted Value* means with respect to any Capital Appreciation Bond (i) as of any Valuation Date, the amount set forth for such date in the Series Resolution authorizing such Capital Appreciation Bond or the Bond Series Certificate relating to such Bond and (ii) as of any date other than a Valuation Date, the sum of (a) the Accreted Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Accreted Value accrues during any semi-annual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Accreted Values for such Valuation Dates.

*Act* means the Dormitory Authority Act, being and constituting Title 4 of Article 8 of the Public Authorities Law of the State, as amended.

*Administrative Expenses* means expenses incurred by the Authority in carrying out its duties under the Agreement and under the Resolution, the BOCES Lease, and any other document, instrument, agreement, law, rule or regulation related to any Leased Property including, without limitation, accounting, administrative, financial advisory and legal expenses incurred in connection with the financing and construction of the Project, the fees and expenses of the Trustee, any Paying Agents or any other fiduciaries acting under the Resolution, the fees and expenses of any Facility Provider, the costs and expenses incurred in connection with the determination of the rate at which a Variable Interest Rate Bond is to bear interest and the remarketing of such Bond, the cost of providing insurance with respect to the Leased Property and the Project, judgments or claims payable by the Authority for the payment of which the Authority has been indemnified or held harmless pursuant to the Agreement, but only to the extent that moneys in the Construction Fund are not available therefor, and expenditures to compel full and punctual performance of the BOCES Lease, the Agreement, or any document, instrument or agreement related thereto in accordance with its terms.

*Agreement* means the Lease and Agreement, dated as of January 8, 2020, between the Authority and the BOCES, from time to time amended or supplemented in accordance with the terms and provisions of the Resolution.

*Annual Administrative Fee* means when used with respect to any Bond Year, a share of the general overhead and administrative expenditures of the Authority reasonably allocated to the Project for such Bond Year by the Authority in accordance with a formula approved by the Comptroller of the State of New York.

*Applicable* means (i) with respect to any Construction Fund, Arbitrage Rebate Fund, Building and Equipment Reserve Fund, Debt Service Fund, Debt Service Reserve Fund, the fund so designated and established by an Applicable Series Resolution authorizing an Applicable Series of Bonds relating to a particular Project, (ii) with respect to any Debt Service Reserve Fund Requirement, the said Requirement established in connection with a Series of Bonds by the Master Resolution or the Applicable Series Resolution, (iii) with respect to any Series Resolution, the Series Resolution relating to a particular Series of Bonds, (iv) with respect to any Series of Bonds, the Series of Bonds issued under a Series Resolution for a particular Project for a particular BOCES, (v) with respect to any Agreement or Lease Agreement, the Applicable Agreement or Applicable Lease Agreement, as the case may be, entered into by and between a BOCES and the Authority, relating to all Projects for a particular BOCES, (vi) with respect to a Credit Facility or Liquidity Facility, the Credit Facility or Liquidity Facility identified in the Applicable Series Resolution, (vii) with respect to a Bond Series Certificate, such certificate authorized pursuant to an Applicable Series Resolution, (viii) with respect to a Reserve Fund Facility and a Facility Provider, a Reserve Fund Facility which constitutes all or any part of the Debt Service Reserve Fund Requirement in connection with an Applicable Series of Bonds or the Facility Provider thereof, and (ix) with respect to Revenues and Pledged Revenues, the amounts payable to the Authority on account of a Series of Bonds.

*Appreciated Value* means with respect to any Deferred Income Bond (i) as of any Valuation Date, the amount set forth for such date in the Applicable Series Resolution authorizing such Deferred Income Bond or in the Bond Series Certificate relating to such Bond and (ii) as of any date other than a Valuation Date, the sum of (a) the

Appreciated Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Appreciated Value accrues during any semi-annual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Appreciated Values for such Valuation Dates, and (iii) as of any date of computation on and after the Interest Commencement Date, the Appreciated Value on the Interest Commencement Date.

*Arbitrage Rebate Fund* means each such fund so designated, created and established by the Applicable Series Resolution.

*Authority Fee* means the fee payable to the Authority in the amount of \$\_\_\_\_\_ as compensation for all of the Authority's internal costs and overhead expenses attributable to an issuance of the Bonds, excluding Administrative Expenses and the Annual Administrative Fee.

*Authorized Officer* means (i) in the case of the Authority, the Chairman, the Vice-Chairman, the Treasurer, an Assistant Treasurer, the Secretary, an Assistant Secretary, the Executive Director, the Deputy Executive Director, the Chief Financial Officer, the General Counsel, the Chief Information Officer, and a Managing Director, and when used with reference to any act or document also means any other person authorized by a resolution or the by-laws of the Authority to perform such act or execute such document; (ii) in the case of a BOCES, when used with reference to any act or document, means the person identified in the Master Resolution or in the Applicable Agreement or Applicable Lease Agreement, as authorized to perform such act or execute such document, and in all other cases means the Superintendent or an officer or employee of a BOCES authorized in a written instrument signed by the Superintendent; and (iii) in the case of the Trustee, the President, a Vice President, a Corporate Trust Officer, an Assistant Corporate Trust Officer, a Trust Officer or an Assistant Trust Officer of the Trustee, and when used with reference to any act or document also means any other person authorized to perform any act or sign any document by or pursuant to a resolution of the Board of Directors of the Trustee or the by-laws of the Trustee.

*Basic Rent* means that portion of the Rentals payable pursuant to the Applicable Agreement.

*BOCES* means the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence and Lewis Counties, a corporation established pursuant to section 2201 and operating pursuant to sections 1950 and 1951 of the Education Law of the State of New York.

*BOCES Lease* or *Lease* means the Agreement of Lease, dated as of January 8, 2020, between the BOCES, as lessor, and the Authority, as lessee, as it may be from time to time amended, modified and supplemented.

*Bond or Bonds* means any of the bonds of the Authority, including the Series 2020 Bonds, authorized and issued pursuant to the Master Resolution and to an Applicable Series Resolution.

*Bond Counsel* means an attorney or a law firm, appointed by the Authority with respect to a particular Series of Bonds, having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds.

*Bond Series Certificate* means the certificate of an Authorized Officer of the Authority, including the Series 2020 Bond Series Certificate, fixing terms, conditions and other details of Bonds of an Applicable Series in accordance with the delegation of power to do so under the Master Resolution or under the Applicable Series Resolution authorizing the issuance of such Bonds.

*Bond Year* means unless otherwise stated in the Applicable Series Resolution, a period of twelve (12) consecutive months beginning August 15 in any calendar year and ending on August 14 of the succeeding calendar year.

*Bondholder, Holder of Bonds or Holder or any similar term, when used with reference to a Bond or Bonds,* means the registered owner of any Bond.

*Building and Equipment Reserve Fund* means each such fund so designated and established by the Applicable Series Resolution.

*Business Day* means any day which is not a Saturday, Sunday or a day on which banking institutions chartered by the State or the United States of America are legally authorized to close in The City of New York; provided, however, that, with respect to Option Bonds or Variable Interest Rate Bonds of a Series, such term means any day which is not a Saturday, Sunday or a day on which the New York Stock Exchange, banking institutions chartered by the State or the United States of America, the Trustee or the issuer of a Credit Facility or Liquidity Facility for such Bonds are legally authorized to close in The City of New York.

*Capital Appreciation Bond* means any Bond as to which interest is compounded on each Valuation Date therefor and is payable only at the maturity or prior redemption thereof.

*Code* means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

*Construction Fund* means each such fund so designated, created and established by the Applicable Series Resolution pursuant to the Master Resolution.

*Cost or Costs of Issuance* means the items of expense incurred in connection with the authorization, sale and issuance of an Applicable Series of Bonds, which items of expense will include, but not be limited to, document printing and reproduction costs, filing and recording fees, costs of credit ratings, initial fees and charges of the Trustee or a Depository, legal fees and charges, professional consultants' fees, fees and charges for execution, transportation and safekeeping of such Bonds, premiums, fees and charges for insurance on Bonds, commitment fees or similar charges of a Remarketing Agent or relating to a Credit Facility or a Liquidity Facility, costs and expenses of refunding such Bonds and other costs, charges and fees, including those of the Authority, in connection with the foregoing.

*Cost or Costs of the Project* means with respect to an Applicable Project costs and expenses or the refinancing of costs and expenses determined by the Authority to be necessary in connection with the Project, including, but not limited to, (i) costs and expenses of the acquisition of the title to or other interest in real property, including easements, rights-of-way and licenses, (ii) costs and expenses incurred for labor and materials and payments to contractors, builders and materialmen, for the acquisition, construction, reconstruction, rehabilitation, repair and improvement of such Project, (iii) the cost of surety bonds and insurance of all kinds, including premiums and other charges in connection with obtaining title insurance, that may be required or necessary prior to completion of such Project, which is not paid by a contractor or otherwise provided for, (iv) the costs and expenses for design, test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, and for supervising such Project, (v) costs and expenses required for the acquisition and installation of furnishings, equipment, machinery and apparatus, (vi) all other costs which the Applicable BOCES or the Authority will be required to pay or cause to be paid for the acquisition, construction, reconstruction, rehabilitation, repair, improvement and equipping of such Project, (vii) any sums required to reimburse the BOCES or the Authority for advances made by them for any of the above items or for other costs incurred and for work done by them in connection with such Project (including interest on borrowed money), (viii) interest on the Bonds prior to, during and for a reasonable period after completion of the acquisition, construction, reconstruction, rehabilitation, repair, improvement or equipping of such Project, and (ix) fees, expenses and liabilities of the Authority incurred in connection with such Project or pursuant hereto or to the Applicable Agreement or Applicable Lease Agreement, a Credit Facility, a Liquidity Facility or a Remarketing Agreement.

*Credit Facility* means an irrevocable letter of credit, surety bond, loan agreement, Standby Purchase Agreement, municipal bond insurance policy or other agreement, facility or insurance or guaranty arrangement issued or extended by a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank, a savings and loan association, an insurance company or association chartered or organized under the laws of any state of the United States of America, the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority, pursuant to which the Authority is entitled to obtain moneys to pay the principal, purchase price or Redemption Price of Bonds due in accordance with their terms, plus accrued interest thereon to the date of payment,

purchase or redemption thereof, in accordance with the Master Resolution and with the Series Resolution authorizing such Bonds or a Bond Series Certificate, whether or not the Authority is in default under the Master Resolution.

*Debt Service Fund* means the fund so designated, created and established by the Applicable Series Resolution.

*Debt Service Reserve Fund* means the fund so designated, created and established by the Applicable Series Resolution.

*Debt Service Reserve Fund Requirement* means, as of any particular date of computation, with respect to Bonds of a Series, one-half of the amount equal to the greatest amount required in the then current or any future calendar year to pay the sum of the principal and Sinking Fund Installments of and interest on such Series of Outstanding Bonds payable during such year, excluding interest accrued thereon prior to August 15 of the next preceding year, except that if, upon the issuance of a Series of Bonds, such amount would require moneys, in an amount in excess of the maximum amount permitted under the Code to be deposited therein from the proceeds of such Bonds, to be deposited therein, the Debt Service Reserve Fund Requirement will mean an amount equal to the maximum amount permitted under the Code to be deposited therein from the proceeds of such Bonds, as certified by an Authorized Officer of the Authority; provided, however, that for purposes of this definition (a) the principal and interest portions of the Accreted Value of a Capital Appreciation Bond and the Appreciated Value of a Deferred Income Bond becoming due at maturity or by virtue of a Sinking Fund Installment will be included in the calculations of interest and principal payable on August 15 of the year in which such Capital Appreciation Bond or Deferred Income Bond matures or in which such Sinking Fund Installment is due, (b) an Option Bond Outstanding during any Bond Year will be assumed to mature on the stated maturity date thereof, and (c) it will be assumed that a Variable Interest Rate Bond, prior to its conversion to bear interest at a fixed rate to its maturity, bears interest during any year at the higher of (1) a fixed rate of interest equal to that rate, as estimated by an Authorized Officer of the Authority, after consultation with the remarketing agent, if any, for such Variable Interest Rate Bond if it is also an Option Bond or, if it is not, with an investment banking firm which is regularly engaged in the underwriting of or dealing in bonds of substantially similar character, on a day not more than twenty (20) days prior to the date of initial issuance of such Variable Interest Rate Bond, which such Variable Interest Rate Bond would have had to bear to be marketed at par on such date as a fixed rate obligation maturing on the maturity date of such Variable Interest Rate Bond, and (2) a rate, not less than the initial rate of interest on such Variable Interest Rate Bond, set forth in or determined pursuant to a formula set forth in the Applicable Series Resolution authorizing such Variable Interest Rate Bond or in the Applicable Bond Series Certificate relating to such Bond, and (d) if a Variable Interest Rate Bond will be converted to a fixed rate Bond for the remainder of the term thereof and as a result of such conversion a deficiency will be created in the Debt Service Reserve Fund, the Debt Service Reserve Fund Requirement will be calculated so as to exclude the amount of such deficiency and the Debt Service Reserve Fund Requirement will be increased in each of the five (5) years after the date of such conversion by an amount which will be equal to twenty per centum (20%) of the aforesaid deficiency.

*Defeasance Security* means (a) a direct obligation of the United States of America, an obligation the principal of and interest on which are guaranteed by the United States of America (other than an obligation the payment of the principal of which is not fixed as to amount or time of payment), an obligation to which the full faith and credit of the United States of America are pledged (other than an obligation the payment of the principal of which is not fixed as to amount or time of payment) and a certificate or other instrument which evidences the ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, direct obligations of the United States of America, which, in each case, is not subject to redemption prior to maturity other than at the option of the holder thereof or which has been irrevocably called for redemption on a stated future date or (b) an Exempt Obligation (i) which is not subject to redemption prior to maturity other than at the option of the holder thereof or as to which irrevocable instructions have been given to the trustee of such Exempt Obligation by the obligor thereof to give due notice of redemption and to call such Exempt Obligation for redemption on the date or dates specified in such instructions and such Exempt Obligation is not otherwise subject to redemption prior to such specified date other than at the option of the holder thereof, (ii) which is secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or direct obligations of the United States of America which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such Exempt Obligation on

the maturity date thereof or the redemption date specified in the irrevocable instructions referred to in clause (i) above, (iii) as to which the principal of and interest on the direct obligations of the United States of America which have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and redemption premium, if any, on such Exempt Obligation on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in clause (i) above, and (iv) which are rated by a Rating Agency in the highest rating category of each such rating service for such Exempt Obligation; provided, however, that such term will not mean any interest in a unit investment trust or mutual fund.

*Deferred Income Bond* means any Bond as to which interest accruing thereon prior to the Interest Commencement Date of such Bond is compounded on each Valuation Date for such Deferred Income Bond, and as to which interest accruing after the Interest Commencement Date is payable semi-annually on February 15 and August 15 of each Bond Year.

*Depository* means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State, or its nominee, or any other person, firm, association or corporation designated in the Series Resolution authorizing a Series of Bonds or a Bond Series Certificate relating to a Series of Bonds to serve as securities depository for the Bonds of such Series.

*Exempt Obligation* means (i) an obligation of any state or territory of the United States of America, any political subdivision of any state or territory of the United States of America, or any agency, authority, public benefit corporation or instrumentality of such state, territory or political subdivision, the interest on which is excludable from gross income under Section 103 of the Code, which is not a “specified private activity bond” within the meaning of Section 57(a)(5) of the Code, and which, at the time an investment therein is made or such obligation is deposited in any fund or account under the Master Resolution, is rated, without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation, in not less than the second highest rating category of each Rating Agency rating such obligation, or, if such obligation is not rated by a Rating Agency, has been assigned a comparable rating by another nationally recognized rating service or (ii) United States Treasury Demand Deposit Certificates of Indebtedness - State and Local Government Series, to the extent treated as a tax exempt obligation for purposes of Section 148 of the Code.

*Facility Provider* means the issuer of a Credit Facility, a Liquidity Facility or a Reserve Fund Facility delivered to the Applicable Trustee pursuant to the Master Resolution.

*Fitch* means Fitch, Inc., a corporation organized and created under the laws of the State of Delaware and its successors and assigns.

*Government Obligation* means a direct obligation of the United States of America, an obligation the principal of and interest on which are guaranteed by the United States of America, an obligation (other than an obligation the payment of the principal of which is not fixed as to amount or time of payment) to which the full faith and credit of the United States of America are pledged, an obligation of any federal agency approved by the Authority, a certificate or other instrument which evidences the ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, direct obligations of the United States of America or a share or interest in a mutual fund, partnership or other fund wholly comprised of such obligations.

*Interest Commencement Date* means, with respect to any particular Deferred Income Bond, the date prior to the maturity date thereof specified in the Applicable Series Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond, after which interest accruing on such Bond will be payable on the interest payment date immediately succeeding such Interest Commencement Date and semi-annually thereafter on February 15 and August 15 of each Bond Year.

*Investment Agreement* means an agreement for the investment of moneys with a Qualified Financial Institution.

*Leased Property* means the real property described in Exhibit A to the Agreement, the buildings and improvements situated thereon or from time to time erected thereon and the Personal Property now or hereafter situated

on or used in connection therewith (but only to the extent such Personal Property is financed or refinanced with the proceeds of Bonds) constituting “board of cooperative educational services school facilities” as defined in the Act.

*Liquidity Facility* means an irrevocable letter of credit, surety bond, loan agreement, Standby Purchase Agreement, line of credit or other agreement or arrangement issued or extended by a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a savings bank, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings and loan association, an insurance company or association chartered or organized under the laws of any state of the United States of America, the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority, pursuant to which moneys are to be obtained upon the terms and conditions contained therein for the purchase or redemption of Option Bonds tendered for purchase or redemption in accordance with the terms hereof and of the Applicable Series Resolution authorizing such Bonds or the Applicable Bond Series Certificate relating to such Bonds.

*Master Resolution* means the Authority’s Master BOCES Program Lease Revenue Bond Resolution, adopted on August 15, 2001, as amended and supplemented.

*Maximum Interest Rate* means, with respect to any particular Variable Interest Rate Bond, the numerical rate of interest, if any, set forth in the Series Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond, that will be the maximum rate at which such Bond may bear interest at any time.

*Memorandum of Understanding* means the Memorandum of Understanding, among the Authority, the New York State Department of Education and the Office of State Comptroller with respect to the Series 2020 Bonds.

*Minimum Interest Rate* means, with respect to any particular Variable Interest Rate Bond, a numerical rate of interest, if any, set forth in the Series Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond, that will be the minimum rate at which such Bonds may bear interest at any time.

*Moody’s* means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, or its successors and assigns.

*Option Bond* means any Bond which by its terms may be tendered by and at the option of the Holder thereof for redemption by the Authority prior to the stated maturity thereof or for purchase thereof, or the maturity of which may be extended by and at the option of the Holder thereof in accordance with the Series Resolution authorizing such Bonds or the Bond Series Certificate related to such Bonds.

*Outstanding, when used in reference to Bonds*, means, as of a particular date, all Bonds authenticated and delivered under the Master Resolution and under any Applicable Series Resolution except: (i) any Bond canceled by the Applicable Trustee at or before such date; (ii) any Bond deemed to have been paid in accordance with the Master Resolution; (iii) any Bond in lieu of or in substitution for which another Bond will have been authenticated and delivered pursuant to the Master Resolution; and (iv) Option Bonds tendered or deemed tendered in accordance with the provisions of the Series Resolution authorizing such Bonds or the Bond Series Certificate related to such Bonds on the applicable adjustment or conversion date, if interest thereon will have been paid through such applicable date and the purchase price thereof will have been paid or amounts are available for such payment as provided in the Agreement and in the Series Resolution authorizing such Bonds.

*Paying Agent* means, with respect to the Bonds of any Series, the Trustee and any other bank or trust company and its successor or successors, appointed pursuant to the provisions of the Master Resolution or of a Series Resolution, a Bond Series Certificate or any other resolution of the Authority adopted prior to authentication and delivery of the Series of Bonds for which such Paying Agent or Paying Agents will be so appointed.

*Permitted Encumbrances* means and includes:

1. the lien of taxes and assessments and water and sewer rents and charges which are not yet due and payable;

2. rights reserved to or vested in any municipality or governmental or other public authority to control or regulate or use in any manner any portion of the Leased Property which do not materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;

3. minor defects and irregularities in the title to the Leased Property which do not in the aggregate materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held;

4. easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of such property for the purposes for which it is or may reasonably be expected to be held;

5. present or future valid zoning laws and ordinances;

6. any purchase money security interests in any Personal Property, other than with respect to Personal Property financed with the proceeds of the Bonds and any replacements thereof;

7. all other matters of record and state of title at the commencement date of the Agreement, rights of parties in possession and any state of facts which an accurate survey or physical inspection would show;

8. the BOCES Lease;

9. those matters referred to in any title insurance policy with respect to the Leased Property and accepted by the Authority; and

10. such other encumbrances or items to which the BOCES will have consented in writing signed by an Authorized Officer.

*Personal Property* means all articles of tangible personal property of every kind and description presently located or hereafter placed on or used in connection with the management or operation of the Leased Property other than those which, by the nature of their attachment to the Leased Property become real property pursuant to applicable law, including all escalators and elevators; all heating, ventilating, and air-conditioning equipment; all appliances, apparatus, machinery, motors and electrical equipment; all interior and exterior lighting equipment; all telephone, intercom, audio, music and other sound reproduction and communication equipment; all floor coverings, carpeting, wall coverings, drapes, furniture, trash containers, carts, decorative plants, planters, sculptures, fountains, artwork and other mall, common area, auditorium and office furnishings; all plumbing fixtures, facilities and equipment; all cleaning, janitorial, lawn, landscaping, disposal, firefighting, sprinkler and maintenance equipment and supplies; all books, records, files, financial and accounting records relating to the ownership, operation or management of the Project; all drawings, plans and specifications relating to the improvements; and all other personal property whether similar or dissimilar to the foregoing which is now or in the future used in the ownership, operation or management of the Project, including all additions thereto, proceeds received upon voluntary or involuntary disposition thereof, and all renewals or replacements thereof or articles in substitution therefor.

*Plans and Specifications* means the final design for the Project, including a complete set of architectural, structural, HVAC, plumbing, electrical, landscape and furniture and equipment drawings, specifications and a shop drawings list which comply with all applicable laws, as well as all required regulatory approvals and utility acceptances, together with any amendments thereto including increasing, decreasing or otherwise modifying the scope of the Project provided that such amendments are approved in writing by the State Education Department and filed with the Authority.

*Pledged Revenues* means the State funds that are pledged and assigned by a BOCES to the Authority pursuant to an Applicable Agreement to secure the BOCES obligations under such Agreement and that are required by the Act and the Education Law to be paid directly to the Authority or the Applicable Trustee.



*Prior Pledges* means the liens, pledges, charges, encumbrances and security interests made and given by a BOCES to secure prior obligations incurred by said BOCES, the maintenance of which has been approved by the Authority.

*Project* (as defined in the Master Resolution) means the acquisition, design, construction, reconstruction, rehabilitation, improvement and equipping of “board of cooperative educational services school facilities” as defined in the Act.

*Qualified Financial Institution* means (i) a securities dealer, the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation, (ii) a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank, a savings and loan association, an insurance company or association chartered or organized under the laws of any state of the United States of America, (iii) a corporation affiliated with or which is a subsidiary of any entity described in (i) or (ii) above or which is affiliated with or a subsidiary of a corporation which controls or wholly owns any such entity or (iv) the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority; provided, however, that in the case of any entity described in (ii) or (iii) above, the unsecured or uncollateralized long-term debt obligations of which, or obligations secured or supported by a letter of credit, contract, agreement or surety bond issued by any such organization, at the time an Investment Agreement is entered into by the Authority are rated, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, “A” or better by at least two Rating Agencies, or, if such obligations are not rated by at least two Rating Agencies, have been assigned a comparable rating by at least one Rating Agency, but in no event will such obligations be rated lower than the lowest rating assigned by a Rating Agency to any Outstanding Bonds.

*Rating Agency* means on any date each of Fitch, Moody’s or S&P that then has, at the request of the Authority, assigned a rating to the Applicable Series of Bonds, and any nationally recognized rating service that has been designated as a rating service by the Authority for purposes of the Master Resolution.

*Redemption Price, when used with respect to a Bond*, means the principal amount of such Bond plus the applicable premium, if any, payable upon redemption prior to maturity thereof pursuant to the Master Resolution or to the Applicable Series Resolution or Bond Series Certificate.

*Remarketing Agent* means the person appointed by or pursuant to a Series Resolution authorizing the issuance of Option Bonds to remarket such Option Bonds tendered or deemed to have been tendered for purchase in accordance with such Series Resolution or the Bond Series Certificate relating to such Option Bonds.

*Rentals* means the rent payable under the Agreement.

*Reserve Fund Facility* means a surety bond, insurance policy or letter of credit which constitutes any part of the Debt Service Reserve Fund Requirement authorized to be delivered to the Trustee pursuant to the Master Resolution.

*Resolution* means the Master Resolution, as supplemented by the Series 2020 Resolution.

*Revenues* means (i) the Basic Rent paid by a BOCES pursuant to the Agreement, (ii) the Applicable Pledged Revenues and (iii) the right to receive the same and the proceeds thereof and of such right.

*S&P* means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Corporation, or its successors and assigns.

*Series* means all of the Bonds authenticated and delivered on original issuance and pursuant to the Master Resolution and to the Applicable Series Resolution authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Master Resolution, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

*Series Resolution* means a resolution of the Authority, including the Series 2020 Resolution, authorizing the issuance of a Series of Bonds adopted by the Authority pursuant to the Master Resolution.

*Series 2011 Bonds* means the Authority's \$5,900,000 Master BOCES Program Lease Revenue Bonds (St. Lawrence and Lewis Issue), Series 2015.

“*Series 2020 Bonds*” means each series of the Authority’s Master BOCES Program Lease Revenue Bonds, Series 2020, for the BOCES.

*Series 2020 Bond Series Certificate* means the Certificate of an authorized officer of the Authority, fixing terms, conditions and other details of the Series 2020 Bonds.

*Series 2020 Resolution* means the Series 2020 Resolution authorizing up to \$\_\_\_\_\_ Master BOCES Program Lease Revenue Bonds (St. Lawrence and Lewis Issue), Series 2020, adopted by the Authority on January 8, 2020.

*Sinking Fund Installment* means, as of any date of calculation, when used with respect to any Bonds of a Series, other than Option Bonds or Variable Interest Rate Bonds, so long as any such Bonds are Outstanding, the amount of money required hereby or by the Series Resolution pursuant to which such Bonds were issued or by the Bond Series Certificate relating thereto, to be paid on a single future August 15 for the retirement of any Outstanding Bonds of said Series which mature after said future August 15, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future August 15 is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Bonds are deemed to be Bonds entitled to such Sinking Fund Installment, and when used with respect to Option Bonds or Variable Interest Rate Bonds of a Series, so long as such Bonds are Outstanding, the amount of money required by the Series Resolution pursuant to which such Bonds were issued or by the Bond Series Certificate relating thereto, to be paid on a single future date for the retirement of any Outstanding Bonds of said Series which mature after said future date, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future date is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Option Bonds or Variable Rate Interest Bonds of such Series are deemed to be Bonds entitled to such Sinking Fund Installment.

*State* means the State of New York.

*Supplemental Resolution* means any resolution of the Authority amending or supplementing the Master Resolution, any Applicable Series Resolution or any Supplemental Resolution adopted and becoming effective in accordance with the terms and provisions of the Master Resolution.

*Term Bonds* means the Bonds so designated in an Applicable Series Resolution or an Applicable Bond Series Certificate and payable from Sinking Fund Installments.

*Trustee* means the bank or trust company appointed as Trustee for the Bonds pursuant to the Applicable Series Resolution or Applicable Bond Series Certificate and having the duties, responsibilities and rights provided for in the Master Resolution with respect to such Series, and its successor or successors and any other bank or trust company which may at any time be substituted in its place pursuant to the Master Resolution.

*Valuation Date* means (i) with respect to any Capital Appreciation Bond, the date or dates set forth in the Series Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond on which specific Accreted Values are assigned to such Capital Appreciation Bond, and (ii) with respect to any Deferred Income Bond, the date or dates prior to the Interest Commencement Date and the Interest Commencement Date set forth in the Series Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond on which specific Appreciated Values are assigned to such Deferred Income Bond.

*Variable Interest Rate* means the rate or rates of interest to be borne by a Series of Bonds or any one or more maturities within a Series of Bonds which is or may be varied from time to time in accordance with the method of computing such interest rate or rates specified in the Series Resolution authorizing such Bonds or the Bond Series Certificate relating to such Bonds, which will be based on (i) a percentage or percentages or other function of an

objectively determinable interest rate or rates (e.g., a prime lending rate) which may be in effect from time to time or at a particular time or times or (ii) a stated interest rate that may be changed from time to time as provided in the Series Resolution authorizing such Bonds or the Bond Series Certificate relating to such Bond; provided, however, that such variable interest rate may be subject to a Maximum Interest Rate and a Minimum Interest Rate and that there may be an initial rate specified, in each case as provided in such Series Resolution or a Bond Series Certificate; provided, further, that such Series Resolution or Bond Series Certificate will also specify either (x) the particular period or periods of time or manner of determining such period or periods of time for which each variable interest rate will remain in effect or (y) the time or times at which any change in such variable interest rate will become effective or the manner of determining such time or times.

*Variable Interest Rate Bond* means any Bond which bears a Variable Interest Rate; provided, however, that a Bond the interest rate on which has been fixed for the remainder of the term thereof will no longer be a Variable Interest Rate Bond.

**FINANCIAL STATEMENTS OF SLL BOCES  
FOR THE YEAR ENDED JUNE 30, 2019**

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**SUMMARY OF CERTAIN PROVISIONS  
OF THE LEASE AND AGREEMENT**

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## **SUMMARY OF CERTAIN PROVISIONS OF THE LEASE AND AGREEMENT**

The following is a brief summary of certain provisions of the Lease and Agreement relating to the Series 2020 Bonds. Such summary does not purport to be complete and reference is made to the Agreement for full and complete statements of such and all provisions. Unless otherwise indicated, the provisions summarized below are found in the Agreement. Defined terms used in the Agreement will have the meanings ascribed to them in Appendix A or in the body of this Official Statement.

### **TERM OF LEASE**

The term of the Agreement will commence on the date on which the Series 2020 Bonds are first issued and delivered by the Authority, and will terminate on the date on which no Series 2020 Bonds are Outstanding and each applicable BOCES has satisfied its obligations under the Agreement (the "Lease Term"). Notwithstanding the termination of the term of the Agreement, the obligations of the BOCES under such Agreement will not terminate unless and until no Series 2020 Bonds are Outstanding and the BOCES has satisfied its obligations under such Agreement, provided that the sections from the Agreement as summarized under the headings "Indemnification of Authority and Limitation on Liability" and "Tax Exempt Status of the Bonds" herein will survive such termination.

(Section 2.02)

### **PAYMENT OF RENTALS**

(a) the BOCES will pay to the Authority the following Basic Rent in the amounts and on the dates as follows:

(i) Subject to subdivision (e) of this subsection, on each September 1, or if such September is not a Business Day then the next succeeding Business Day, the interest on Outstanding Series 2020 Bonds payable on the next succeeding February 15 and August 15 and the principal and Sinking Fund Installments of Outstanding Series 2020 Bonds payable by reason of maturity and redemption on the next succeeding August 15;

(ii) Subject to subdivision (e) of this subsection, on each September 1, or if such September is not a Business Day then the next succeeding Business Day, the amount, if any, as will have been set forth in the certificate of the Trustee made pursuant to the Master Resolution as summarized in Appendix D under the heading "Debt Service Reserve Fund" as necessary to restore the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement; and

(iii) On the fifth Business Day prior to each interest payment date, the amount, if any, necessary to cause the amount on deposit in the Debt Service Fund to equal the amount of principal of and interest payable on the Series 2020 Bonds on such interest payment date.

The BOCES will have the option to make from time to time prepayments in part of payments due as aforesaid of Basic Rent, together with interest accrued and to accrue and premium, if any, to be paid on the Series 2020 Bonds, if such prepayment is to be used for the purchase or redemption of such Series 2020 Bonds. To the extent that the BOCES prepays all of the Basic Rent payable with respect to the Project (as determined by the Authority and BOCES), the Project may be released from the Agreement. The Trustee will apply such prepayments in such manner consistent with the provisions of the Master Resolution as may be specified in writing by the BOCES at the time of making such prepayment.

Subject to the provisions of the Agreement and of the Master Resolution, the BOCES will receive a credit against the amount required to be paid by the BOCES pursuant to subparagraph (i) of this subsection (a) on account of any Sinking Fund Installments if, not less than forty-five (45) days prior to an August 15 on which a Sinking Fund Installment is scheduled to be due, there will be delivered to the Trustee for cancellation one or more of the Series 2020 Bonds of the Series and maturity to be so redeemed on such August 15. The amount of the credit will be equal to the principal amount of Bonds so delivered and cancelled.

(b) The BOCES will pay to the Authority, as additional rent for the Project, the amounts, and on the dates, as follows:

(i) On the date of delivery of the Series 2020 Bonds, to the extent not paid from the proceeds of the Series 2020 Bonds, the Authority Fee and any Administrative Expenses, as estimated by an Authorized Officer of the Authority, incurred in connection with the issuance of the Series 2020 Bonds;

(ii) On each March 31 or such other date as may be agreed to by the Authority, the Annual Administrative Fee;

(iii) The Administrative Expenses of the Authority, the Trustee and each Paying Agent for the Series 2020 Bonds, within sixty (60) days after notice of the amount thereof is given to the BOCES; and

(iv) The amount determined by an Authorized Officer of the Authority as required to be rebated to the Department of the Treasury of the United States of America in excess of the amount available therefor in the Arbitrage Rebate Fund.

(c) The Authority will furnish the BOCES not less than sixty (60) days prior to the date on which a payment is due pursuant to this subsection, a statement of the amount, purpose and payment date of each payment required to be made pursuant to this subsection. With respect to the payment of Basic Rent pursuant to subsection (a) above, the amount set forth in such statement will be net of amounts on deposit in the Debt Service Fund, including the State funds received and such interest earnings thereon, if any, as of the date of such statement and such statement will set forth the amount of such State funds received, such interest earnings thereon and amounts still owed to the Authority. The failure to furnish such statement will not excuse the BOCES' failure to pay, when due, the Basic Rent payable pursuant to this section.

(d) In addition to the payments required under this heading, in the event a Reserve Fund Facility is deposited for all or part of the Debt Service Reserve Fund Requirement in accordance with the Master Resolution, as summarized in Appendix D under the heading "Debt Service Reserve Fund," the BOCES will be obligated (i) to make payments to the Trustee to restore the Debt Service Reserve Fund to its requirement so that the Facility Provider may be reimbursed for amounts paid by it pursuant to such Reserve Fund Facility and (ii) to pay the Administrative Expenses of the Authority incurred in connection with such Reserve Fund Facility, including without limitation, amounts necessary to pay fees, expenses and interest payable to the Facility Provider by the Authority in connection with such Reserve Fund Facility. If the Reserve Fund Facility is to be replaced with money pursuant to the third paragraph of the heading "Debt Service Reserve Fund" summarized in Appendix D, the BOCES will be obligated to make payments to the Trustee in amounts and at the times that deposits are to be made to the Debt Service Reserve Fund pursuant to such paragraph.

(e) The BOCES will receive a credit against payment due under the Agreement equal to the amount of State funds received by the Trustee or the Authority to be applied towards such payment. If the amount of such State funds received by the Trustee or the Authority on September 1 is less than the amount required to be paid under the Agreement, the Authority will give notice to the BOCES not more than ten (10) days from such September 1. Such notice will state the amount received by the Trustee and the Authority and the amount still due and payable.

The Authority will notify the BOCES of the receipt of any payment of State funds by the Authority or the Trustee after September 1 no more than ten (10) days after receipt of such funds, which notice will state the amount received by the Trustee and the Authority and the amount still due and payable. If the amount of State funds received by the Trustee or the Authority by January 1 of each year is less than the amount of interest payable on the Series 2020 Bonds on February 15, the BOCES will pay to the Trustee by January 15 the difference between the amount of State funds received and the interest payable on the Series 2020 Bonds on February 15. If the amount of State funds received by the Trustee or the Authority by July 1 of each year, after the application of the amounts necessary to make the interest payments due on the preceding February 15, is less than the amount of principal and interest payable on the Series 2020 Bonds on August 15, the BOCES will pay to the Trustee by July 15 the difference between the amount of State funds received and the principal and interest payable on the Series 2020 Bonds on August 15.

If on January 1 of each year the amount of moneys on deposit in a Debt Service Reserve Fund is less than the applicable Debt Service Reserve Fund Requirement, the BOCES will pay to the Trustee by January 15 the difference between the amount of State funds received and the amount of money to make up the deficiency in the applicable Debt Service Reserve Fund and satisfy the applicable Debt Service Reserve Fund Requirement. If on July 1 of each year the amount of moneys on deposit in a Debt Service Reserve Fund is less than the applicable Debt Service Reserve Fund Requirement, the BOCES will pay to the Trustee by July 15 the difference between the amount of State funds received and the amount of money to make up the deficiency in the applicable Debt Service Reserve Fund and satisfy the applicable Debt Service Reserve Fund Requirement.

(Section 4.01)

#### **INDEMNIFICATION OF AUTHORITY AND LIMITATION ON LIABILITY**

Both during the Lease Term and thereafter, the BOCES, to the extent permitted by law, (i) will release the Authority and each director, officer and employee of the Authority from claims for damages or liability arising from or out of the design, acquisition, construction, reconstruction, rehabilitation, improvement, or use of the Leased Property pursuant to the Agreement, and (ii) will indemnify and hold the Authority and each member, officer and employee of the Authority harmless against any and all liabilities, losses, costs, damages or claims, and will pay any and all judgments or expenses of any and all kinds or nature and however arising, imposed by law, including interest thereon, which it or any of them may sustain, be subject to or be caused to incur by reason of any claim, action, suit, charge or proceeding arising (1) from or out of the design, acquisition, construction, reconstruction, rehabilitation, improvement or use of the Leased Property (including the Project), pursuant hereto, based upon: personal injury, death, or damage to property, whether real, personal or mixed; or upon or arising out of contracts entered into by the Authority; or (2) upon or arising out of the Authority's ownership of a leasehold estate of the Leased Property or the leasing thereof to the BOCES; or (3) upon or arising out of the acquisition of the Leased Property, or upon or arising out of an allegation that an official statement, prospectus, placement memorandum or other offering document prepared in connection with the sale and issuance of the Series 2020 Bonds contained an untrue or misleading statement of a material fact obtained from the BOCES relating to the BOCES or the Project, or omitted to state a material fact relating to the BOCES or the Project necessary in order to make the statements made therein in light of the circumstances under which they were made not misleading; provided, however, that neither the Authority nor a member, officer or employee of the Authority will be released, indemnified or held harmless from any claim for damages, liability, loss, cost, damage, judgment or expense arising out of the gross negligence or willful misconduct of the Authority, such member, officer or employee. The Authority will not settle any such suit, action or proceeding without the prior written consent of counsel to the BOCES.

(Section 4.03)

#### **NATURE OF OBLIGATION OF THE BOCES**

The obligation of the BOCES to pay Rentals and to pay all other amounts provided for in the Agreement and to perform its obligations thereunder are absolute and unconditional, and such Rentals and other amounts are payable without any rights of set-off, recoupment or counterclaim it might have against the Authority, the Trustee or any other person and whether or not any or all of the Project is used or occupied or available or suitable for use or occupancy and whether or not the BOCES Lease is in effect. If the BOCES has paid all amounts required under the Agreement and continues to pay the same when due, it will not be precluded from bringing any action it may otherwise have against the Authority; provided, however, that the BOCES will not as a result of the BOCES' failure to pay any Administrative Expenses or Annual Administrative Fee be precluded from bringing any such action if the amount thereof is disputed or is being contested by the BOCES in good faith.

The Agreement is a general obligation of the BOCES and any successor thereto. Any payment required to be made by the BOCES to the Authority pursuant thereto will be deemed an administrative expense within the meaning of section nineteen hundred fifty of the Education Law of the State.

(Section 4.04)

## **PLEDGE BY BOCES**

The BOCES assigns and pledges to the Authority a sufficient portion of any and all public funds to be apportioned or otherwise to be made payable by the State to the BOCES, to cover the payments required under the Agreement and directs and acknowledges that such amounts will be paid directly to the Applicable Trustee as provided in the Act and Section 3609-d of the Education Law of the State. Such assignment and pledge will be irrevocable and will continue until the date on which the liabilities of the Authority and the Project have been discharged and the Series 2020 Bonds of the Authority have been paid or such Bonds have otherwise been discharged.

The SLL BOCES agrees that the pledge and assignment made under the Agreement shall be subordinate to the pledge and assignment made by the BOCES in order to secure the Authority's \$5,900,000 Master BOCES Program Lease Revenue Bonds (St. Lawrence and Lewis Issue), Series 2015, if any remain outstanding. As a result, any State funds payable to SLL BOCES and received by the Trustee shall be applied first to the payments to be made by the BOCES pursuant to the Lease and Agreement, dated May 13, 2015, relating to the Series 2015 Bonds, if any then remain outstanding, and then to the payments to be made by the BOCES required in the Agreement with regard to the Series 2020 Bonds.

(Section 4.05)

## **OPERATION, MAINTENANCE AND REPAIR**

During the Lease Term, the BOCES will be responsible for, and pay all costs of, operating the Leased Property, maintaining the same in condition suitable and sufficient for the use for which it is intended, and making all necessary repairs and replacements, interior and exterior, structural and nonstructural.

The BOCES is responsible for the over-all supervision of the Leased Property, for the overhead and general administrative costs of the BOCES incurred because of the Leased Property and for the integration of the operation of the Leased Property into the BOCES educational program.

(Section 5.01)

## **UTILITIES, TAXES AND GOVERNMENTAL CHARGES**

The BOCES will pay or cause to be paid all charges for water, electricity, light, heat or power, sewage, telephone and other utility service, rendered or supplied upon or in connection with the Leased Property during the Lease Term.

In addition, the BOCES will (i) pay, or make provision for payment of, all lawful taxes and assessments (other than those which are the basis of a Permitted Encumbrance), including income, profits, property or excise taxes, if any, or other municipal or governmental charges, levied or assessed by any federal, state or any municipal government upon the Authority or the BOCES with respect to or upon the Leased Property or any part thereof or upon any payments under the Agreement when the same will become due; (ii) not create or suffer to be created any lien or charge upon the Leased Property or any part thereof, except Permitted Encumbrances, or upon the payments in respect thereof pursuant hereto; and (iii) pay or cause to be discharged or make adequate provision to satisfy and discharge, within sixty (60) days after the same will come into force, any lien or charge upon the Leased Property or any part thereof, except Permitted Encumbrances, or upon any payments under the Agreement and all lawful claims or demands for labor, materials, supplies or other charges which, if unpaid, might be or become a lien upon any payments under the Agreement.

The Authority will cooperate fully with the BOCES in the payment of taxes or assessments and in the handling and conduct of any prospective or pending litigation with respect to the levying of taxes or assessments on the Leased Property and will, to the extent it may lawfully do so, permit the BOCES to litigate in any such proceeding in the name and behalf of the Authority.

(Section 5.02)

### **ADDITIONS, ENLARGEMENTS AND IMPROVEMENTS**

The BOCES will have the right at any time and from time to time during the Lease Term, at its own cost and expense, to make such additions, enlargements, improvements and expansions to, or repairs, reconstruction and restorations of, the Project, as the BOCES will deem necessary or desirable in connection with the use thereof; provided, however, that no addition to or enlargement, improvement, expansion, repair, reconstruction or restoration of, the Project which requires structural change of the Project, or which modifies or changes any aspect or feature thereof designed or intended to protect the life or provide for the safety of the occupants of the Project, will be made by the BOCES without the prior written consent of an Authorized Officer of the State Education Department. The cost of any such additions, enlargements, improvements, expansions, repairs, reconstruction or restorations will be promptly paid or discharged so that the Project will at all times be free of liens for labor and materials supplied thereto other than Permitted Encumbrances. All additions, enlargements, improvements and expansions to, or repairs, reconstruction and restorations of, the Project on the Leased Property will be and become a part of the Project and the property leased to the Authority under the Agreement.

(Section 5.03)

### **INSURANCE**

The BOCES will, in accordance with the requirements of the Agreement, procure and maintain, or cause to be procured and maintained, to the extent reasonably obtainable, from responsible insurers, insurance of the type and in the amounts customarily maintained by educational institutions providing services similar to those provided by the BOCES. All policies of insurance required by the Agreement will be primary to any insurance maintained by the Authority. In the event the BOCES fails to provide the insurance required by the Agreement, the Authority may elect at any time thereafter to procure and maintain the insurance required therein at the expense of the BOCES.

(Section 5.05)

### **DAMAGE OR DESTRUCTION**

The BOCES agrees to notify the Authority and the Trustee immediately in the case of damage to or destruction of the Leased Property or any portion thereof in an amount exceeding \$100,000 resulting from fire or other casualty. The Authority agrees that the net proceeds of any insurance relating to such damage or destruction, not exceeding \$100,000, may be paid directly to the BOCES.

In the event the Leased Property or any portion thereof is damaged or destroyed by fire or other casualty and the damage or destruction is estimated to exceed \$100,000, the net proceeds of any insurance will be initially paid directly to the Authority for deposit and application as provided in the Agreement. The BOCES will within one hundred eighty (180) days after such damage or destruction determine whether or not to repair, reconstruct, restore or improve the Leased Property and give written notice of such determination to the Authority. If the BOCES elects to repair, reconstruct, restore or improve the Leased Property it will proceed forthwith to repair, reconstruct, restore or improve the Leased Property to substantially the same condition as it existed prior to the event causing such damage or destruction. So long as the BOCES is not in default under the Agreement as summarized herein under the heading "Events of Default and Remedies" hereof, any net proceeds of insurance relating to such damage or destruction received by the Authority will be deposited to the credit of the Construction Fund and applied to payment of the costs of such repairs, reconstruction, restoration or improvement in the same manner and upon the same conditions as set forth in the Master Resolution for the payment of the Costs of the Project from the Construction Fund.

It is further understood and agreed that in the event the BOCES will elect to repair, reconstruct, restore or improve the Leased Property, the BOCES will complete the repairs, reconstruction, restoration or improvement of the Leased Property.

In the event the BOCES elects not to repair, reconstruct, restore or improve the Leased Property, the net proceeds of any insurance will be paid to the Authority, as a prepayment of the Rentals under the Agreement, for deposit to the Debt Service Fund and application to the redemption of Outstanding Series 2020 Bonds or

for payment to the Trustee, to be held by the Trustee, in trust, pursuant to the Master Resolution as summarized in Appendix D under the heading “Defeasance” for the payment of Outstanding Series 2020 Bonds in accordance with the written instructions of an Authorized Officer of the Authority.

(Section 5.06)

### **CONDEMNATION**

The Agreement and the interest of the BOCES will terminate as to the Project or portion thereof on Leased Property and the Leased Property appertaining thereto condemned or taken by eminent domain when title thereto vests in the party condemning or taking the same (hereinafter referred to as the “termination date”). The BOCES irrevocably assigns to the Authority all right, title and interest of the BOCES in and to any net proceeds of any award, compensation or damages (hereinafter referred to as an “award”), payable in connection with any such condemnation or taking during the Lease Term. Such net proceeds will be initially paid to the Authority for deposit and application as hereinafter provided.

In the event of any such condemnation or taking, the BOCES will within ninety (90) days after the termination date therefor determine whether or not to repair, reconstruct, restore or improve the Project and give written notice of such determination to the Authority. If any the BOCES elects to repair, reconstruct, restore or improve the Project, so long as the BOCES is not in default under the Agreement as summarized under the heading “Events of Default and Remedies” herein, any such net proceeds received by the Authority will be deposited to the credit of the Construction Fund and be applied to finance the costs of such repairs, reconstruction, restoration or improvements in the same manner and upon the same conditions set forth in the Master Resolution for the payment of the Costs of the Project from the Construction Fund.

In the event the BOCES elects not to repair, reconstruct, restore or improve the Project, the award will be paid to the Authority, as a prepayment of the Rentals under the Agreement, for deposit to the Debt Service Fund and application to the redemption of Outstanding Series 2020 Bonds or for payment to the Trustee, to be held by the Trustee, in trust, pursuant to the Master Resolution as summarized in Appendix D under the heading “Defeasance” for the payment of Outstanding Bonds in accordance with the written instructions of an Authorized Officer of the Authority.

The Authority will cooperate fully with the BOCES in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project on Leased Property or any part thereof and will, to the extent it may lawfully do so, permit the BOCES to litigate in any such proceeding in the name and behalf of the Authority. In no event will the Authority voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceedings with respect to the Project on Leased Property or any part thereof without the written consent of the BOCES.

(Section 5.07)

### **ASSIGNMENT BY BOCES**

The BOCES will not sell, sublease or otherwise dispose of or encumber its interest in the Project except as provided herein under the heading “Sale; Subletting.” The Agreement may not be assigned in whole or in part by the BOCES.

(Section 7.04)

### **USE OF PROJECT**

The BOCES agrees that the Project will be occupied or used only by or for students, members of the faculty, staff and personnel, officers and employees of the BOCES, and the district superintendent of schools, in each case in connection with their respective duties, functions and responsibilities relating to the operation of the Project, or, on a temporary basis, by or for individuals connected with educational activities; provided, however, that any occupancy or use of the Project which is from time to time Authorized or permitted by the

provisions of the Education Law of the State relating to boards of cooperative educational services will be deemed to be authorized or permitted by this section.

(Section 7.05)

### **RESTRICTIONS ON RELIGIOUS USE**

The BOCES agrees that with respect to the Project or portion thereof, so long as the Project or portion thereof exists and unless and until the Project or portion thereof is sold for the fair market value thereof, the Project or any portion thereof will not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination; provided, however, that the foregoing restriction will not prohibit the free exercise of any religion and will not restrict or inhibit compliance with the Equal Access Act, 20 U.S.C. Sections 4071–4074; and, further provided, however, that if at any time hereafter, in the opinion of Bond Counsel, the then applicable law would permit the Project or a portion thereof to be used without regard to the above stated restriction, said restriction will not apply to the Project and each portion thereof. The Authority and its agents may conduct such inspections as the Authority deems necessary to determine whether the Project or any portion of real property thereof financed by Bonds is being used for any proscribed purpose. The BOCES further agrees that prior to any disposition of any portion of the Project for less than fair market value, it will execute and record in the appropriate real property records an instrument subjecting, to the satisfaction of the Authority, the use of such portion of the Project to the restriction that (i) so long as such portion of the Project (and, if included in the Project, the real property on or in which such portion of the Project is situated) will exist and (ii) until such portion of the Project is sold or otherwise transferred to a person who purchases the same for the fair market value thereof at the time of such sale or transfer, such portion of the Project will not be used for sectarian religious instruction or as a place of religious worship or used in connection with any part of the program of a school or department of divinity of any religious denomination. The instrument containing such restriction will further provide that such restriction may be enforced at the instance of the Authority or the Attorney General of the State, by a proceeding in any court of competent jurisdiction, by injunction, mandamus or by other appropriate remedy. The instrument containing such restriction will also provide that if at any time thereafter, in the opinion of Bond Counsel, the then applicable law would permit such portion of the Project, or, if included in the Project, the real property on or in which such portion is situated, to be used without regard to the above stated restriction, then said restriction will be without any force or effect. For the purposes of this paragraph an involuntary transfer or disposition of the Project or a portion thereof, upon foreclosure or otherwise, will be considered a sale for the fair market value thereof.

(Section 7.06)

### **SALE; SUBLETTING**

No Leased Property will be sold by the BOCES, or any other person or entity succeeding to any of their respective interests without the prior written consent of the Authority, accompanied by an opinion of Bond Counsel to the effect that such sale would not adversely affect the exclusion of the interest on any of the Bonds from gross income for federal income tax purposes.

No Leased Property will be sublet by the BOCES, or any other person or entity succeeding to any of their respective interests without the prior written consent of the Authority, accompanied by an opinion of Bond Counsel to the effect that such sublease would not adversely affect the exclusion of the interest on any of the Bonds from gross income for federal income tax purposes.

The sale or subletting of Leased Property will not reduce the Rentals payable under the Agreement and will not otherwise affect the obligations of the BOCES thereunder.

(Section 7.07)

### **COVENANT NOT TO AFFECT THE TAX EXEMPT STATUS OF THE BONDS**

The BOCES, so long as it leases the Project and Leased Property under the Agreement, (i) will take no action, or permit any action to be taken, or omit to take any action, with respect to the Project or any Project which will adversely affect the exclusion of interest on any Series 2020 Bonds from gross income for purposes of federal income taxation; (ii) will not invest or otherwise use “gross proceeds” of the Series 2020 Bonds in a manner which would cause any Series 2020 Bond (other than a Series 2020 Bond designated as federally taxable) to be an “arbitrage bond” within the meaning of Section 148 of the Code, and any proposed or final regulations thereunder as are applicable to any Series 2020 Bond; and (iii) will not, nor will any “related person,” as defined in Section 147(a)(2) of the Code, pursuant to an arrangement, formal or informal, purchase Series 2020 Bonds (other than Series 2020 Bonds designated as federally taxable) in an amount related to the amount of any obligation to be acquired by the Authority from the BOCES.

(Section 7.09)

### **EVENTS OF DEFAULT AND REMEDIES**

An “event of default” or a “default” will mean, whenever they are used in the Agreement, any one or more of the following events:

(a) Failure by the BOCES to pay or cause to be paid when due the Rentals to be paid under the Agreement which failure continues for a period of seven (7) days after payment thereof was due;

(b) Failure by the BOCES to pay or to cause to be paid when due any other payment required to be made under the Agreement which failure continues for a period of thirty (30) days after payment thereof was due, provided that written notice thereof will have been given to the BOCES not less than thirty (30) days prior to the due date thereof;

(c) Failure by the BOCES to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subparagraphs (a) and (b) of this section, which failure will continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the BOCES by the Authority or such longer period, as is required to cure such default, if by reason of the nature of such failure the same cannot be remedied within such thirty (30) day period and the BOCES has within such thirty (30) day period commenced to take appropriate actions to remedy such failure and is diligently pursuing such actions;

(d) Any representation or warranty of the BOCES contained in the Agreement will have been at the time it was made untrue in any material respect; or

(e) The BOCES will generally not pay its debts as such debts become due, or will admit in writing its inability to pay its debts generally, or will make a general assignment for the benefit of creditors; or any proceeding will be instituted by or against the BOCES seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it for any substantial part of its property; or the BOCES will authorize any of the actions set forth above in this subparagraph (e).

(Section 8.01)

Whenever any event of default referred to above will have happened and be continuing, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the BOCES under the Agreement.

(Section 8.02)



### **AMENDMENTS, CHANGES AND MODIFICATIONS**

The Agreement may be amended, changed or modified in any respect provided that each amendment, change or modification is in writing signed by an Authorized Officer of the Authority and of the BOCES; provided, however, that no amendment, change or modification will take effect unless and until (i) if the consent of Holders of Outstanding Series 2020 Bonds is required by the Master Resolution as summarized in Appendix D under the heading “Amendment, Change, Modification or Waiver of Agreement,” there will have been filed with the Trustee the written consents of the Holders of the percentages of Outstanding Series 2020 Bonds specified under such heading of the Master Resolution, (ii) if the consent of the Trustee is required by such section, the Trustee will have consented thereto and (iii) an executed copy of such amendment, change or modification, certified by an Authorized Officer of the Authority, will have been filed with the Trustee.

(Section 9.04)

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**SUMMARY OF CERTAIN PROVISIONS  
OF THE MASTER RESOLUTION**

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## **SUMMARY OF CERTAIN PROVISIONS OF THE MASTER RESOLUTION**

The following is a brief summary of certain provisions of the Master Resolution. Such summary does not purport to be complete and reference is made to the Master Resolution for full and complete statements of such and all provisions. Defined terms used in the Master Resolution will have the meanings ascribed to them in Appendix A or in the body of this Official Statement.

### **Master Resolution, Series Resolution and Bonds Constitutes Separate Contracts**

With respect to each Applicable Series of Bonds, in consideration of the purchase and acceptance of any and all of the Bonds of an Applicable Series authorized to be issued under the Master Resolution and under the Applicable Series Resolution by those who will hold or own the same from time to time, the Master Resolution and the Applicable Series Resolution will be deemed to be and will constitute a contract among the Authority, the Trustee and the Holders from time to time of such Bonds, and the pledge and assignment made in the Master Resolution and the covenants and agreements set forth to be performed by or on behalf of the Authority will be for the equal and ratable benefit, protection and security of the Holders of any and all of such Bonds of an Applicable Series, all of which, regardless of the time or times of their issue or maturity, will be of equal rank without preference, priority or distinction of any such Bonds of such Series over any other Bonds except as expressly provided in the Master Resolution or permitted by the Master Resolution or by the Applicable Series Resolution.

(Section 1.03)

### **Authorization of the Series 2020 Bonds**

The Bonds will be issued pursuant to the Master Resolution, the Series 2020 Resolution, and the Act. In addition to the Series 2020 Bonds, the Master Resolution authorizes the issuance of other Series of Bonds for such other purposes as are authorized by the Master Resolution.

The Bonds of the Authority will not be a debt of the State, nor will the State be liable thereon, nor will the Bonds be payable out of any funds other than those of the Authority pledged by the Master Resolution to the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Bonds.

(Section 2.01)

### **Additional Bonds and Other Obligations**

The Authority reserves the right to issue bonds, notes or any other obligations or otherwise incur indebtedness pursuant to other and separate resolutions or agreements of the Authority, so long as such bonds, notes or other obligations are not, or such other indebtedness is not, except as provided in the Master Resolution or Applicable Series Resolution, entitled to a charge or lien or right prior or equal to the charge or lien created by the Master Resolution, or prior or equal to the rights of the Authority and Holders of Bonds provided by the Master Resolution or with respect to the moneys pledged under thereunder or pursuant to an Applicable Series Resolution.

(Section 2.05)

### **Authorization of Redemption**

Bonds subject to redemption prior to maturity will be redeemable at such times, at such Redemption Prices and upon such terms as may be specified in the Master Resolution or in the Applicable Series Resolution authorizing their issuance or the Applicable Bond Series Certificate.

(Section 4.01)

### **Redemption at Election of the Authority**

The Series, maturities, and principal amounts of the Bonds to be redeemed at the election or direction of the Authority will be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained in the Master Resolution or in the Series Resolution authorizing such Series or the Applicable Bond Series Certificate. The notice of redemption required by the Master Resolution to be given will not be given with respect to Bonds to be redeemed pursuant to the Master Resolution unless prior to the date such notice is to be given the Authority will have obtained the written consent of each Facility Provider to which Provider Payments are then due and unpaid.

(Section 4.02)

### **Selection of Bonds to Be Redeemed**

Unless otherwise provided in the Series Resolution authorizing the issuance of Bonds of a Series or the Bond Series Certificate relating to such Bonds, in the event of redemption of less than all of the Outstanding Bonds of like Series, maturity and tenor, the Trustee will assign to each Outstanding Bond of the Series, maturity and tenor to be redeemed a distinctive number for each unit of the principal amount of such Bond equal to the lowest denomination in which the Bonds of such Series are authorized to be issued and will select by lot, using such method of selection as it will deem proper in its discretion, from the numbers assigned to such Bonds as many numbers as, at such unit amount equal to the lowest denomination in which the Bonds of such Series are authorized to be issued for each number, will equal the principal amount of such Bonds to be redeemed. In making such selections the Trustee may draw the Bonds by lot (i) individually or (ii) by one or more groups, the grouping for the purpose of such drawing to be by serial numbers (or, in the case of Bonds of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued, by the numbers assigned thereto as provided in the Master Resolution) which end in the same digit or in the same two digits. In case, upon any drawing by groups, the total principal amount of Bonds drawn will exceed the amount to be redeemed, the excess may be deducted from any group or groups so drawn in such manner as the Trustee may determine. The Trustee may in its discretion assign numbers to aliquot portions of Bonds and select part of any Bond for redemption. The Bonds to be redeemed will be the Bonds to which were assigned numbers so selected; provided, however, that only so much of the principal amount of each such Bond of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued will be redeemed as will equal the lowest denomination in which the Bonds of such Series are authorized to be issued for each number assigned to it and so selected.

(Section 4.04)

### **Notice of Redemption**

Whenever Bonds are to be redeemed, the Trustee will give notice of the redemption of the Bonds in the name of the Authority. Such notice, unless the Bonds are book entry Bonds, will be given by mailing a copy of such notice not less than thirty (30) days nor more than sixty (60) days prior to the redemption date. Such notice will be sent by first class mail, postage prepaid, to the registered owners of the Bonds which are to be redeemed, at their last known addresses, if any, appearing on the registration books not more than ten (10) Business Days prior to the date such notice is given. Upon giving such notice, the Trustee will promptly certify to the Authority that it has mailed or caused to be mailed such notice to the registered owners of the Bonds to be redeemed in the manner provided in the Master Resolution. Such certificate will be conclusive evidence that such notice was given in the manner required by the Master Resolution. The failure of any Holder of a Bond to be redeemed to receive such notice will not affect the validity of the proceedings for the redemption of the Bonds. If the Bonds to be redeemed are book entry Bonds, the Trustee will mail a copy of the notice to the Depository not less than thirty-five (35) days prior to the redemption, but if notice of redemption is to be published as aforesaid, in no event later than five (5) Business Days prior to the date of publication.

Any notice of redemption, unless moneys will be received by the Trustee prior to giving such notice sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed, may state that such redemption will be conditional upon the receipt of such moneys by the Trustee by 1:00 P.M. (New York time) on the date fixed

for redemption. If such moneys are not so received said notice will be of no force and effect, the Authority will not redeem such Bonds and the Trustee will give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

(Section 4.05)

### **Payment of Redeemed Bonds**

If, on the redemption date, moneys for the redemption of all Bonds or portions thereof of any like Series, maturity and tenor to be redeemed, together with interest accrued and unpaid thereon to the redemption date, will be held by the Trustee and Paying Agents so as to be available therefor on such date and if notice of redemption will have been mailed as stated in the Master Resolution, then, from and after the redemption date, interest on the Bonds or portions thereof so called for redemption will cease to accrue and such Bonds will no longer be considered to be Outstanding under the Master Resolution. If such moneys will not be so available on the redemption date, such Bonds or portions thereof will continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

(Section 4.06)

### **Pledge of Revenues**

The proceeds from the sale of the Bonds, the Applicable Revenues, the Authority's security interest in the Applicable Pledged Revenues, and all funds authorized by the Master Resolution and established pursuant to an Applicable Series Resolution, other than the Applicable Arbitrage Rebate Fund, are pledged and assigned to the Trustee as security for the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Bonds and as security for the performance of any other obligation of the Authority under the Master Resolution and under any Series Resolution, all in accordance with the provisions of the Master Resolution and any Series Resolution. The pledge of the Revenues subject to the adoption of an Applicable Series Resolution will relate only to the Bonds of an Applicable Series authorized by such Series Resolution and no other Series of Bonds and such pledge will not secure any such other Series of Bonds. The pledge is valid, binding and perfected from the time when the pledge attaches and the proceeds from the sale of the Bonds, the Revenues, the Authority's security interest in the Applicable Pledged Revenues and the funds and accounts established by the Master Resolution and by any Series Resolution will immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge will be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof. No instrument by which such pledge is created nor any financing statement need be recorded or filed. The Bonds will be special obligations of the Authority payable solely from and secured by a pledge of the proceeds from the sale of the Bonds, the Revenues, the Authority's interest in the Applicable Pledged Revenues and the funds established by the Master Resolution and pursuant to the Applicable Series Resolution, which are pledged, such pledge will constitute a first lien thereon, subject only, with respect to such Applicable Pledged Revenues, to the Applicable Prior Pledges.

(Section 5.01)

### **Establishment of Funds**

Unless otherwise provided by the Applicable Series Resolution, the following funds are authorized to be established, held, and maintained for each Applicable Series by the Trustee under the Applicable Series Resolution separate from any other funds established and maintained pursuant to any other Series Resolution:

Construction Fund;

Debt Service Fund;

Debt Service Reserve Fund;

Building and Equipment Reserve Fund; and

Arbitrage Rebate Fund.

Accounts and sub-accounts within each of the foregoing funds may from time to time be established in accordance with an Applicable Series Resolution, an Applicable Bond Series Certificate or upon the direction of the Authority. All moneys at any time deposited in any fund created by the Master Resolution, other than the Applicable Arbitrage Rebate Fund, will be held in trust for the benefit of the Holders of the Applicable Series of Bonds, but will nevertheless be disbursed, allocated and applied solely in connection with Applicable Series of Bonds for the uses and purposes provided in the Master Resolution.

(Section 5.02)

### **Application of Moneys in the Construction Fund**

As soon as practicable after the delivery of each Series of Bonds, there will be deposited in the Applicable Construction Fund the amount required to be deposited therein pursuant to the Series Resolution authorizing such Series or the Bond Series Certificate relating to such Series. In addition, the Authority will deposit in the Applicable Construction Fund any moneys paid to the Authority for the acquisition, construction, reconstruction, rehabilitation, or improvement of any Project, including without limitation, the equity contribution, if any, provided by a BOCES. Except as otherwise provided in the Master Resolution, any Applicable Series Resolution or Bond Series Certificate, moneys deposited in the Construction Fund will be used only to pay the Costs of Issuance of the Bonds and the Costs of the Applicable Project.

An Applicable Project will be deemed to be complete (a) upon delivery to the Authority and the Trustee of a certificate signed by an Authorized Officer of each applicable BOCES which certificate will be delivered as soon as practicable after the date of completion of such Project or (b) upon delivery to each applicable BOCES and the Trustee of a certificate of the Authority which certificate may be delivered at any time after completion of such Project. Each such certificate will state that such Project has been completed substantially in accordance with the Plans and Specifications, if any, applicable to such Project and that such Project is ready for occupancy, and, in the case of a certificate of an Authorized Officer of such BOCES, will specify the date of completion.

Upon receipt by the Trustee of the certificate required pursuant to the Master Resolution, the moneys, if any, then remaining in the Applicable Construction Fund, after making provision in accordance with the direction of the Authority for the payment of any Costs of Issuance of an Applicable Series of Bonds and Costs of an Applicable Project then unpaid, will be paid by the Trustee as follows and in the following order of priority:

First: To the Applicable Arbitrage Rebate Fund, the amount determined by the Authority to be required to be deposited therein;

Second: To the Applicable Debt Service Reserve Fund, such amount as will be necessary to make the amount on deposit in such fund equal to the Applicable Debt Service Reserve Fund Requirement; and

Third: To the Applicable Debt Service Fund, to be applied in accordance with the Master Resolution as summarized below under the heading “Debt Service Fund”, any balance remaining.

Following the occurrence and during the continuation of an Event of Default under an Applicable Agreement, the Authority may, in its sole discretion, transfer moneys in the Applicable Construction Fund to the Trustee for application pursuant to the provisions of the Master Resolution as summarized below under the heading “Debt Service Fund”.

(Section 5.04)

### **Deposit of Revenues and Allocation Thereof**

The Applicable Revenues and any other moneys which, by any of the provisions of the Applicable Agreement, are required to be deposited in the Applicable Debt Service Fund, will upon receipt by the Trustee be deposited to the credit of the appropriate account in the Applicable Debt Service Fund. To the extent not required to pay, (a) the interest becoming due on Outstanding Bonds of the Applicable Series on the next succeeding interest payment date or dates of such Bonds to and including August 15; (b) the amount necessary to pay the principal and Sinking Fund Installments becoming due on the Applicable Series of Outstanding Bonds on such August 15; and (c) moneys which are required



or have been set aside for the redemption of Bonds of the Applicable Series, moneys in the Applicable Debt Service Fund will be paid by the Trustee on or before the business day preceding each interest payment date as follows and in the following order of priority:

First: To reimburse, pro rata, each Facility Provider which has issued a Reserve Fund Facility which constitutes any part of the Applicable Debt Service Reserve Fund for moneys advanced thereunder, including interest thereon, in proportion to the respective amounts advanced by each such Facility Provider;

Second: To the Applicable Debt Service Reserve Fund, the amount, if any, necessary to make the amount on deposit therein equal to the Applicable Debt Service Reserve Fund Requirement; and

Third: To the Authority, unless otherwise paid, such amounts as are payable to the Authority relating to such Series for: (i) any expenditures of the Authority for fees and expenses of auditing, and fees and expenses of the Applicable Trustee and Paying Agents, all as required hereby, (ii) all other expenditures reasonably and necessarily incurred by the Authority in connection with the financing of the Applicable Project, including expenses incurred by the Authority to compel full and punctual performance of all the provisions of the Applicable Agreement or the Applicable BOCES Lease in accordance with the terms thereof, and (iii) any fees of the Authority; but only upon receipt by the Trustee of a certificate of the Authority, stating in reasonable detail the amounts payable to the Authority pursuant to this paragraph Third.

(Section 5.05)

#### **Debt Service Fund**

The Trustee will on or before the Business Day preceding each interest payment date pay to itself and any other Paying Agent out of the Applicable Debt Service Fund:

- (a) the interest due and payable on all Outstanding Bonds of the Applicable Series on such interest payment date;
- (b) the principal amount due and payable on all Outstanding Bonds of the Applicable Series on such interest payment date; and
- (c) the Sinking Fund Installments or other amounts related to a mandatory redemption, if any, due and payable on all Outstanding Bonds of the Applicable Series on such interest payment date.

The amounts paid out pursuant to (a), (b) and (c) above will be irrevocably pledged to and applied to such payments.

Notwithstanding the above, the Authority may, at any time subsequent to the first day of any Bond Year but in no event less than forty-five (45) days prior to the succeeding date on which a Sinking Fund Installment is scheduled to be due, direct the Trustee to purchase, with moneys on deposit in the Applicable Debt Service Fund, at a price not in excess of par plus interest accrued and unpaid to the date of such purchase, Term Bonds to be redeemed from such Sinking Fund Installment.

In the event that on the fourth Business Day preceding any interest payment date there are insufficient amounts in the Applicable Debt Service Fund, the Trustee is required to withdraw from the Debt Service Reserve Fund and deposit to the Applicable Debt Service Fund such amount as will increase the amount therein to an amount sufficient to make the required payments from such fund.

Moneys in the Applicable Debt Service Fund in excess of the amount required to pay the principal and Sinking Fund Installments of Outstanding Bonds of the Applicable Series payable during the next succeeding Bond Year, the interest on Outstanding Bonds of the Applicable Series payable on and prior to the earlier of the next succeeding February 15 or August 15, and the purchase price or Redemption Price of Outstanding Bonds theretofore contracted to be purchased or called for redemption, plus accrued interest thereon to the date of purchase or redemption, will be paid or applied by the Trustee in accordance with the direction of an Authorized Officer of the Authority (i) to the purchase of Outstanding Bonds of the Applicable Series at purchase prices not exceeding the Redemption Price applicable on the next interest payment date on which such Bonds are redeemable, plus accrued and unpaid interest to such date, at such times, at such purchase prices and in such manner as an Authorized Officer of the Authority will

direct or (ii) to the redemption of Bonds of the Applicable Series as provided in the Master Resolution, at the Redemption Prices specified in the Applicable Series Resolution or Applicable Bond Series Certificate.

(Section 5.07)

### **Debt Service Reserve Fund**

The Trustee will deposit to the credit of the Applicable Debt Service Reserve Fund such proceeds of the sale of Bonds, if any, as will be prescribed in the Applicable Series Resolution authorizing the issuance of such Series of Bonds or the Applicable Bond Series Certificate relating to such Series. Moneys held for the credit of the Debt Service Reserve Fund are required to be withdrawn by the Trustee and deposited to the credit of the Debt Service Fund at the times and in the amounts required to comply with the provisions of the Master Resolution.

In lieu of or in substitution for moneys, the Authority may deposit or cause to be deposited with the Trustee a Reserve Fund Facility for the benefit of the Holders of an Applicable Series of the Bonds for all or any part of the Applicable Debt Service Reserve Requirement; provided, however, (i) that any such surety bond or insurance policy shall be issued by an insurance company or association duly authorized to do business in the State and either (A) the claims paying ability of such insurance company or association is rated in the highest rating category accorded by a nationally recognized insurance rating agency or (B) obligations insured by a surety bond or an insurance policy issued by such company or association are rated at the time such surety bond or insurance policy is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in the highest rating category by a Rating Agency and (ii) that any such letter of credit shall be issued by a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provision of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provision of law, or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, the unsecured or uncollateralized long term debt obligations of which, or long term obligations secured or supported by a letter of credit issued by such person, are rated at the time such letter of credit is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in at least the second highest rating category by a Rating Agency.

For any Series of Bonds issued on or after March 11, 2015, in lieu of or in substitution for moneys, the Authority may deposit or cause to be deposited with the Trustee a Reserve Fund Facility for the benefit of the Holders of an Applicable Series of the Bonds for all or any part of the Applicable Debt Service Reserve Requirement; provided, however, (i) that any such surety bond or insurance policy shall be issued by an insurance company or association duly authorized to do business in the State and either (A) the claims paying ability of such insurance company or association is rated in not less than the second highest rating category accorded by a nationally recognized insurance rating agency or (B) obligations insured by a surety bond or an insurance policy issued by such company or association are rated at the time such surety bond or insurance policy is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in not less than the second highest rating category by a Rating Agency and (ii) that any such letter of credit shall be issued by a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provision of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provision of law, or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, the unsecured or uncollateralized long term debt obligations of which, or long term obligations secured or supported by a letter of credit issued by such person, are rated at the time such letter of credit is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in at least the second highest rating category by a Rating Agency.

In addition to the conditions and requirements set forth above, no Reserve Fund Facility shall be deposited in full or partial satisfaction of the Applicable Debt Service Reserve Fund Requirement unless the Trustee and each Applicable Facility Provider of an Applicable Reserve Fund Facility shall have received prior to such deposit (i) an opinion of counsel acceptable to the Trustee and to each such Facility Provider of a Reserve Fund Facility to the effect

that such Reserve Fund Facility has been duly authorized, executed and delivered by the Facility Provider thereof and is valid, binding and enforceable in accordance with its terms, (ii) in the event such Facility Provider is not a domestic entity, an opinion of foreign counsel in form and substance satisfactory to the Trustee and to each Facility Provider and (iii) in the event such Reserve Fund Facility is a letter of credit, an opinion of counsel acceptable to the Trustee and to each Facility Provider of a Reserve Fund Facility substantially to the effect that payments under such letter of credit will not constitute avoidable preferences under Section 547 of the United States Bankruptcy Code in a case commenced by or against the Authority or the BOCES thereunder or under any applicable provisions of the Debtor and Creditor Law of the State.

Notwithstanding the foregoing, if at any time after a Reserve Fund Facility has been deposited with the Trustee the ratings on any Outstanding Bonds of the Applicable Series are less than (without regard to qualification of such rating by symbols such as “+” or “-”) the second highest rating category by a Rating Agency and the unsecured or uncollateralized long term debt of the Facility Provider or the long term debt obligations secured or supported by a surety bond, insurance policy or letter of credit of a Facility Provider is reduced below (without regard to qualification of such rating by symbols such as “+” or “-”) A by a Rating Agency, the Authority shall either (i) replace or cause to be replaced said Reserve Fund Facility with another Reserve Fund Facility which satisfies the requirements of the two preceding paragraphs or (ii) deposit or cause to be deposited in the Applicable Debt Service Reserve Fund an amount of moneys equal to the value of the Reserve Fund Facility of such Facility Provider, such deposits to be, as nearly as practicable, in five equal annual installments commencing on September 1.

Each such surety bond, insurance policy or letter of credit shall be payable (upon the giving of such notice as may be required thereby) on any date on which moneys are required to be withdrawn from the Applicable Debt Service Reserve Fund and such withdrawal cannot be made without obtaining payment under such Reserve Fund Facility.

For the purposes of the Master Resolution, in computing the amount on deposit in the Applicable Debt Service Reserve Fund, a Reserve Fund Facility shall be valued at the amount available to be paid thereunder on the date of computation; provided, however, that, if the unsecured or uncollateralized long term debt of the Facility Provider thereof, or the long term debt obligations secured or supported by a surety bond, insurance policy or letter of credit of said Facility Provider has been reduced below the ratings required by the Master Resolution, said Reserve Fund Facility shall be valued at the lesser of (i) the amount available to be paid thereunder on the date of calculation and (ii) the difference between the amount available to be paid thereunder on the date of issue thereof and an amount equal to a fraction of such available amount the numerator of which is the aggregate number of September 1's which have elapsed since such ratings were reduced and the denominator of which is ten.

The income or interest earned on investments in the Debt Service Reserve Fund will be withdrawn by the Trustee, as received, and deposited in the Applicable Arbitrage Rebate Fund, the Applicable Debt Service Fund, or the Applicable Construction Fund in accordance with such direction. If the value of the moneys and investments held for the credit of the Applicable Debt Service Reserve Fund exceeds the Applicable Debt Service Reserve Fund Requirement, such excess will, upon direction of an Authorized Officer of the Authority, be deposited in the Applicable Arbitrage Rebate Fund, the Debt Service Fund or the Applicable Construction Fund in accordance with such direction; provided, however, that if such amount results from the substitution of a Reserve Fund Facility for moneys or investments in the Applicable Debt Service Reserve Fund, such amount will not be deposited in the Applicable Debt Service Fund or the Applicable Construction Fund unless in the opinion of Bond Counsel such application will not adversely affect the exclusion of interest on any of the Applicable Bonds from gross income for federal income tax purposes.

Notwithstanding the provisions above, if, upon a Bond having been deemed to have been paid in accordance with the section of the Master Resolution described below under the heading “Defeasance,” the moneys and investments held for the credit of the Applicable Debt Service Reserve Fund will exceed the Applicable Debt Service Reserve Fund Requirement, then the Trustee will withdraw all or any portion of such excess from the Applicable Debt Service Reserve Fund and either (i) apply such amount to the payment of the principal or Redemption Price of and interest on such Bond in accordance with the irrevocable instructions of the Authority or to fund any reserve for the payment of the principal and Sinking Fund Installments of or interest on the bonds, notes or other obligations, if any, issued to provide for the payment of such Bond or (ii) pay such amount to the Authority for deposit to the Applicable

Construction Fund if, in the opinion of Bond Counsel, application of such moneys to make the payment of Costs of the Project will not adversely affect the exclusion of interest on any Bonds from gross income for federal income tax purposes; provided, however, that after such withdrawal the amount remaining in the Applicable Debt Service Reserve Fund will not be less than the Applicable Debt Service Reserve Fund Requirement.

If the value of the moneys and investments held for the credit of the Applicable Debt Service Reserve Fund is less than the Applicable Debt Service Reserve Fund Requirement, the Trustee will immediately notify the Authority, the Applicable BOCES, and each Facility Provider, if any, of such deficiency. The amount of such deficiency will be included in the Basic Rent payable during the next succeeding Bond Year.

(Section 5.08)

### **Arbitrage Rebate Fund**

The Trustee will deposit to the Applicable Arbitrage Rebate Fund any moneys delivered to it by the Applicable BOCES for deposit therein and, notwithstanding any other provisions of the Master Resolution, will transfer to the Applicable Arbitrage Rebate Fund, in accordance with the directions of an Authorized Officer of the Authority, moneys on deposit in any other funds held by the Trustee under the Master Resolution at such times and in such amounts as will be set forth in such directions.

Moneys on deposit in the Applicable Arbitrage Rebate Fund will be applied by the Trustee in accordance with the direction of an Authorized Officer of the Authority to make payments to the Department of the Treasury of the United States of America at such times and in such amounts as the Authority will determine to be required by the Code to be rebated to the Department of the Treasury of the United States of America. Moneys which an Authorized Officer of the Authority determines to be in excess of the amount required to be so rebated will first, be applied to reimburse, pro rata, each Facility Provider for moneys advanced under an Applicable Reserve Fund Facility, including interest thereon, which is then unpaid, in proportion to the respective amounts advanced by each such Facility Provider; and then be deposited to any fund or account established under the Master Resolution in accordance with the written direction of such Authorized Officer.

If and to the extent required by the Code, the Authority will periodically, at such times as may be required to comply with the Code, determine the amount required by the Code to be rebated to the Department of the Treasury of the United States of America with respect to each Series of Bonds and (i) transfer or direct the Trustee to transfer from any other of the funds and accounts held under the Master Resolution and deposit to the Applicable Arbitrage Rebate Fund, such amount as the Authority will have determined to be necessary in order to enable it to comply with its obligation to rebate moneys to the Department of the Treasury of the United States of America with respect to each Applicable Series of Bonds and (ii) pay out of the Applicable Arbitrage Rebate Fund to the Department of the Treasury of the United States of America the amount, if any, required by the Code to be rebated thereto.

(Section 5.09)

### **Computation of Assets of Certain Funds**

The Trustee, after the end of each calendar month, will compute the value of the assets in the Applicable Debt Service Reserve Fund on the last day of each such month, and notify the Authority, BOCES and each Applicable Facility Provider as to the results of such computation and the amount by which the value of the assets in the Applicable Debt Service Reserve Fund exceeds or is less than the Applicable Debt Service Reserve Fund Requirement.

(Section 5.12)

### **Security for Deposits**

All moneys held under the Master Resolution by the Trustee will be continuously and fully secured, for the benefit of the Authority and the Holders of the Applicable Series of Bonds, by direct obligations of the United States of America or obligations the principal of and interest on which are guaranteed by the United States of America of a market value equal at all times to the amount of the deposit so held by the Trustee; provided, however, (a) that if the securing of such moneys is not permitted by applicable law, then in such other manner as may then be required or

permitted by applicable State or federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds, and (b) that it will not be necessary for the Trustee or any Paying Agent to give security for the deposit of any moneys with them pursuant to the sections of the Master Resolution described above under the heading “Debt Service Fund” and below under the heading “Defeasance,” and held in trust for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on any Bonds, or for the Trustee to give security for any moneys which will be represented by obligations purchased or other investments made under the provisions of the Master Resolution as an investment of such moneys.

(Section 6.01)

### **Investment of Funds and Accounts**

Moneys held under the Master Resolution, if permitted by law, will, as nearly as may be practicable, be invested in Government Obligations or Exempt Obligations; provided, however, that each such investment will permit the moneys so deposited or invested to be available for use at the times at which the Authority reasonably believes such moneys will be required for the purposes of the Master Resolution. Moneys held under the Master Resolution by the Trustee will be invested by the Trustee upon the direction of an Authorized Officer of the Authority, given or confirmed in writing, which direction will specify the amount to be invested.

In lieu of the investments of moneys in obligations authorized in the Master Resolution, the Trustee will, to the extent permitted by law, upon direction of the Authority given or confirmed in writing, signed by an Authorized Officer of the Authority, invest moneys in the Applicable Debt Service Reserve Fund, and the Authority may, to the extent permitted by law, invest moneys in the Applicable Construction Fund, in (i) interest bearing time deposits, certificates of deposit or other similar investment arrangements including, but not limited to, written repurchase agreements relating to Government Obligations, with Qualified Financial Institutions; (ii) Exempt Obligations or (iii) Investment Agreements; provided, however, that (w) each such investment will permit the moneys so deposited or invested to be available for use at the times at, and in the amounts in, which the Authority reasonably believes such moneys will be required for the purposes of the Master Resolution, (x) all moneys in each such interest bearing time deposit, certificate of deposit or other similar investment arrangement will be continuously and fully secured by ownership of or a security interest in Government Obligations of a market value, determined by the Trustee or its agent not less frequently than monthly, equal to the amount deposited or invested including interest accrued thereon, (y) the obligations securing such interest bearing time deposit or certificate of deposit or which are the subject of such other similar investment arrangement will be deposited with and held by the Trustee or an agent of the Trustee approved by an Authorized Officer of the Authority, and (z) the Government Obligations securing such time deposit or certificate of deposit or which are the subject of such other similar investment arrangement will be free and clear of claims of any other person.

Obligations purchased or other investments made as an investment of moneys in any fund or account held under the provisions of the Master Resolution will be deemed at all times to be a part of such fund or account and the income or interest earned, profits realized or losses suffered by a fund or account due to the investment thereof will be credited or charged, as the case may be, to such fund or account.

In computing the amount in any fund or account held by the Trustee under the provisions of the Master Resolution, obligations purchased as an investment of moneys therein or held therein will be valued at par or the market value thereof, plus accrued interest, whichever is lower, except that investments held in the Debt Service Reserve Fund will be valued at par or the cost thereof, including accrued interest, whichever is lower.

(Section 6.02)

### **Accounts and Audits**

The Authority covenants to keep proper books of records and accounts (separate from all other records and accounts), which may be kept on behalf of the Authority by the Trustee, in which complete and correct entries will be made of its transactions relating to each Series of Bonds, which books and accounts, at reasonable hours and subject to the reasonable rules and regulations of the Authority, will be subject to the inspection of the Trustee, BOCES or of

any Holder of a Bond or his representative duly authorized in writing. The Trustee will annually prepare a report which will be furnished to the Authority, each Facility Provider, each Credit Facility Issuer, and the Applicable BOCES. Such report will include at least: a statement of all funds (including investments thereof) held by such Trustee and the Authority pursuant to the provisions of the Master Resolution and of each Applicable Series Resolution; a statement of the Applicable Revenues collected in connection with the Master Resolution and with each Applicable Series Resolution; a statement that the balances in the Applicable Debt Service Reserve Fund meet the requirements of the Master Resolution and of the Applicable Series Resolution; and complete and correct entries of all transactions relating to an Applicable Series of Bonds. A copy of such report, will, upon receipt of a written request therefor, and payment of any reasonable fee or charge made in connection therewith, be furnished to the registered owner of a Bond of the Applicable Series or any beneficial owner of a Book Entry Bond of the Applicable Series requesting the same.

(Section 7.05)

#### **Creation of Liens**

Except as permitted under the Master Resolution, the Authority covenants not to create or cause to be created any lien or charge prior or equal to that of the Bonds of an Applicable Series on the proceeds from the sale of the Bonds, the Applicable Revenues or the funds and accounts established by the Master Resolution or by any Applicable Series Resolution which are pledged by the Master Resolution; provided, however, that nothing contained in the Master Resolution will prevent the Authority from issuing bonds, notes or other obligations under another and separate resolution so long as the charge or lien created by such resolution is not prior or equal to the charge or lien created by the Master Resolution.

(Section 7.06)

#### **Enforcement of Obligations of BOCES**

The Authority covenants to take all legally available action to cause a BOCES to perform fully its obligation to pay Basic Rent and other amounts which under the Applicable Agreement are to be paid to the Trustee, in the manner and at the times provided in the Applicable Agreement.

(Section 7.07)

#### **Amendment, Change, Modification or Waiver of Agreement or BOCES Lease**

Neither an Applicable Agreement nor an Applicable BOCES Lease may be amended, changed, modified, altered or terminated so as to materially adversely affect the interest of the Holders of the Outstanding Bonds of the Applicable Series without the prior written consent of the Holders of at least a majority in aggregate principal amount of such Bonds then Outstanding; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any Applicable Series remain Outstanding, the consent of the Holders of such Bonds will not be required and such Bonds will not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds of the Applicable Series under the Master Resolution; provided, further, that no such amendment, change, modification, alteration or termination will reduce the percentage of the aggregate principal amount of Outstanding Bonds of such Series the consent of the Holders of which is a requirement for any such amendment, change, modification, alteration or termination, or decrease the amount of any payment required to be made by BOCES under the Applicable Agreement that is to be deposited with the Trustee or extend the time of payment thereof. Except as otherwise provided in the Master Resolution, an Agreement or a BOCES Lease may be amended, changed, modified, or altered without the consent of the Holders of Outstanding Bonds of the Applicable Series or the Trustee. Specifically, and without limiting the generality of the foregoing, an Agreement or a BOCES Lease may be amended, changed, modified or altered without the consent of the Trustee and the Holders of Outstanding Bonds of such Series (i) to provide changes in connection with the acquisition, construction, reconstruction, rehabilitation, renovation and improvement or otherwise, the providing, furnishing and equipping of any facilities constituting a part of the Applicable Project or which may be added to such Project; (ii) to provide for the financing of additional Costs of the Project leased pursuant to such Applicable Agreement or the financing of Additional Projects for the Applicable BOCES through the issuance of an additional Series of Bonds (provided that such amendment provide for additional

rent to be paid by the Applicable BOCES sufficient to pay such the debt service on such additional Series of Bonds and related costs and will further provide that the pledge of Pledged Revenues to secure such additional rent is subordinate to any pledge of Pledged Revenue previously made by such BOCES and that additional rent payable on a particular day may only be paid after the payment of the amounts to be paid by such BOCES on such date prior to such amendment); (iii) to provide for the issuance of Bonds of an Applicable Series; or (iv) to cure any ambiguity or correct or supplement any provisions contained in the Applicable Agreement or the Applicable BOCES Lease, as the case may be, which may be defective or inconsistent with any other provisions contained in the Master Resolution or in such Agreement or BOCES Lease.

An Applicable Series will be deemed to be adversely affected by an amendment, change, modification, or alteration of the Applicable Agreement or Applicable BOCES Lease if the same adversely affects or diminishes the rights of the Holders of the Bonds of such Series in any material respect. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, Bonds of an Applicable Series would be adversely affected in any material respect by any amendment, change, modification or alteration, and any such determination will be binding and conclusive on the Authority and all Holders of such Bonds.

The purchasers of the Bonds of a Series, whether purchasing as underwriters, for resale or otherwise, upon such purchase from the Authority, may consent to an amendment, change, modification, termination or waiver permitted by the Master Resolution with the same effect as a consent given by the Holder of such Bonds.

(Section 7.10)

#### **Notice as to Agreement Default**

The Authority covenants to notify the Trustee in writing that an “event of default” under the Applicable Agreement, as such term is defined in the Applicable Agreement, has occurred and is continuing, which notice is required to be given within five (5) days after the Authority has obtained actual knowledge thereof.

(Section 7.11)

#### **Modification and Amendment without Consent of Holders**

The Authority may adopt at any time or from time to time Supplemental Resolutions for any one or more of the following purposes, and any such Supplemental Resolution will become effective in accordance with its terms upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority:

(a) To add additional covenants and agreements of the Authority for the purpose of further securing the payment of the Bonds of an Applicable Series, provided such additional covenants and agreements are not contrary to or inconsistent with the covenants and agreements of the Authority contained in the Master Resolution;

(b) To prescribe further limitations and restrictions upon the issuance of Bonds of an Applicable Series and the incurring of indebtedness by the Authority which are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect;

(c) To surrender any right, power or privilege reserved to or conferred upon the Authority by the terms of the Master Resolution, provided that the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Authority contained in the Master Resolution;

(d) To confirm, as further assurance, any pledge under the Master Resolution or under the Applicable Series Resolution, and the subjection to any lien, claim or pledge created or to be created by the provisions of the Master Resolution, of the Applicable Revenues, or any pledge of any other moneys, investments thereof or funds;

(e) To modify any of the provisions of the Master Resolution or of any previously adopted Series Resolution or Supplemental Resolution in any other respects, provided that such modifications will not be effective until after all Bonds of an Applicable Series of Bonds Outstanding as of the date of adoption of such Supplemental Resolution will cease to be Outstanding, and all Bonds of an Applicable Series issued under an Applicable Series Resolution will contain a specific reference to the modifications contained in such subsequent resolutions; or

(f) With the consent of the Trustee, to cure any ambiguity or defect or inconsistent provision in the Master Resolution or to insert such provisions clarifying matters or questions arising under the Master Resolution as are necessary or desirable, provided that any such modifications are not contrary to or inconsistent herewith as theretofore in effect, or to modify any of the provisions of the Master Resolution or of any previously adopted Applicable Series Resolution or Supplemental Resolution in any other respect, provided that such modification will not adversely affect the interests of the Bondholders of the Applicable Series in any material respect.

(Section 9.02)

#### **General Provisions Relating to Series Resolutions and Supplemental Resolutions**

The Master Resolution will not be modified or amended in any respect except in accordance with and subject to the provisions of the Master Resolution. Nothing contained in the Master Resolution will affect or limit the rights or obligations of the Authority to adopt, make, do, execute or deliver any resolution, act or other instrument pursuant to the provisions of the Master Resolution or the right or obligation of the Authority to execute and deliver to the Trustee or any Paying Agent any instrument elsewhere in the Master Resolution provided or permitted to be delivered to the Trustee or any Paying Agent.

A copy of every Series Resolution and Supplemental Resolution adopted by the Authority, when filed with the Trustee, will be accompanied by an opinion of Bond Counsel stating that such Series Resolution or Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions of the Master Resolution, is authorized or permitted by the Master Resolution and is valid and binding upon the Authority and enforceable in accordance with its terms.

The Trustee is authorized to accept delivery of a certified copy of any Series Resolution or Supplemental Resolution permitted or authorized pursuant to the provisions of the Master Resolution and to make all further agreements and stipulations which may be contained therein, and, in taking such action, the Trustee will be fully protected in relying on the opinion of Bond Counsel that such Series Resolution or Supplemental Resolution is authorized or permitted by the provisions of the Master Resolution.

No Series Resolution or Supplemental Resolution changing, amending, or modifying any of the rights or obligations of the Trustee or of any Paying Agent will become effective without the written consent of the Trustee or Paying Agent affected thereby.

(Section 9.04)

#### **Powers of Amendment**

Any modification or amendment of the Master Resolution and of the rights and obligations of the Authority and of the Holders of the Bonds under the Master Resolution, in any particular, may be made by a Supplemental Resolution, with the written consent given as provided in the section of the Master Resolution described below under the heading "Supplemental Resolutions Effective with Consent of Bondholders", (i) of the Holders of at least a majority in principal amount of the Bonds Outstanding at the time such consent is given, or (ii) in case the modification or amendment changes the amount or date of any Sinking Fund Installment, of the Holders of at least a majority in principal amount of the Bonds of the Applicable Series, maturity and interest rate entitled to such Sinking Fund Installment, Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series, maturity and tenor remain Outstanding, the consent of the Holders of such Bonds will not be required and such Bonds will not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds described under this heading. No such modification or amendment will permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or will reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment.

(Section 10.01)



**Supplemental Resolutions Effective with Consent of Bondholders**

The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of the Master Resolution to take effect when and as provided in the Master Resolution. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee) together with a request to the Bondholders for their consent thereto in form satisfactory to the Trustee, will promptly after adoption be mailed by the Authority to the Bondholders (but failure to mail such copy and request to any particular Bondholder will not affect the validity of the Supplemental Resolution when consented to as provided in the Master Resolution). Such Supplemental Resolution will not be effective unless and until (i) there will have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds specified in the section of the Master Resolution described above under the heading “Powers of Amendment” and (b) an opinion of Bond Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the provisions of the Master Resolution, is authorized or permitted by the Master Resolution, and is valid and binding upon the Authority and enforceable in accordance with its terms, and (ii) a notice will have been mailed as provided in the Master Resolution. Each such consent will be effective only if accompanied by proof of the holding or owning at the date of such consent, of the Bonds with respect to which such consent is given, which proof will be such as is permitted by the Master Resolution. A certificate or certificates by the Trustee filed with the Trustee that it has examined such proof and that such proof is sufficient in accordance with the Master Resolution will be conclusive proof that the consents have been given by the Holders of the Bonds described in the certificate or certificates of the Trustee. Any consent given by a Bondholder will be binding upon the Bondholder giving such consent and, anything in the Master Resolution to the contrary notwithstanding, upon any subsequent Holder of such Bond and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Bondholder giving such consent or a subsequent Holder thereof by filing such revocation with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this paragraph provided for is filed. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Trustee to the effect that no revocation thereof is on file with the Trustee. At any time after the Holders of the required percentages of Bonds will have filed their consents to the Supplemental Resolution, the Trustee will make and file with the Authority and the Trustee a written statement that such Holders of such required percentages of Bonds have filed such consents. Such written statement will be conclusive that such consents have been so filed. At any time thereafter a notice, stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will be effective as provided in this paragraph, will be given to the Bondholders by the Authority by mailing such notice to the Bondholders and, at the discretion of the Authority, by publishing the same at least once not more than ninety (90) days after the Holders of the required percentages of Bonds will have filed their consents to the Supplemental Resolution and the written statement of the Trustee hereinabove provided for is filed (but failure to publish such notice will not prevent such Supplemental Resolution from becoming effective and binding as in this paragraph provided). The Authority will file with the Trustee proof of the mailing of such notice, and, if the same will have been published, of the publication thereof.

For the purposes of the Master Resolution, the purchasers of the Bonds of a Series, whether purchasing as underwriters, for resale or otherwise, upon such purchase from the Authority, may consent to a modification or amendment permitted by the sections of the Master Resolution described herein under the headings “Powers of Amendment” or “Modifications by Unanimous Consent” in the manner provided in the Master Resolution, except that no proof of ownership will be required, and with the same effect as a consent given by the Holder of such Bonds; provided, however, that, if such consent is given by a purchaser who is purchasing as an underwriter or for resale, the nature of the modification or amendment and the provisions for the purchaser consenting thereto will be described in the official statement, prospectus, offering memorandum or other offering document prepared in connection with the primary offering of the Bonds of such Series by the Authority.

(Section 10.02)

### **Modifications by Unanimous Consent**

The terms and provisions of the Master Resolution and the rights and obligations of the Authority and of the Holders of the Bonds may be modified or amended in any respect upon the adoption and filing with the Trustee by the Authority of a copy of a Supplemental Resolution certified by an Authorized Officer of the Authority and the consent of the Holders of all of the Applicable Bonds then Outstanding, such consent to be given as provided in the Master Resolution, except that no notice to the Bondholders, either by mailing or by publication, will be required.

(Section 10.03)

### **Consent of Facility Provider**

Whenever by the terms of the Master Resolution the consent of any of the Holders of the Bonds to a modification or amendment of the Master Resolution made by a Series Resolution or Supplemental Resolution is required, such modification or amendment will not become effective until the written consent of each Facility Provider has been obtained; provided, however, that the consent of a Facility Provider which has provided a Credit Facility or Liquidity Facility will not be required unless the modification or amendment requires the consent of the Holders of any percentage in principal amount of Outstanding Bonds or of the Holders of any percentage in principal amount of the Bonds of the Series in connection with which such Credit Facility or Liquidity Facility was provided. No modification or amendment of the Master Resolution which adversely affects a Facility Provider will be made without the written consent thereto of the Facility Provider affected thereby. Notice of the adoption of any such Series Resolution or Supplemental Resolution and of the effectiveness of the modification or amendment made thereby will be given to each Facility Provider by mail at the times and in the manner provided in the Master Resolution with respect to notices thereof required to be given to the Holders of the Bonds. Notice thereof will also be given to each Rating Agency as soon as practical after adoption of such Supplemental Resolution and of the effectiveness thereof.

(Section 10.04)

### **Events of Default**

Events of Default under the Master Resolution include: failure by the Authority to pay the principal, Sinking Fund Installments or Redemption Price of any Bond when the same will become due and payable; failure by the Authority to pay an installment of interest on any Bond when the same will become due and payable; the Authority defaults in the due and punctual performance of the tax covenants contained in the Series Resolution and, as a result thereof, the interest on the Bonds of a Series is no longer excludable from gross income under Section 103 of the Code (a "Taxability Default"); and default by the Authority in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Master Resolution or in the Bonds or in any Series Resolution on the part of the Authority to be performed and such default continues for thirty (30) days after written notice specifying such default and requiring same to be remedied has been given to the Authority by the Trustee, which may give such notice in its discretion and must give such notice at the written request of the Holders of not less than twenty five per centum (25%) in principal amount of the Outstanding Bonds, unless, if such default is not capable of being cured within thirty (30) days, the Authority has commenced to cure such default within said thirty (30) days and diligently prosecutes the cure thereof.

(Section 11.02)

### **Enforcement of Remedies**

Upon the happening and continuance of any Event of Default specified in the section of the Master Resolution described above under the heading "Events of Default", then and in every such case, the Trustee may proceed, and upon the written request of the Facility Provider of a Reserve Fund Facility, or of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Applicable Series or, in the case of a happening and continuance of a Taxability Default, upon the written request of the Holders of not less than twenty five per centum (25%) in principal amount of the Outstanding Bonds of the Applicable Series affected thereby, will proceed (upon receiving compensation, expenses and indemnity to its satisfaction), to protect and enforce its rights and the rights of the Bondholders or of such Facility Provider under the Master Resolution or under any Applicable

Series Resolution or under the laws of the State by such suits, actions or special proceedings in equity or at law, as the Trustee deems most effectual to protect and enforce such rights.

(Section 11.04)

#### **Limitation of Rights of Individual Bondholders**

No Holder of any of the Bonds will have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust under the Master Resolution, or for any other remedy under the Master Resolution unless such Holder previously will have given to the Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted, and unless also the Holders of not less than twenty five per centum (25%) in principal amount of the Outstanding Bonds or, in the case of a Taxability Default, the Holders of not less than twenty five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, will have made written request to the Trustee after the right to exercise such powers or right of action, as the case may be, will have accrued, and will have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted by the Master Resolution or to institute such action, suit or proceeding in its or their name, and unless, also, there will have been offered to the Trustee reasonable security and indemnity against the costs, expenses, and liabilities to be incurred therein or thereby, and the Trustee will have refused or neglected to comply with such request within a reasonable time.

(Section 11.08)

#### **Defeasance**

If the Authority pays or causes to be paid to the Holders of Bonds of an Applicable Series the principal, Sinking Fund Installments, if any, or Redemption Price of and interest thereon, at the times and in the manner stipulated therein, in the Master Resolution, and in the Applicable Series Resolution and Bond Series Certificate, then the pledge of the Revenues or other moneys and securities pledged to such Bonds and all other rights granted by the Master Resolution to such Holders of Bonds will be discharged and satisfied.

Bonds for the payment or redemption of which moneys will have been set aside and will be held in trust by the Trustee (through deposit of moneys for such payment or redemption or otherwise) at the maturity or redemption date thereof will be deemed to have been paid within the meaning and with the effect expressed in the paragraph above. All Outstanding Bonds of any Series or any maturity within a Series or a portion of a maturity within a Series will prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in the paragraph above if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority will have given to the Trustee, in form satisfactory to it, irrevocable instructions to give as provided in the Master Resolution notice of redemption on said date of such Bonds, (b) there has been deposited with the Trustee either moneys in an amount which will be sufficient, or Defeasance Securities the principal of and interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, will be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be, (c) the Trustee has received the written consent of each Facility Provider which has given written notice to the Trustee and the Authority that amounts advanced under a Credit Facility, Liquidity Facility or Reserve Fund Facility issued by it or the interest thereon have not been repaid to such Facility Provider, and (d) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority has given the Trustee, in form satisfactory to it, irrevocable instructions to give, as soon as practicable, by first class mail, postage prepaid, to the Holders of said Bonds at their last known addresses appearing on the registration books, a notice to the Holders of such Bonds that the deposit required by (b) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this paragraph and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds. The Authority will give written notice to the Trustee of its selection of the Series and maturity payment of which will be made in accordance with this paragraph. The Trustee will select the Bonds of like Series and maturity payment of which will be made in accordance with the Master Resolution. Neither

Defeasance Securities nor moneys deposited with the Trustee pursuant to this paragraph nor principal or interest payments on any such Defeasance Securities will be withdrawn or used for any purpose other than, and will be held in trust for, the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds; provided, however, that any moneys received from such principal or interest payments on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, must, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be.

(Section 12.01)

**No Recourse under Master Resolution or on the Bonds**

All covenants, stipulations, promises, agreements and obligations of the Authority contained in the Master Resolution will be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and not of any member, officer or employee of the Authority in his individual capacity, and no recourse will be had for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on the Bonds or for any claims based thereon, on the Master Resolution or on a Series Resolution against any member, officer or employee of the Authority or any person executing the Bonds, all such liability, if any, being expressly waived and released by every Holder of Bonds by the acceptance of the Bonds.

(Section 14.04)

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**FORM OF CONTINUING DISCLOSURE AGREEMENT**

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**AGREEMENT TO PROVIDE CONTINUING DISCLOSURE**  
**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**  
**MASTER BOCES PROGRAM LEASE REVENUE BONDS**  
**(ST. LAWRENCE AND LEWIS ISSUE), SERIES 2020**

This **AGREEMENT TO PROVIDE CONTINUING DISCLOSURE** (the “Disclosure Agreement”), dated as of February \_\_, 2020, is executed and delivered by the Board of Cooperative Educational Services for the Sole Supervisory District of St. Lawrence and Lewis Counties (the “Obligated Person”), The Bank of New York Mellon, as Trustee (the “Trustee”) and Digital Assurance Certification, L.L.C. (“DAC”), as exclusive Disclosure Dissemination Agent (the “Disclosure Dissemination Agent”) for the benefit of the Holders (hereinafter defined) of the Bonds (hereinafter defined) issued by the Dormitory Authority of the State of New York (the “Issuer” or “DASNY”) and in order to provide certain continuing disclosure with respect to the Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the “Rule”).

The services provided under this Disclosure Agreement solely relate to the execution of instructions received from the parties hereto through use of the DAC system and are not intended to constitute “advice” within the meaning of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Act”). DAC is not obligated hereunder to provide any advice or recommendation to the Issuer, the Obligated Person or anyone on the Issuer’s or the Obligated Person’s behalf regarding the “issuance of municipal securities” or any “municipal financial product” as defined in the Act and nothing in this Disclosure Agreement shall be interpreted to the contrary.

**SECTION 1. Definitions.** Capitalized terms not otherwise defined in this Disclosure Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with the Rule, in the Resolution (hereinafter defined). The capitalized terms shall have the following meanings:

“Annual Filing Date” means the date, set in Sections 2(a) and 2(f) of this Disclosure Agreement, by which the Annual Report is to be filed with the MSRB.

“Annual Financial Information” means annual financial information as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(a) of this Disclosure Agreement.

“Annual Report” means an Annual Report described in and consistent with Section 3 of this Disclosure Agreement.

“Audited Financial Statements” means the financial statements (if any) of the Obligated Person for the prior fiscal year, certified by an independent auditor as prepared in accordance with generally accepted accounting principles or otherwise, as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(b) of this Disclosure Agreement.

“Bonds” means the bonds as listed on the attached Exhibit A, with the 9-digit CUSIP numbers relating thereto.

“Certification” means a written certification of compliance signed by the Disclosure Representative stating that the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure delivered to the



Disclosure Dissemination Agent is the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure required to be or voluntarily submitted to the MSRB under this Disclosure Agreement. A Certification shall accompany each such document submitted to the Disclosure Dissemination Agent by the Obligated Person and include the full name of the Bonds and the 9-digit CUSIP numbers for all Bonds to which the document applies.

“Disclosure Dissemination Agent” means Digital Assurance Certification, L.L.C., acting in its capacity as Disclosure Dissemination Agent hereunder, or any successor Disclosure Dissemination Agent designated in writing by the Obligated Person pursuant to Section 9 hereof.

“Disclosure Representative” means the chief financial officer of the Obligated Person or his or her designee, or such other person as the Obligated Person shall designate in writing to the Disclosure Dissemination Agent from time to time as the person responsible for providing Information to the Disclosure Dissemination Agent.

“Failure to File Event” means the Obligated Person’s failure to file an Annual Report on or before the Annual Filing Date.

“Financial Obligation” means a (i) a debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Force Majeure Event” means: (i) acts of God, war or terrorist action; (ii) failure or shut-down of the Electronic Municipal Market Access System maintained by the MSRB; or (iii) to the extent beyond the Disclosure Dissemination Agent’s reasonable control, interruptions in telecommunications or utilities services, failure, malfunction or error of any telecommunications, computer or other electrical, mechanical or technological application, service or system, computer virus, interruptions in Internet service or telephone service (including due to a virus, electrical delivery problem or similar occurrence) that affect Internet users generally, or in the local area in which the Disclosure Dissemination Agent or the MSRB is located, or acts of any government, regulatory or any other competent authority the effect of which is to prohibit the Disclosure Dissemination Agent from performance of its obligations under this Disclosure Agreement.

“Holder” means any person (a) having the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries) or (b) treated as the owner of any Bonds for federal income tax purposes.

“Information” means collectively, the Annual Reports, the Audited Financial Statements (if any), the Notice Event notices, the Failure to File Event notices, the Voluntary Event Disclosures and the Voluntary Financial Disclosures.

“Issuer” means the Dormitory Authority of the State of New York, as conduit issuer of the Bonds.

“MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the United States Securities Exchange Act of 1934, as amended.

“Notice Event” means any of the events enumerated in paragraph (b)(5)(i)(C) of the Rule and listed in Section 4(a) of this Disclosure Agreement.

“Obligated Person” means any person who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities), as shown on Exhibit A.

“Official Statement” means that Official Statement prepared by the Issuer and the Obligated Person in connection with the Bonds, as listed on Exhibit A.

“Resolution” means DASNY’s bond resolution(s) pursuant to which the Bonds were issued.

“Trustee” means The Bank of New York Mellon and its successors and assigns.

“Voluntary Event Disclosure” means information of the category specified in any of subsections (e)(vi)(1) through (e)(vi)(11) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(a) of this Disclosure Agreement.

“Voluntary Financial Disclosure” means information of the category specified in any of subsections (e)(vii)(1) through (e)(vii)(9) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(b) of this Disclosure Agreement.

## SECTION 2. Provision of Annual Reports.

(a) The Obligated Person shall provide, annually, an electronic copy of the Annual Report and Certification to the Disclosure Dissemination Agent, together with a copy for the Trustee, not later than \_\_\_\_\_ days after the end of each fiscal year of the Obligated Person (or any time thereafter following a Failure to File Event as described in this Section), commencing with the fiscal year ending June 30, 2020, such date and each anniversary thereof, the “Annual Filing Date.” Promptly upon receipt of an electronic copy of the Annual Report and the Certification, the Disclosure Dissemination Agent shall provide the Annual Report to the MSRB through its Electronic Municipal Market Access (“EMMA”) System for municipal securities disclosures. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 3 of this Disclosure Agreement.

(b) If on the fifteenth (15th) day prior to the Annual Filing Date, the Disclosure Dissemination Agent has not received a copy of the Annual Report and Certification, the Disclosure Dissemination Agent shall contact the Disclosure Representative by telephone and in writing (which may be by e-mail) to remind the Obligated Person of its undertaking to provide the Annual Report pursuant to Section 2(a). Upon such reminder, the Obligated Person shall, not later than two (2) business days prior to the Annual Filing Date, either: (i) provide the Disclosure Dissemination Agent with an electronic copy of the Annual Financial Information, Audited Financial Statements, if available, and unaudited financial statements, if Audited Financial Statements are not available in accordance with subsection (d) below and the Certification, or (ii) instruct the Disclosure Dissemination Agent in writing, with a copy to the Trustee, that a Failure to File Event may occur, state the date by which the Annual Financial Information and Audited Financial Statements for such year are expected to be provided, and, at the election of the Obligated Person, instruct the Disclosure Dissemination Agent to send a notice to the MSRB in substantially the form attached as

Exhibit B on the Annual Filing Date, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(c) If the Disclosure Dissemination Agent has not received an Annual Report and Certification by 6:00 p.m. Eastern time on the Annual Filing Date (or, if such Annual Filing Date falls on a Saturday, Sunday or holiday, then the first business day thereafter) for the Annual Report, a Failure to File Event shall have occurred and the Obligated Person hereby irrevocably directs the Disclosure Dissemination Agent to immediately send a notice to the MSRB in substantially the form attached as Exhibit B without reference to the anticipated filing date for the Annual Report, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(d) If Audited Financial Statements of the Obligated Person are prepared but not available prior to the Annual Filing Date, the Obligated Person shall provide unaudited financial statements for filing prior to the Annual Filing Date in accordance with Section 3(b) hereof and, when the Audited Financial Statements are available, provide in a timely manner an electronic copy to the Disclosure Dissemination Agent, accompanied by a Certification, together with a copy for the Trustee, for filing with the MSRB.

(e) The Disclosure Dissemination Agent shall:

- (i) verify the filing specifications of the MSRB each year prior to the Annual Filing Date;
- (ii) upon receipt, promptly file each Annual Report received under Section 2(a) and 2(b) with the MSRB;
- (iii) upon receipt, promptly file each Audited Financial Statement received under Section 2(d) with the MSRB;
- (iv) upon receipt, promptly file the text of each Notice Event received under Sections 4(a) and 4(b)(ii) with the MSRB, identifying the Notice Event as instructed pursuant to Section 4(a) or 4(b)(ii) (being any of the categories set forth below) when filing pursuant to Section 4(c) of this Disclosure Agreement:
  - 1. Principal and interest payment delinquencies;
  - 2. Non-Payment related defaults, if material;
  - 3. Unscheduled draws on debt service reserves reflecting financial difficulties;
  - 4. Unscheduled draws on credit enhancements reflecting financial difficulties;
  - 5. Substitution of credit or liquidity providers, or their failure to perform;
  - 6. Adverse tax opinions, IRS notices or events affecting the tax-exempt status of the securities;
  - 7. Modifications to rights of securities holders, if material;
  - 8. Bond calls, if material and tender offers;
  - 9. Defeasances;
  - 10. Release, substitution, or sale of property securing repayment of the securities, if material;

11. Ratings changes;
  12. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;
  13. Merger, consolidation, or acquisition of the Obligated Person, if material;
  14. Appointment of a successor or additional trustee, or the change of name of a trustee, if material;
  15. Incurrence of a Financial Obligation of the Obligated Person, if material or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affects security holders, if material; and
  8. Default, event of acceleration, termination event, modification of terms or other similar events under the terms of a financial obligation reflecting financial difficulties.
- (v) upon receipt (or irrevocable direction pursuant to Section 2(c) of this Disclosure Agreement, as applicable), promptly file a completed copy of Exhibit B to this Disclosure Agreement with the MSRB, identifying the filing as “Failure to provide annual financial information as required” when filing pursuant to Section 2(b)(ii) or Section 2(c) of this Disclosure Agreement;
- (vi) upon receipt, promptly file the text of each Voluntary Event Disclosure received under Section 7(a) with the MSRB, identifying the Voluntary Event Disclosure as instructed by the Obligated Person pursuant to Section 7(a) (being any of the categories set forth below) when filing pursuant to Section 7(a) of this Disclosure Agreement:
1. “amendment to continuing disclosure undertaking;”
  2. “change in obligated person;”
  3. “notice to investors pursuant to bond documents;”
  4. “certain communications from the Internal Revenue Service;”
  5. “secondary market purchases;”
  6. “bid for auction rate or other securities;”
  7. “capital or other financing plan;”
  8. “litigation/enforcement action;”
  9. “change of tender agent, remarketing agent, or other on-going party;”
  10. “derivative or other similar transaction;” and

11. “other event-based disclosures;”
- (vii) upon receipt, promptly file the text of each Voluntary Financial Disclosure received under Section 7(b) with the MSRB, identifying the Voluntary Financial Disclosure as instructed by the Obligated Person pursuant to Section 7(b) (being any of the categories set forth below) when filing pursuant to Section 7(b) of this Disclosure Agreement:
1. “quarterly/monthly financial information;”
  2. “change in fiscal year/timing of annual disclosure;”
  3. “change in accounting standard;”
  4. “interim/additional financial information/operating data;”
  5. “budget;”
  6. “investment/debt/financial policy;”
  7. “information provided to rating agency, credit/liquidity provider or other third party;”
  8. “consultant reports;” and
  9. “other financial/operating data;”
- (viii) provide the Obligated Person evidence of the filings of each of the above when made, which shall be by means of the DAC system, for so long as DAC is the Disclosure Dissemination Agent under this Disclosure Agreement.

(f) The Obligated Person may adjust the Annual Filing Date upon change of its fiscal year by providing written notice of such change and the new Annual Filing Date to the Disclosure Dissemination Agent, the Trustee and the MSRB, provided that the period between the existing Annual Filing Date and new Annual Filing Date shall not exceed one year.

(g) Any Information received by the Disclosure Dissemination Agent before 6:00 p.m. Eastern time on any business day that it is required to file with the MSRB pursuant to the terms of this Disclosure Agreement and that is accompanied by a Certification and all other information required by the terms of this Disclosure Agreement will be filed by the Disclosure Dissemination Agent with the MSRB no later than 11:59 p.m. Eastern time on the same business day; provided, however, the Disclosure Dissemination Agent shall have no liability for any delay in filing with the MSRB if such delay is caused by a Force Majeure Event provided that the Disclosure Dissemination Agent uses reasonable efforts to make any such filing as soon as possible.

SECTION 3. Content of Annual Reports.

Each Annual Report shall contain:

(a) Annual Financial Information with respect to the Obligated Person which shall include operating data and financial information of the type included in the Official Statement for the Bonds as described in “PART 5 – SLL BOCES” together with a narrative explanation as may be necessary to avoid misunderstanding regarding the presentation of such Annual Financial Information concerning the Obligated Person; and

(b) Audited Financial Statements prepared in accordance with generally accepted accounting principles (“GAAP”) or alternate accounting principles as described in the Official Statement will be included in the Annual Report. If Audited Financial Statements are not available, the Obligated Person shall be in compliance under this Disclosure Agreement if unaudited financial statements, prepared in accordance with GAAP or alternate accounting principles as described in the Official Statement, are included in the Annual Report. Audited Financial Statements (if any) will be provided pursuant to Section 2(d).

Any or all of the items listed above may be included by specific reference from other documents, including official statements of debt issues with respect to which the Obligated Person is an “obligated person” (as defined by the Rule), which have been previously filed with the Securities and Exchange Commission or are available from the MSRB Internet Website. If the document incorporated by reference is a Final Official Statement, it must be available from the MSRB. The Obligated Person will clearly identify each such document so incorporated by reference.

Any Annual Financial Information containing modified operating data or financial information shall include an explanation, in narrative form, of such modifications.

SECTION 4. Reporting of Notice Events.

(a) The occurrence of any of the following events with respect to the Bonds constitutes a Notice Event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices and determinations with respect to the tax status of the securities or other material events affecting the tax status of the securities;
7. Modifications to rights of the security holders, if material;
8. Bond calls, if material;

9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Tender offers;
13. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;

**Note to subsection (a)(13) of this Section 4:** For the purposes of the event described in subsection (a)(13) of this Section 4, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

14. The consummation of a merger, consolidation or acquisition involving the Obligated Person, or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
15. Appointment of a successor or additional trustee or the change of name of a trustee, if material;
16. Incurrence of a Financial Obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect security holders, if material; and
17. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties.

The Obligated Person shall, in a timely manner not in excess of ten business days after its occurrence, notify the Trustee and the Disclosure Dissemination Agent in writing upon the occurrence of a Notice Event. Upon actual knowledge of the occurrence of a Notice Event, the Trustee shall promptly notify the Obligated Person and also shall notify the Disclosure Dissemination Agent in writing of the occurrence of such Notice Event. Each such notice shall instruct Disclosure Dissemination Agent to report the occurrence pursuant to subsection (c) and shall be accompanied by a Certification. Such notice or Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the desired text of the disclosure, the written authorization for the Disclosure Dissemination Agent to disseminate such information, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(b) The Disclosure Dissemination Agent is under no obligation to notify the Obligated Person or the Disclosure Representative of an event that may constitute a Notice Event. In the event the Disclosure Dissemination Agent so notifies the Obligated Person or the Disclosure Representative, such notified party will within two business days of receipt of such notice (but in any event not later than the tenth business day after the occurrence of the Notice Event, if the Obligated Person determines that a Notice Event has occurred), instruct the Disclosure Dissemination Agent that (i) a Notice Event has not occurred and no filing is to be made or (ii) a Notice Event has occurred and the Disclosure Dissemination Agent is to report the occurrence pursuant to subsection (c) of this Section 4, together with a Certification. Such Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the text of the disclosure that the Obligated Person desires to make, contain the written authorization of the Obligated Person for the Disclosure Dissemination Agent to disseminate such information, and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(c) If the Disclosure Dissemination Agent has been instructed as prescribed in subsection (a) or as prescribed in subsection (b) of this Section 4 to report the occurrence of a Notice Event, the Disclosure Dissemination Agent shall promptly file a notice of such occurrence with MSRB, in accordance with Section 2(e)(iv) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

#### SECTION 5. CUSIP Numbers.

Whenever providing information to the Disclosure Dissemination Agent, including but not limited to Annual Reports, documents incorporated by reference in the Annual Reports, Audited Financial Statements, Notice Event notices and Voluntary Event Disclosure, the Obligated Person shall indicate the full name of the Bonds and the 9-digit CUSIP numbers for the Bonds as to which the provided information relates.

#### SECTION 6. Additional Disclosure Obligations.

The Obligated Person acknowledges and understands that other state and federal laws, including but not limited to the United States Securities Act of 1933, as amended, and Rule 10b-5 promulgated under the United States Securities Exchange Act of 1934, as amended, may apply to the Obligated Person, and that the duties and responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement do not extend to providing legal advice regarding such laws. The Obligated Person acknowledges and understands that the duties of the Disclosure Dissemination Agent relate exclusively to execution of the mechanical tasks of disseminating information as described in this Disclosure Agreement.

#### SECTION 7. Voluntary Filing.

(a) The Obligated Person may instruct the Disclosure Dissemination Agent to file Voluntary Event Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Event Disclosure (which shall be any of the categories set forth in Section 2(e)(vi) of this Disclosure Agreement), include the text of the disclosure that the Obligated Person desires to make, and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(a) to file a Voluntary Event Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Event Disclosure with the MSRB in accordance with Section 2(e)(vi) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-2.



(b) The Obligated Person may instruct the Disclosure Dissemination Agent to file Voluntary Financial Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Financial Disclosure (which shall be any of the categories set forth in Section 2(e)(vii) of this Disclosure Agreement), include the desired text of the disclosure, contain the written authorization for the Disclosure Dissemination Agent to disseminate such information, if applicable, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(b) to file a Voluntary Financial Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Financial Disclosure with the MSRB in accordance with Section 2(e)(vii) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-3.

(c) The parties hereto acknowledge that neither the issuer nor the Obligated Person is obligated pursuant to the terms of this Disclosure Agreement to file any Voluntary Event Disclosure pursuant to Section 7(a) hereof or to file any Voluntary Financial Disclosure pursuant to Section 7(b) hereof.

(d) Nothing in this Disclosure Agreement shall be deemed to prevent the Obligated Person from disseminating any other information through the Disclosure Dissemination Agent using the means of dissemination set forth in this Section 7, or including any other information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement. If the Obligated Person chooses to include any information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement or to file Voluntary Event Disclosure or Voluntary Financial Disclosure, the Obligated Person shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report, Voluntary Financial Disclosure, Voluntary Event Disclosure, Failure to File Event Notice or Notice Event notice.

#### SECTION 8. Termination of Reporting Obligation.

The obligations of the Obligated Person and the Disclosure Dissemination Agent under this Disclosure Agreement shall terminate with respect to the Bonds upon the legal defeasance, prior redemption or payment in full of all of the Bonds, when the Obligated Person is no longer an Obligated Person with respect to the Bonds, or upon delivery by the Disclosure Representative to the Disclosure Dissemination Agent of an opinion of nationally recognized bond counsel to the effect that continuing disclosure is no longer required.

#### SECTION 9. Disclosure Dissemination Agent.

The Obligated Person hereby appoints DAC as exclusive Disclosure Dissemination Agent under this Disclosure Agreement. The Obligated Person may, upon thirty days written notice to the Disclosure Dissemination Agent and the Trustee, replace or appoint a successor Disclosure Dissemination Agent. Upon termination of DAC's services as Disclosure Dissemination Agent, whether by notice of the Obligated Person or DAC, the Obligated Person agrees to appoint a successor Disclosure Dissemination Agent or, alternatively, agrees to assume all responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement for the benefit of the Holders of the Bonds. Notwithstanding any replacement or appointment of a successor, the Obligated Person shall remain liable until payment in full for any and all sums owed and payable to the Disclosure Dissemination Agent. The Disclosure Dissemination Agent may resign at any time by providing thirty days' prior written notice to the Obligated Person.

**SECTION 10. Remedies in Event of Default.**

In the event of a failure of the Obligated Person or the Disclosure Dissemination Agent to comply with any provision of this Disclosure Agreement, the Holders' rights to enforce the provisions of this Disclosure Agreement shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the parties' obligation under this Disclosure Agreement. Any failure by a party to perform in accordance with this Disclosure Agreement shall not constitute a default on the Bonds or under any other document relating to the Bonds, and all rights and remedies shall be limited to those expressly stated herein.

**SECTION 11. Duties, Immunities and Liabilities of Disclosure Dissemination Agent.**

(a) The Disclosure Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Disclosure Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Obligated Person has provided such information to the Disclosure Dissemination Agent as provided in this Disclosure Agreement. The Disclosure Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Disclosure Dissemination Agent shall have no duty or obligation to review or verify any Information, or any other information, disclosures or notices provided to it by the Obligated Person and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Obligated Person, the Holders of the Bonds or any other party. The Disclosure Dissemination Agent shall have no responsibility for the Obligated Person's failure to report to the Disclosure Dissemination Agent a Notice Event or a duty to determine the materiality thereof. The Disclosure Dissemination Agent shall have no duty to determine or liability for failing to determine whether the Obligated Person has complied with this Disclosure Agreement. The Disclosure Dissemination Agent may conclusively rely upon certifications of the Obligated Person at all times.

THE OBLIGATED PERSON AGREES TO INDEMNIFY AND SAVE THE DISCLOSURE DISSEMINATION AGENT, THE ISSUER AND THE TRUSTEE AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS AGAINST ANY LOSS, EXPENSE AND LIABILITY WHICH THEY MAY INCUR ARISING OUT OF OR IN THE EXERCISE OR PERFORMANCE OF THEIR POWERS AND DUTIES HEREUNDER, INCLUDING THE COSTS AND EXPENSES (INCLUDING ATTORNEYS FEES) OF DEFENDING AGAINST ANY CLAIM OF LIABILITY, BUT EXCLUDING LOSSES, EXPENSES AND LIABILITIES DUE TO THE DISCLOSURE DISSEMINATION AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND THE TRUSTEE'S (AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS') NEGLIGENCE OR WILLFUL MISCONDUCT.

The obligations of the Obligated Person under this Section shall survive resignation or removal of the Disclosure Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Disclosure Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and it shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The fees and expenses of such counsel shall be payable by the Obligated Person.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Disclosure Agreement shall be provided in an electronic format through the EMMA System and accompanied by identifying information as prescribed by the MSRB.

**SECTION 12. No Issuer or Trustee Responsibility.**

The Obligated Person and the Disclosure Dissemination Agent acknowledge that neither the Issuer nor the Trustee have undertaken any responsibility, and shall not be required to undertake any responsibility, with respect to any reports, notices or disclosures required by or provided pursuant to this Disclosure Agreement other than those notices required under Section 4 hereof, and shall have no liability to any person, including any Holder of the Bonds, with respect to any such reports, notices or disclosures other than those notices required under Section 4 hereof. DASNY (as conduit issuer) is not, for purposes of and within the meaning of the Rule, (i) committed by contract or other arrangement to support payment of all, or part of, the obligations on the Bonds, or (ii) a person for whom annual financial information and notices of material events will be provided. The Trustee shall be indemnified and held harmless in connection with this Disclosure Agreement to the same extent provided in the Resolution for matters arising thereunder.

**SECTION 13. Amendment; Waiver.**

Notwithstanding any other provision of this Disclosure Agreement, the Obligated Person, the Trustee and the Disclosure Dissemination Agent may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to each of the Obligated Person, the Trustee and the Disclosure Dissemination Agent to the effect that such amendment or waiver does not materially impair the interests of Holders of the Bonds and would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule; provided none of the Obligated Person, the Trustee or the Disclosure Dissemination Agent shall be obligated to agree to any amendment modifying their respective duties or obligations without their consent thereto.

Notwithstanding the preceding paragraph, the Obligated Person, the Trustee and the Disclosure Dissemination Agent shall have the right to amend this Disclosure Agreement for any of the following purposes:

(i) to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time;

(ii) to add or change a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto;

(iii) to evidence the succession of another person to the Obligated Person or the Trustee and the assumption by any such successor of the covenants of the Obligated Person or the Trustee hereunder;

(iv) to add to the covenants of the Obligated Person or the Disclosure Dissemination Agent for the benefit of the Holders, or to surrender any right or power herein conferred upon the Obligated Person or the Disclosure Dissemination Agent;

(v) for any purpose for which, and subject to the conditions pursuant to which, amendments may be made under the Rule, as amended or modified from time to time, or any formal authoritative interpretations thereof by the Securities and Exchange Commission.

SECTION 14. Beneficiaries.

This Disclosure Agreement shall inure solely to the benefit of the Obligated Person, the Trustee, the Disclosure Dissemination Agent, the underwriter, and the Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 15. Governing Law.

This Disclosure Agreement shall be governed by the laws of the State of New York (without regard to its conflicts of laws provisions).

SECTION 16. Counterparts.

This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The Disclosure Dissemination Agent, the Trustee and the Obligated Person have caused this Disclosure Agreement to be executed, on the date first written above, by their respective officers duly authorized.

**DIGITAL ASSURANCE CERTIFICATION, L.L.C.,**  
as Disclosure Dissemination Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BOARD OF COOPERATIVE EDUCATIONAL  
SERVICES FOR THE SOLE SUPERVISORY DISTRICT  
OF ST. LAWRENCE AND LEWIS COUNTIES**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE BANK OF NEW YORK MELLON**  
as Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**NAME AND CUSIP NUMBERS OF BONDS**

Name of Issuer:	Dormitory Authority of the State of New York
Obligated Person(s):	_____
Name of Bond Issue:	_____
Date of Issuance:	_____
Date of Official Statement:	_____

Maturity

CUSIP No.

**EXHIBIT B**  
**NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: Dormitory Authority of the State of New York  
Obligated Person(s): \_\_\_\_\_  
Name of Bond Issue: \_\_\_\_\_  
Date of Issuance: \_\_\_\_\_

CUSIP Numbers:

NOTICE IS HEREBY GIVEN that the Obligated Person has not provided an Annual Report with respect to the above-named Bonds as required by the Agreement to Provide Continuing Disclosure, dated as of \_\_\_\_\_, by and among the Obligated Person, \_\_\_\_\_, as Trustee and Digital Assurance Certification, L.L.C., as Disclosure Dissemination Agent. The Obligated Person has notified the Disclosure Dissemination Agent that it anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

Digital Assurance Certification, L.L.C., as Disclosure  
Dissemination Agent, on behalf of the Obligated Person

\_\_\_\_\_

cc: Obligated Person

# **EXHIBIT C-1** **EVENT NOTICE COVER SHEET**

This cover sheet and accompanying “event notice” will be sent to the MSRB, pursuant to Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C) and (D).

Issuer’s and Obligated Person’s Names:

---

Six-Digit CUSIP Number:

---



---

or Nine-Digit CUSIP Number(s) of the bonds to which this event notice relates:

---

Number of pages attached: \_\_\_\_\_

Description of Notice Events (Check One):

1. \_\_\_\_\_ “Principal and interest payment delinquencies;”
2. \_\_\_\_\_ “Non-Payment related defaults, if material;”
3. \_\_\_\_\_ “Unscheduled draws on debt service reserves reflecting financial difficulties;”
4. \_\_\_\_\_ “Unscheduled draws on credit enhancements reflecting financial difficulties;”
5. \_\_\_\_\_ “Substitution of credit or liquidity providers, or their failure to perform;”
6. \_\_\_\_\_ “Adverse tax opinions, IRS notices or events affecting the tax status of the security;”
7. \_\_\_\_\_ “Modifications to rights of securities holders, if material;”
8. \_\_\_\_\_ “Bond calls, if material;”
9. \_\_\_\_\_ “Defeasances;”
10. \_\_\_\_\_ “Release, substitution, or sale of property securing repayment of the securities, if material;”
11. \_\_\_\_\_ “Rating changes;”
12. \_\_\_\_\_ “Tender offers;”
13. \_\_\_\_\_ “Bankruptcy, insolvency, receivership or similar event of the obligated person;”
14. \_\_\_\_\_ “Merger, consolidation, or acquisition of the obligated person, if material;”
15. \_\_\_\_\_ “Appointment of a successor or additional trustee, or the change of name of a trustee, if material;”
16. \_\_\_\_\_ “Incurrence of a Financial Obligation of the obligated person, if material;” and
17. \_\_\_\_\_ “Default, event of acceleration, termination event, modification of terms or other similar events under the terms of a Financial Obligation of the obligated person reflecting financial difficulties.”

\_\_\_\_\_ Failure to provide annual financial information as required.



I hereby represent that I am authorized by the obligated person or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_  
Name: \_\_\_\_\_ Title: \_\_\_\_\_

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

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**EXHIBIT C-2**  
**VOLUNTARY EVENT DISCLOSURE COVER SHEET**

This cover sheet and accompanying “voluntary event disclosure” will be sent to the MSRB, pursuant to the Continuing Disclosure Agreement dated as of \_\_\_\_\_ by and among the Obligated Person, the Trustee and DAC.

Issuer’s and Obligated Person’s Names:

\_\_\_\_\_

Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

Description of Voluntary Event Disclosure (Check One):

1. \_\_\_\_\_ “amendment to continuing disclosure undertaking;”
2. \_\_\_\_\_ “change in obligated person;”
3. \_\_\_\_\_ “notice to investors pursuant to bond documents;”
4. \_\_\_\_\_ “certain communications from the Internal Revenue Service;”
5. \_\_\_\_\_ “secondary market purchases;”
6. \_\_\_\_\_ “bid for auction rate or other securities;”
7. \_\_\_\_\_ “capital or other financing plan;”
8. \_\_\_\_\_ “litigation/enforcement action;”
9. \_\_\_\_\_ “change of tender agent, remarketing agent, or other on-going party;”
10. \_\_\_\_\_ “derivative or other similar transaction;” and
11. \_\_\_\_\_ “other event-based disclosures.”

I hereby represent that I am authorized by the obligated person or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Digital Assurance Certification, L.L.C.  
 390 N. Orange Avenue  
 Suite 1750  
 Orlando, FL 32801  
 407-515-1100

Date:

**EXHIBIT C-3**  
**VOLUNTARY FINANCIAL DISCLOSURE COVER SHEET**

This cover sheet and accompanying “voluntary financial disclosure” will be sent to the MSRB, pursuant to the Continuing Disclosure Agreement dated as of \_\_\_\_\_ by and among the Obligated Person, the Trustee and DAC.

Issuer’s and Obligated Person’s Names:

\_\_\_\_\_

Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

Description of Voluntary Financial Disclosure (Check One):

1. \_\_\_\_\_ “quarterly/monthly financial information;”
2. \_\_\_\_\_ “change in fiscal year/timing of annual disclosure;”
3. \_\_\_\_\_ “change in accounting standard;”
4. \_\_\_\_\_ “interim/additional financial information/operating data;”
5. \_\_\_\_\_ “budget;”
6. \_\_\_\_\_ “investment/debt/financial policy;”
7. \_\_\_\_\_ “information provided to rating agency, credit/liquidity provider or other third party;”
8. \_\_\_\_\_ “consultant reports;” and
9. \_\_\_\_\_ “other financial/operating data.”

I hereby represent that I am authorized by the obligated person or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Digital Assurance Certification, L.L.C.  
 390 N. Orange Avenue  
 Suite 1750  
 Orlando, FL 32801  
 407-515-1100

Date:

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**FORM OF APPROVING OPINION  
OF BOND COUNSEL**

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**FORM OF APPROVING OPINION OF BOND COUNSEL  
RESPECTING THE OCM BONDS**

Upon delivery of the OCM Bonds, Bryant Rabbino LLP, New York, New York, Bond Counsel to the Authority, proposes to issue its approving opinion as to the OCM Bonds in substantially the following form:

February \_\_, 2020

Dormitory Authority of the  
State of New York  
515 Broadway  
Albany, New York 12207

Re:     \$\_\_\_\_\_Dormitory Authority of the State of New York Master BOCES Program  
Lease Revenue Bonds (St. Lawrence and Lewis Issue), Series 2020

Ladies and Gentlemen:

We have acted as Bond Counsel to the Dormitory Authority of the State of New York (the “Authority”) in connection with the issuance of \$\_\_\_\_\_ aggregate principal amount of its above-referenced bonds (the “Bonds”), issued pursuant to the provisions of the Dormitory Authority Act, as amended, constituting Chapter 524 of the Laws of 1944 of New York, as amended (constituting Title 4 of Article 8 of the New York Public Authorities Law), and the Authority’s Master BOCES Program Lease Revenue Bond Resolution, adopted August 15, 2001, as amended and supplemented (the “Resolution”), and the Series Resolution Authorizing Up To \$\_\_\_\_\_ Master BOCES Program Lease Revenue Bonds (St. Lawrence and Lewis Issue), Series 2020, adopted January 8, 2020 (the “Series 2020 Resolution”). The Resolution and the Series 2020 Resolution are herein collectively referred to as the “Resolutions.” Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Resolutions.

The Authority has entered into an Agreement of Lease, dated as of January 8, 2020 (the “Agreement”), between the Authority and the Board of Cooperative Educational Services of the Sole Supervisory District of St. Lawrence and Lewis Counties (“SLL BOCES”), whereby SLL BOCES leased the Project to the Authority. The Authority has entered into an Lease and Agreement, dated as of January 8, 2020, between the Authority and SLL BOCES (the “Lease Agreement”), whereby the Authority leased the Project back to SLL BOCES. The Lease Agreement provides, among other things, for making the proceeds of the Bonds available to SLL BOCES for the purposes permitted thereby and by the Resolutions. Pursuant to the Lease Agreement, SLL BOCES is required to make payments sufficient to pay the principal, sinking fund installments and redemption price of and interest on the Bonds as the same become due, which payments have been pledged by the Authority to the Trustee for the benefit of the owners of such Bonds.

The Bonds are secured by, among other things, funds and accounts held under the Resolutions and a pledge of payments to be made under the Lease Agreement.

The Bonds are dated, mature, are payable and bear interest as provided in the Resolutions and the Bond Series Certificate (as defined in the Resolutions) of the Authority fixing the terms and details of the Bonds.

We have reviewed the Resolutions, the Agreement, the Lease Agreement, the Tax Certificate and Agreement dated as of the date hereof (the “Tax Certificate and Agreement”) between the Authority and

SLL BOCES, opinions of counsel to the Authority, the Trustee and SLL BOCES, certificates of the Authority, the Trustee, SLL BOCES and others, and such other documents, opinions and matters to the extent we deemed necessary to render the opinions set forth herein.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. Accordingly, this opinion speaks only of its date and is not intended to, and may not, be relied upon in connection with any such actions, events or matters. Our engagement with respect to the Bonds has concluded with their issuance, and we disclaim any obligation to update this letter. We have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the Authority. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents and certificates, and of the legal conclusions contained in the opinions, referred to above. Furthermore, we have assumed compliance with all covenants and agreements contained in the Resolutions, the Agreement, the Lease Agreement and the Tax Certificate and Agreement, including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Bonds to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Bonds, the Resolutions, the Agreement, the Lease Agreement and the Tax Certificate and Agreement and their enforceability may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles and to the exercise of judicial discretion in appropriate cases. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, waiver or severability provisions contained in the foregoing documents, nor do we express any opinion with respect to the state or quality of title to or interest in any of the real or personal property described in or as subject to the lien of the Resolutions, the Lease Agreement, or the Agreement or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce liens on, any such property. Finally, we undertake no responsibility for the accuracy, completeness or fairness of the Official Statement or other offering material relating to the Bonds and express no opinion with respect thereto.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Authority has been duly created and is validly existing as a body corporate and politic constituting a public benefit corporation of the State of New York.
2. The Bonds have been duly and validly authorized to be issued and constitute the valid and binding special obligations of the Authority enforceable in accordance with their terms and the terms of the Resolutions, will be payable solely from the sources provided therefor in the Resolutions, and will be entitled to the benefit of the Resolutions and the Act.
3. The Resolutions are in full force and effect, have been duly adopted by, and constitute the valid and binding obligations of the Authority. The Resolutions create a valid pledge to secure the payment of the principal of and interest on the Bonds, of the Revenues and any other amounts (including proceeds of the sale of the Bonds) held by the Trustee in any fund or account established pursuant to the Resolutions, except the Arbitrage Rebate Fund subject to the provisions of the Resolutions permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolutions.



4. The Lease Agreement has been duly executed and delivered by the Authority and, assuming due execution and delivery thereof by SLL BOCES, constitutes the valid and binding agreement of the Authority in accordance with their terms.

5. The Bonds are not a lien or charge upon the funds or property of the Authority except to the extent of the aforementioned pledge. Neither the faith and credit nor the taxing power of the State of New York or of any political subdivision thereof is pledged to the payment of the principal of or interest on the Bonds. The Bonds are not a debt of the State of New York, and said State is not liable for the payment thereof.

6. Interest on the Bonds is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and is not an item of tax preference for purposes of calculating the federal alternative minimum tax under the Code.

7. Interest on the Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

Yours truly,

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