

Request for Proposals

***Installment Purchase Contract (Lease/Purchase) Financing for
“Energy Performance Contract”***

Fiscal Advisors & Marketing, Inc. at the request of:

East Ramapo Central School District
Rockland County, New York
(the “School District”)

1. Requests for written or email bids for providing Installment Purchase Contract (Lease/Purchase) Financing are due no later than **Monday, March 9, 2026 at 12:00 P.M. EST** at the office of:

Fiscal Advisors & Marketing, Inc.
250 South Clinton Street, Suite 502
Syracuse, NY 13202
Phone: (315) 752-0051 Ext. 349
Email: andrews@fiscaladvisors.com
Attn: Elyse M. Andrews
2. The principal amount of the installment purchase contract will be **\$12,100,129**.
3. **The lease purchase financing will be used to finance lighting system improvements, integrated and new energy management systems, unit ventilator replacements, control vending machines, and infiltration reductions, as defined in “Scope of Work” attached as “EXHIBIT – A” to this Request for Proposals. The energy service company is Ameresco.**
4. The interest rate quoted will be fixed as of the time of the bid and will remain constant throughout the lease term and will include any and all fees or expenses associated with this financing. There shall be no provisions providing for modification of the quoted interest rate.
5. The financing entity will be provided with an opinion of Bond Counsel to the effect that the interest component of payments to be made by the School District pursuant to the financing contract (“Interest”) 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 Interest is not treated as a preference item in calculating the alternative minimum tax under the Code, however, Interest is included in the “adjusted financial statement income” of certain corporations that are subject to the alternative minimum tax under Section 55 of the Code. The opinion set forth in the preceding sentence will be subject to the condition that the School District comply with all requirements of the Code that must be satisfied subsequent to the date of the financing contract in order that Interest be, or continue to be, excluded from gross income for federal income tax purposes. The School District will certify that they will comply with all such requirements. Failure to comply with all such requirements may cause the Interest to be included in gross income for federal income tax purposes retroactive to the date of closing. Bond Counsel will not express an opinion regarding other federal tax consequences arising with respect to the lease and the related documents. **The installment purchase contract will NOT be designated by the School District as a “qualified tax-exempt obligation” pursuant to the provisions of Section 265(b)(3)(B) of the Code.**
6. **All bids shall remain in effect for 30 days from the day quotes are due. It is anticipated that funds will need to be available on or about March 31, 2026. All quotes should be based upon this estimated timeline.**
7. Each bid should be accompanied by a repayment schedule listing principal, interest and total annual payments. Total annual payments are expected to provide for substantially level or declining annual debt service. **In addition, each bidder is required to submit their standard sample form of lease purchase agreement and proposed escrow bank sample form of escrow agreement. No award is final until formally approved by the Board of Education at its meeting currently scheduled for March 24, 2026.** Upon verbal or written notification of successful bid award, (which shall be conditional upon successful negotiation of all transactional documents and opinions), the successful bidder shall be required to deliver the proposed forms of the leasing documents to Fiscal Advisors & Marketing, Inc. (address listed above) and to Bond Counsel and the School District’s Attorney at:

Bond Counsel
Hawkins Delafield & Wood LLP
Attn: Daniel G. Birmingham, Esq.
140 Broadway – 42nd Floor
New York, New York 10005
Phone: (212) 820-9563
Email: dbirmingham@hawkins.com

School District Attorney
The Honeywell Law Firm
Attention: Douglas Gerhardt, Esq.
187 Wolf Road, Suite 202
Albany, NY 12205
Phone: (518) 512-4580
Email: dgerhardt@honeywelllawfirm.com

8. The School District requires the ability to prepay, at its option, the proposed lease purchase agreement (the “Agreement”) in full or in part on any date without payment penalty, upon 10 days written notice to the Lessor. Respondents to this Request for Proposals shall clearly define their methodology used for such prepayment of principal prior to maturity if any prepayment penalty is proposed. Determination of award will be based in part on the prepayment penalty, if any, which is most favorable to the School District.
9. Moody’s Investors Service, Inc. has assigned its underlying rating of “Baa3” with a stable outlook to the School District’s outstanding bonds.
10. The School District’s Continuing Disclosure and Material Event filings related to SEC Rule 15c2-12 can be found on the Electronic Municipal Market Access system of the Municipal Securities Rulemaking Board.
 - a. A copy of the School District’s most recent Continuing Disclosure Statement for the fiscal year ended June 30, 2025 can be found here: <https://emma.msrb.org/P11907548-P11457255-P11905238.pdf>
 - b. A copy of the School District’s Audited Financial Statements for the fiscal year ended June 30, 2025 can be found here: <https://emma.msrb.org/P11903586.pdf>
11. Among other factors, the low bid/quote will be determined by the lowest amount indicated for a total of payments with the requirement that the quote will meet all other conditions listed herein that are not affirmatively waived by the School District.
12. Prior to complete delivery of equipment, it will be necessary to make partial payment to vendor(s). In this case, unexpended funds shall be held in an interest bearing escrow fund account established by the winning bidder (the “Lessor”) in the name of School District. Interest earnings will begin to accrue to the School District on the date of the deposit to the escrow fund. All interest earnings shall be applied to reduce the last scheduled payment(s) at the end of the financing term. Any unexpended funds after payment to all vendors shall be recalculated to reduce remaining payment amounts equally unless otherwise authorized by the School District. The escrow agent must be a bank or trust company located in and authorized to do such business in New York State. The bank must have an office in New York State which is stated in the proposed Escrow Contract. Investments shall be made solely at the direction of the School District and shall be made in accordance with the requirements of General Municipal Law Sections 10 and 11 and the School District’s formal investment policy. The School District is not authorized to invest in mutual funds or similar liquid investment vehicles. All monies held in the escrow fund are monies of the School District and shall not be subject to levy, attachment or lien of the escrow agent. All charges of the escrow agent shall be paid by the Lessor.
13. The installment purchase contract financing will be in the amount of **\$12,100,129**.

Financing term for the lease will be 15 years.

The building aid ratio for the project is estimated at 56.2%.

Principal and interest will be due and payable on September 28, 2026 and semi-annually thereafter on March 28 and September 28 through and including March 28, 2041. The annual Lease debt service shall be in amounts so as to provide for debt service that is substantially level or declining, pursuant to Section 21.00(d) of the New York State Local Finance Law.

The School District reserves the right to modify the principal payments post sale, in any amounts as deemed necessary, to achieve substantially level or declining annual payment and/or equal annual payments, or in the case of the first and last payments, to achieve substantially level or declining local share after payment of building aid.

14. There shall be no additional fees or charges (including any Escrow Agent Fees) to the School District other than the annual debt service payments.
15. There shall be a \$1 (one dollar) buyout option in favor of the School District at lease expiration, in addition to optional prepayment described in section #8 above.
16. All manufacturers’ warranties shall be assigned by the Lessor to the School District.
17. The Agreement shall be subject to cancellation by the School District annually and shall include the following paragraph:

“Pursuant to the requirements of General Municipal Law section 109-b, the financing contract shall contain the appropriate executory clause which shall state that should financing contract payments not be appropriated by the School District the School District will not be obligated to pay the amounts due beyond the end of the last funded fiscal year. The financing contract shall be deemed executory only to the extent of monies appropriated and available therefor, and no liability on account thereof shall be incurred by the School District beyond the amount of such monies. The financing contract is not

a general obligation of the School District. Neither the full faith and credit nor the taxing power of the School District are pledged to the payment of any amount due or to become due under the financing contract. In the case of a failure to appropriate, the sole security shall be the improvements that are the subject of the financing contract. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make available monies available for the purpose of the financing contract. In the event that no funds or insufficient funds are appropriated by the School District the financed improvements may be acquired and sold by or on behalf of the financing entity entitled to receive payments, provided that any excess proceeds from such a sale, after deduction for and payment of fees, expenses and any taxes levied on the sale, shall be paid to the School District as provided in section 109-b of the General Municipal Law.”

18. The sole security shall be the equipment, machinery or apparatus financed pursuant to the Agreement. In the event insufficient funds are appropriated to pay this obligation, such equipment, machinery and apparatus may be sold on behalf of the Lessor entitled to receive such payments, provided that any excess proceeds from such a sale shall be paid to the School District after deduction of obligations, taxes or other expenses of the Lessor.
19. Payments by the escrow agent shall be made only at the written direction of the School District and may likely require multiple payments. Payments may be required by either check or electronic wiring depending on equipment vendor requirements. All associated costs for these services must be included in the quote. See “EXHIBIT – A” attached.
20. The installment purchase contract financing will be for upgrade, replacement, purchase and installation of energy management equipment and management and control systems.
21. Proposals will be evaluated based on total cost, ability to perform, requirements of the bidder, experience in New York State, and any other terms or conditions stipulated in each proposal. A listing of proposed equipment and upgrades has been provided with this quote.
22. The School District reserves the right to reject any or all bids/quotes, to waive any or all informalities, to request new proposals, negotiate with the lowest bidder and to award based upon the overall best interests of the School District. The attached Quote Proposal Form must be completed and included with each quote. The proposed forms of the lease purchase agreement, escrow contract and related documents must be submitted with the bid. Closing is subject to successful negotiation and approval of all such documents by counsel to the School District. The School District reserves the right to rescind an award due to failure of successful negotiation of the parties to agree to the terms and conditions thereof.
23. All agreements and contractual conditions are required to conform with the laws of the State of New York, including, but not limited to, the General Municipal Law, the Local Finance Law, the Energy Law, the Education Law, and regulations of the State Education Department and the Office of the State Comptroller. The School District’s legal counsel will review and approve all draft documents before the submission of proposed final documents for consideration and/or approval by the Board of Education.
24. The Lessor shall be responsible for all of the Lessor’s legal, issuance and closing costs.
25. Annual Appropriation: The annual lease payments are subject to appropriation each year by the Board of Education of the School District.
26. The School District will not provide a legal description for each School District property in connection with this financing. The School District will provide the Section, Block and Lot number for each school building. In the event the Lessor requires this information for the purposes of making a fixture filing pursuant to the applicable provisions of the Uniform Commercial Code, the Lessor may obtain such information at its own effort and expense.
27. Purchase Price and Certificate: The Lessor must submit to the School District a certificate satisfactory to the School District’s bond counsel, prior to the delivery of the Agreement, assuming the Lessor does not reoffer the Agreement to the general public, which states that the Lessor has purchased the Agreement for its own account and not with a view to distribution or resale and not in the capacity of a bond house, broker or other intermediary, and the price or prices at which such purchase was made, or which states the issue price, if reoffered, in such form and including such additional information as the School District and the School District’s bond counsel shall reasonably require.
28. Hawkins Delafield & Wood LLP, Bond Counsel to the School District, will be responsible for preparing IRS Form 8038-G, arranging for its execution, and making a timely submission thereof to the Internal Revenue Service. Such submission will occur on or about the filing deadline of May 15, 2026. The Lessor will be provided with the general form of the Form 8038-G for the transaction at closing.

29. By submitting a bid/quote, each bidder is agreeing to abide by all provisions of this Request for Proposals. No terms or conditions of the Lessor may be imposed on the School District that supersede or contradict the terms set forth in this Request for Proposals.

30. *Lease Assignment*

Assignment of the Lease and related documents by the successful proposer shall be subject to the prior, written consent of the School District. The Lease must state that any assignment or transfer of the Lessor's interest shall not be effective until the School District has received prior, written notice, signed by the Lessor, of the name, contact person, address, telephone number and tax identification number of the proposed assignee and the District has given its consent in writing. No assignment will be valid unless the Lessor has received the School District's prior written consent. The Lease shall further provide that certificates of participation shall not be executed and delivered without the express written approval of the School District which approval may be withheld by the School District in its sole and absolute discretion.

31. Summary of Estimated Dates:

RFP sent to providers:	February 20, 2026
Proposal and Response Form Due: 12:00 p.m.	March 9, 2026
Selected Lessor Tentatively Approved: *	March 10, 2026*
Draft Lease Documents Delivered:	March 18, 2026
Credit Approval Completed:	March 18, 2026
Board of Education Meeting Date: Lease Approved	March 24, 2026
Closing of Lease:	March 31, 2026

* Subject to Board of Education approval

The District reserves the right to modify these dates.

Dated: February 20, 2026

**ENERGY PERFORMANCE CONTRACT
DATED FEBRUARY 17, 2023**

ENERGY SERVICES AGREEMENT

by and between

EAST RAMAPO CENTRAL SCHOOL DISTRICT

and

AMERESCO, INC.

Dated as of 02/17/2023

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ENERGY SERVICES AGREEMENT

THIS ENERGY SERVICES AGREEMENT (this “*Agreement*”) is entered into as of _____, 2023, by and between the EAST RAMAPO CENTRAL SCHOOL DISTRICT, having its principal place of business located at 105 South Madison Avenue, Spring Valley, NY 10977 (“*Customer*”) and Ameresco, Inc., having its principal place of business at 111 Speen Street, Suite 410, Framingham, Massachusetts 01701 (“*Ameresco*”). The Customer and Ameresco may be collectively referred to as the “*Parties*” and individually as a “*Party*.”

WHEREAS, Customer wishes Ameresco to perform a project (“*Project*”) consisting of certain energy conservation services and installations as set forth in Attachment B (as amended and/or otherwise modified from time to time as provided herein, the “*Scope of Services*”) at Customer’s buildings described in Attachment A (the “*Property*”), and Ameresco wishes to perform such services; and

WHEREAS, Customer owns the Property.

NOW, THEREFORE, in consideration of the covenants, representations, warranties, and mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

SECTION 1 Scope of Services.

(a) Work:

(i) Preconstruction Services: Ameresco has performed a Comprehensive Energy Audit (“*CEA*”) of the Property, dated as of January 13, 2023, as set forth in Attachment B. Immediately following the execution and delivery of this Agreement, Ameresco will consult with Customer and, with Customer’s authorization, will assist in coordinating the design and engineering services to be performed by a qualified professional engineering firm. The work to be performed by such professional engineering firm will include design and engineering services in relation to the required submissions to the New York State Education Department (“*NYSED*”) in order to seek approval for the permissible amount of New York State Building Aid available for the Project (“*State Building Aid*”). The cost for such engineering services is included in the Contract Cost (as defined in Attachment F).

(ii) Construction Work: Upon the occurrence of: (i) the issuance of NYSED approval of the Project; (ii) the delivery by Customer to Ameresco of a Notice To Proceed (as defined in Section 4); and (iii) Ameresco’s receipt of evidence of the funding of an escrow account pursuant to the Lease (as defined in Section 3) with immediately available funds sufficient for the payment of the Contract Cost, Ameresco shall furnish or cause to be furnished all labor, materials and equipment and perform or cause the performance of all work and services required for the completion of the Scope of Services including the installation of the energy conservation measures as set forth in Attachment B (the “*ECMs*”). Ameresco shall be responsible for all means, methods, techniques, and sequences. Customer and Ameresco shall mutually plan the scheduling of the construction work. The construction work will be scheduled to minimize the interruption of the daily routine of Customer’s staff and students except as permitted in writing by Customer.

(b) Disposal: Ameresco, at its cost, shall (i) be responsible for disposal of all non-hazardous equipment and materials which are rendered useless and removed as a result of the installation of

the ECMs and (ii) cause all lamps which are classified as hazardous wastes by the rules and regulations of the U.S. Environmental Protection Agency (40 CFR Parts 260 through 279) and PCB-contaminated ballasts, if any, which have been rendered useless and removed as a result of the installation of the ECMs to be transported and disposed of.

(c) **Asbestos and Lead Paint:**

(i) **Asbestos:** The Scope of Services is predicated on the viability of the Project without Ameresco encountering or disturbing asbestos or being required to perform any asbestos abatement or taking any other action with respect to asbestos except as where explicitly included in the Scope of Services or where Ameresco is to perform work hereunder which will disturb friable and/or non-friable asbestos containing building material (“*ACBM*”) as identified in Customer’s November, 2020 Three Year AHERA Reinspection Report (“*AHERA Report*”). Customer hereby represents and warrants that it has provided to Ameresco a true, correct and complete copy of the AHERA Report. Customer hereby represents and warrants to Ameresco that, to the best of its knowledge and belief, there is no asbestos in any area wherein Ameresco will be performing its services hereunder other than as so identified in the AHERA Report. With the exception of ACBM and ACM identified in the AHERA Report, in the event that Ameresco: (A) encounters any friable or non-friable asbestos which is in the immediate vicinity of its work, (B) determines that its work will result in the disturbance of asbestos material, or (C) determines that the presence of asbestos material will impede its work, Ameresco will notify Customer of the same and Customer will, at its cost, cause the asbestos to be promptly and properly removed, enclosed, encapsulated or otherwise abated in accordance with all applicable laws, regulations and guidelines, or alternatively, Customer, at its cost, may provide written test reports showing that asbestos in that area has been properly removed, enclosed encapsulated or otherwise abated in accordance with all applicable laws. In the event that Ameresco cannot determine whether any particular material, not otherwise identified in as ACBM or ACM in the AHERA Report, does or does not contain asbestos, Customer, upon Ameresco’s written request, shall, at Customer’s cost, promptly perform tests or cause tests to be performed in order to determine whether or not such material contains asbestos and/or whether there are unacceptable levels of airborne particulate material containing asbestos and provide such test reports to Ameresco. Under no circumstances shall Ameresco be required to handle asbestos which is not so identified in the AHERA Report. In the event Ameresco encounters asbestos which is not so identified which materially affects its progress of the Project, Ameresco, at its option, may demobilize and cease construction in the area affected by the presence of such asbestos until such time as Customer performs the actions required to be performed by Customer as provided herein. In the event that Customer does not promptly take action, as provided herein, or notifies Ameresco that it will not take such action, Ameresco may, at its option, either remove the affected area from the Scope of Services (and make commensurate adjustments to the rights and obligations of the Parties) or terminate this Agreement in its entirety in accordance with Section 12(a). Customer shall be responsible for all costs (including termination) incurred by Ameresco that relate to the presence of asbestos which is not identified in the AHERA Report. The Parties agree that the Scope of Services and Contract Cost may be amended in a writing signed by each Party (on such terms and conditions mutually acceptable to each Party) to include work and services relating to asbestos.

(ii) **Lead Paint:** The Scope of Services is predicated upon the viability of the Project without Ameresco encountering or disturbing lead paint or being required to perform abatement or providing any notice or taking any other action with respect to lead paint. Under no circumstances, shall Ameresco be required to perform services which cause the

disturbance of lead paint. Customer hereby represents and warrants to Ameresco that, to the best of its knowledge and belief, that there is no lead paint in any area wherein Ameresco will be performing its services hereunder. In the event that Ameresco encounters any paint in any area where it is to perform services hereunder, which services will involve disturbing paint and Ameresco reasonably believes that such paint may be lead paint or such services will involve disturbing paint which is in a building constructed prior to 1978, Customer, upon Ameresco's written request, will, at Customer's cost, promptly perform tests or cause tests to be performed in order to determine whether or not such paint contains lead and will provide such test reports to Ameresco. In the event that such test reports demonstrate the presence of lead paint or Ameresco reasonably believes that performing its services under this Agreement is likely to cause the disturbance of lead paint in such a manner as to require Ameresco to provide any notification or take any actions pursuant to any federal, state or local laws, rules, regulations or guidelines and Ameresco notifies Customer of the same, Customer will, in either case, at its cost, cause the lead paint to be promptly and properly removed, or otherwise abated in accordance with all applicable laws and regulations. Under no circumstances shall Ameresco be required to perform services which cause the disturbance of lead. In the event that lead paint materially affects the progress of the Project, Ameresco, at its option, may demobilize and cease construction in the area affected by the presence of lead paint until such time as Customer performs the actions required to be performed by Customer as provided herein. In the event that Customer does not promptly take action as provided herein or notifies Ameresco that it will not take such action, Ameresco may, at its option, either remove the affected area from the Scope of Services (and make commensurate adjustments to the rights and obligations of the Parties) or terminate this Agreement in its entirety in accordance with Section 12(a). Customer shall be responsible for all costs (including termination) incurred by Ameresco that relate to the presence of lead paint. The Parties agree that the Scope of Services and Contract Cost may be amended in a writing signed by each Party (on such terms and conditions mutually acceptable to each Party) to include work and services relating to lead paint.

- (d) **Maintenance and Monitoring:** To the extent provided for in Attachment H, Ameresco will service and maintain during the Term (as defined in Section 5) the equipment scheduled on Attachment H, at a cost to Customer as set forth in Section 4 and Attachment F. Except for the ECMs (or other equipment) which are to be maintained by Ameresco, Customer, at its expense, shall be responsible for servicing and maintaining the ECMs (and such other equipment). To the extent provided for in Attachment E, Ameresco will supply such ongoing monitoring services during the Term at a cost to Customer as set forth in Section 4 and Attachment F.
- (e) **Compliance with Law:** Ameresco shall, at its expense, comply with and obtain all applicable licenses and permits required by federal, state and local laws in connection with (i) the installation of the ECMs and (ii) the operation and/or maintenance of the ECMs (to the extent that Ameresco agrees to perform such operations and/or maintenance services). In the event that Ameresco cannot procure any such license or permit in light of a requirement that Customer is required to do so, Customer shall promptly procure the same. Ameresco shall pay the required prevailing wage rates for work in connection with the Project pursuant to the New York State Labor Law.
- (f) **Taxes:** Customer hereby represents and warrants to Ameresco that Customer is a governmental entity and that it shall cooperate with Ameresco and provide Ameresco with all appropriate documentation so that Ameresco may establish that it does not have to pay taxes, fees and assessments or other charges of any character which may be imposed or incurred by any governmental or public authority as an incident to title to, ownership of, or operation of the

ECMs.

- (g) **Non-Discrimination:** Ameresco agrees not to knowingly or willfully discriminate against any employee, or applicant for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of age, sex, sexual orientation, race, disability, color, religion, national origin, Vietnam era military service or ancestry in accordance with applicable federal, New York State or local laws.
- (h) **Standards of Service and Comfort:** Customer shall operate the ECMs in a manner that shall provide the standards of service and comfort provided for in Attachment J.
- (i) **Installation/Specifications:** Prior to the commencement of work hereunder, Ameresco may, at its option, provide (or Customer, at its option, may reasonably request to have Ameresco provide) a sample installation of, or written specification of, any ECM to be installed (each, a “**Sample**”). Customer shall furnish its written approval or disapproval of each Sample within ten (10) business days following Customer’s receipt of Ameresco’s written notice of installation and/or delivery of such Sample. Customer’s approval of such Sample shall be in substantially the form of Attachment K. If Customer disapproves any such Sample, Ameresco shall have the right to provide a substitute specification or ECM (each, a “**Substitution**”) which conforms to the applicable specifications or is equivalent to any applicable Sample previously approved by Customer. Upon Customer’s written approval of a Substitution, Ameresco may revise the Attachments to reflect each such Substitution. If Customer does not approve or disapprove of any Sample or Substitution within ten (10) business days following Customer’s receipt of Ameresco’s written notice thereof, then Customer shall be deemed to have given its approval of such Sample or Substitution, as applicable. If, however, Customer does not approve of any Substitution, the Parties hereby agree to negotiate a mutually acceptable solution. Customer shall not unreasonably withhold, condition or delay any approval provided for herein.
- (j) **Duties, Obligations and Responsibilities of Ameresco:**

 - (i) All labor furnished under this Agreement shall be competent to perform the tasks undertaken, all materials and equipment provided shall be new and of appropriate quality and the completed work shall comply in all material respects with the requirements of this Agreement.
 - (ii) Ameresco shall maintain the Project site in a reasonably clean condition during the performance of the construction work set forth in Section 1(a).
 - (iii) Ameresco shall regularly clean the Project site of all debris, trash and excess material or equipment.
 - (iv) During the construction work set forth in Section 1(a), Ameresco shall permit Customer and/or any of its representatives to enter upon the Project site to review or inspect the construction work; provided, that in each case, the Customer and/or its representatives coordinate such review or inspection with Ameresco and agree to comply with all applicable federal, state and local safety laws, rules and regulations, including, without limitation, those promulgated by the U.S. Department of Labor Occupational Safety & Health Administration.
 - (v) Ameresco will provide equipment manuals and other appropriate information regarding equipment installed hereunder to Customer at or about the time of Substantial Completion (as defined in Section 4). Ameresco ensures it will provide Customer

necessary training on the use and operation of ECMs which it will be responsible for servicing and maintaining.

SECTION 2 Ownership of and Security Interest in the ECMs.

Title to each ECM and other personal property installed or incorporated into the ECMs shall at all times during the Term remain in the name of Ameresco. If, notwithstanding the intent of the Parties, Customer is deemed to hold title to the ECMs, and as security for the payment in full of the Contract Cost, Customer hereby assigns, transfers and grants to Ameresco a security interest in all of the ECMs. Customer hereby authorizes Ameresco to file, from time to time, Uniform Commercial Code financing statements in such jurisdictions as may be necessary to perfect and maintain its security interest in the ECMs. If requested by Ameresco, Customer agrees to execute and deliver all further instruments and documents and take all further action that may be necessary in order to create, perfect and protect Ameresco's security interest in the ECMs and hereby irrevocably appoints Ameresco as Customer's attorney-in-fact with full power to sign such instruments and documents. Any provision in this Section to the contrary notwithstanding, ownership and title to an ECM shall automatically pass to Customer and Ameresco's security interest in such ECM shall be released and terminated, in each case without further action on either Party's part, upon Ameresco's receipt of both (i) the executed Substantial Completion Certificate (as defined in Section 4) for such ECM and (ii) the indefeasible payment in full of all of Customer's payment obligations to Ameresco for such ECM.

SECTION 3 Financial Services.

(a) Energy Performance Contract Municipal Lease and Option to Purchase Agreement:

- (i)** Customer hereby represents and warrants to Ameresco that Customer intends to enter into a lease ("**Lease**") with a third party lessor ("**Lessor**"). Customer shall not become obligated to execute such Lease nor shall Ameresco become obligated to commence construction work in accordance with Section 1(a)(ii) in the event that New York State legislation or other legislative or regulatory developments adversely affect the amount of State Building Aid available to Customer for the Project.
- (ii)** Customer agrees and acknowledges that its obligation to make the payments to Ameresco set forth in this Agreement are in no way contingent on the effectiveness of the Lease.

- (b)** The Parties anticipate that the Annual Energy Cost Savings (as defined in Attachment E) guaranteed hereunder pursuant to Section 6, shall be not less than the Guaranteed Savings (as defined in Section 6(a)). If, prior to the effectiveness of the Lease, any (i) changes in capital costs from a Scope of Services modification by the Customer or NYSED, (ii) changes in interest rates or (iii) other events, circumstances or developments cause or may have the effect of causing NYSED to not approve the Project as submitted or cause the projected Annual Energy Cost Savings to be less than the Guaranteed Savings, then the Parties agree to mutually and reasonably attempt to negotiate a reduction or modification of the Scope of Work by removing components of the ECMs to be otherwise installed hereunder in order to ensure legislative requirements are met. If the Parties cannot agree to such reduction or modification, then Customer and Ameresco shall each have the option, exercisable upon written notice to the other Party, to terminate this Agreement. In that regard, Customer acknowledges and agrees that Ameresco has incurred and will incur further costs and expenses relating to the preconstruction services described in Section 1(a)(i). If Customer or Ameresco exercises such option to terminate this Agreement, Customer shall pay Ameresco \$984,000 in recognition of such preconstruction services. Such obligation to pay for preconstruction services shall be effective immediately upon Customer's signing of this Agreement and shall not be subject to approval per Section 36.

- (c) Utility DSM Programs: Ameresco will assist the Customer in filing for and securing incentive payments available as a result of this Project. Any amounts paid by electric or gas utilities or any other entity to the Customer or Ameresco as demand side management or other rebates or incentives in connection with this Project will be applied for the purposes of this Project.

SECTION 4 Compensation and Monthly Progress Payments.

- (a) For each month during the construction period of the Project following Customer's issuance to Ameresco of the notice to proceed substantially in the form of Attachment C (the "**Notice to Proceed**"), Customer shall make monthly progress payments to Ameresco based upon the percentage of the Project construction and equipment procurement completed at the end of each month. Ameresco shall be paid the same percentage of the Contract Cost as such percentage of completion. Following the end of each month, during the construction period of the Project, Ameresco will provide to Customer an invoice together with a list in sufficient detail to reasonably identify construction and equipment procurement during such month. Within thirty (30) days after receipt of such invoice, Customer shall pay or cause to be paid to Ameresco the amount due under such invoice.
- (b) Within thirty (30) days following each successive twelve (12) month period beginning with the first day of the month following the date of the Final Delivery and Acceptance Certificate, Customer shall pay Ameresco the separate amounts provided for in Attachment F, if any, as an annual fee for monitoring services.
- (c) Within thirty (30) days following each successive twelve (12) month period beginning with the first day of the month following the date of the Final Delivery and Acceptance Certificate, Customer shall pay Ameresco the separate amounts set forth in Attachment F, if any, for maintenance (as described in Attachment H) and/or operations services, if any, as agreed by the Parties and to be performed or provided by Ameresco.
- (d) All amounts not paid to Ameresco within forty-five (45) days of Customer's receipt of the invoices from Ameresco, shall accrue interest at the maximum rate of nine percent per annum (9%) or the highest rate permitted by law for municipalities, whichever is lower for the number of days following each such due date until such time as such amount due has been paid in full.
- (e) Upon Substantial Completion of the installation of an ECM (or portion thereof, as applicable), Ameresco will deliver to Customer a substantial completion certificate in the form of Attachment I (the "**Substantial Completion Certificate**"). Within five (5) business days after receipt of each Substantial Completion Certificate, Customer shall complete, execute and deliver to Ameresco each such Substantial Completion Certificate. A delivery and acceptance certificate in the form of Attachment D (the "**Final Delivery and Acceptance Certificate**") shall be executed by Customer and delivered to Ameresco within five (5) business days after the Substantial Completion of the installation of all the ECMs under this Agreement. Customer shall not unreasonably withhold, condition or delay the execution and delivery of any Substantial Completion Certificate or the Final Delivery and Acceptance Certificate. As used in this Agreement, the term "**Substantial Completion**" shall mean that the subject ECM has been installed by Ameresco, and, if such ECM is equipment, such equipment is then operating in a manner such that Customer is deriving beneficial use thereof. Customer shall not unreasonable withhold or delay the execution and delivery of any Substantial Completion Certificate or the Final Delivery and Acceptance Certificate.

SECTION 5 Term.

The term of this Agreement (the "**Term**") shall begin on the date above first written and shall end on that

date which is exactly eighteen (18) years from the first day of the month following the date of Customer’s execution of the Final Delivery and Acceptance Certificate, unless this Agreement is terminated prior to such date, as provided for in Sections 12, 14 or 32. Anything in this Agreement to the contrary notwithstanding, Customer shall not be relieved of its obligation to pay Ameresco when due all amounts which accrued prior to such termination.

SECTION 6 Guarantee of Energy Savings.

- (a) Ameresco hereby represents and warrants to Customer that the amount of the Annual Energy Cost Savings (as defined in Attachment E) shall equal or exceed the “*Guaranteed Savings*” (as specified in Table 6(a) below), in each year of the Term (the “*Guarantee of Energy Savings*”).

Table 6(a)

Year	Guaranteed Savings
1	\$722,516
2	\$736,967
3	\$751,706
4	\$766,740
5	\$782,075
6	\$797,717
7	\$813,671
8	\$829,944
9	\$846,543
10	\$863,474
11	\$880,744
12	\$898,358
13	\$916,326
14	\$934,652
15	\$953,345
16	\$972,412
17	\$991,860
18	\$1,011,698

For purposes of the Guarantee of Energy Savings, the following assumptions and provisions shall apply:

- (i) Calculation of the Annual Energy Cost Savings, inclusive of energy savings and operational and maintenance cost savings, shall be performed under, and governed by, the methods, formulas, and procedures described in Attachment E.
- (ii) As it relates to the Annual Energy Cost Savings and the Guarantee of Energy Savings, the term “*year*” shall mean the consecutive twelve (12) month period beginning with the first day of the month following the date of the Final Delivery and Acceptance Certificate (the “*Anniversary Date*”), and each similar twelve (12) month period thereafter.
- (iii) The unit prices, including the escalation thereof, to be used to calculate the Annual Energy Cost Savings for the purposes of the Guarantee of Energy Savings are described in Attachment E.
- (iv) The Guarantee of Energy Savings herein is subject to Customer performing its maintenance and other obligations under this Agreement. If Customer fails to perform, or fails to properly perform, its obligations under this Agreement or interferes with, or

permits any person to take any action which, in the reasonable opinion of Ameresco, prevents the achievement of the Annual Energy Cost Savings under the Guarantee of Energy Savings, then Ameresco may, with Customer's written consent (which consent shall not be unreasonably withheld), equitably adjust the Annual Energy Cost Savings during the period wherein savings were affected to reflect the same. Ameresco's rights in this section shall not be in limitation of any other rights it possesses under this Agreement.

- (v) The Guaranteed Savings shall not include building aid attributable to Ameresco's work or services hereunder.
- (b) Ameresco will perform and submit to Customer a guarantee reconciliation ("**Guarantee Reconciliation**") upon the later of (i) one hundred twenty (120) days after each Anniversary Date and (ii) sixty (60) days after Customer delivers to Ameresco all utility billing and other data necessary for Ameresco's completion of such Guarantee Reconciliation. The Guarantee Reconciliation will include a calculation of the cumulative Annual Energy Cost Savings achieved in relation to the cumulative Guaranteed Savings for the period being reconciled.
- (c) Ameresco hereby guarantees that if the Annual Energy Cost Savings realized by Customer as of any Anniversary Date, as detailed in the Guarantee Reconciliation, is less than the Guaranteed Savings as of such Anniversary Date, then Ameresco will pay to Customer that amount by which the Guaranteed Savings exceeds the Annual Energy Cost Savings, such payment to be made within sixty (60) days after the date of the Guarantee Reconciliation.

SECTION 7 Access to Property.

During the Term, Customer shall provide Ameresco, its employees, agents and subcontractors, including any utility which provides any payment references in Section 3(c), access to the Property for the purpose of fulfilling Ameresco's obligations under this Agreement. Customer shall provide mutually satisfactory rent-free space for the installation and operation of the ECMs and shall protect such equipment in the same careful manner that Customer protects its own property.

SECTION 8 [Intentionally omitted.]

SECTION 9 Warranties.

- (a) Ameresco warrants that the design, engineering, installation services it performs will be free from defects in materials and workmanship arising from normal usage on an ECM by ECM basis for a period of one (1) year from the date of Substantial Completion of such ECM. Any manufacturers' warranties which exceed this one (1) year period shall be assigned to Customer to the extent allowed by the manufacturer. This section does not apply in any way to the Savings Guarantee. Except as provided above, AMERESCO MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO THE VALUE, DESIGN, AND CONDITION OR FITNESS FOR USE OR PARTICULAR PURPOSE OR MERCHANTABILITY, REGARDING THE EQUIPMENT, ECMS OR ANY SERVICES PROVIDED HEREUNDER.

SECTION 10 Customer Role and Responsibilities.

- (a) **Operations:** Customer shall operate the equipment installed hereunder in accordance with the manufacturers' recommendations and any supplemental procedures supplied to Customer by Ameresco.

- (b) **Maintenance:** Customer shall, at its expense, repair, operate and maintain the Property in good working order during the Term. Except as may otherwise be provided for in Attachment H, following the date of Substantial Completion of an ECM, Customer shall, at its expense, repair and maintain (i) the equipment and all other components which comprise the ECM and (ii) all other equipment which is attached thereto and/or is integral to the proper functioning of the ECM.
- (c) **Malfunctions:** Customer shall notify Ameresco immediately in the event of any malfunction in the operation of the ECMs or the equipment installed hereunder.
- (d) **Protection of ECM:** Except in the case of emergency, Customer shall not remove, move, alter, turn off or otherwise significantly affect the operation of the equipment installed hereunder or the operation of the ECMs, or any individual part thereof, without the prior written approval of Ameresco, which approval shall not be unreasonably withheld. After receiving Ameresco's written approval, Customer shall proceed as instructed. Customer shall act reasonably to protect the ECMs from damage or injury, if, due to an emergency, it is not reasonable to notify Ameresco before acting. Customer agrees to protect and preserve the facility envelope and the operating condition of all ECMs, mechanical systems, and other energy consuming systems located on the Property.
- (e) **Measurement System:** Customer shall not alter, move, modify or otherwise change the measurement and verification system or any component thereof without the prior written consent of Ameresco unless such action is in accordance with operating procedures provided by Ameresco.
- (f) **Adjustment to Baseline:** If, in the reasonable opinion of Ameresco, Customer does not reasonably operate, maintain, repair or otherwise protect the ECMs and/or maintain the Property in good repair and good working condition, then Ameresco may equitably adjust the baseline, as referenced in Attachment E, for any increased energy usages at the Property.
- (g) **Changes to Property or Addition of Equipment:** Customer shall notify Ameresco in writing at least thirty (30) days prior to making any change(s) to the Property that could reasonably be expected to have an effect on the energy usage at the Property including, without limitation, changes in (i) the hours, days or time of year that the Property is occupied or operated, (ii) the number of staff[, faculty and students] at the Property, (iii) the activities conducted at the Property and (iv) the equipment, the facilities, or the size of the Property. Customer shall notify Ameresco regarding increases, over time, in numbers and usage of "plug in" devices such as computers and printers. In the event that Ameresco receives such notification or otherwise determines that such a change has occurred, it will make the appropriate revisions to the Attachments or take such other action as may be provided for hereunder. Ameresco may also make, subject to Customer's review and written approval (which approval shall not be unreasonably withheld), retroactive adjustments where Customer has not provided timely notice and, in such instances, any payments made between the Parties shall be retroactively reconciled to reflect the changed baseline.
- (h) **Energy Usage Data:** If requested in writing by Ameresco, Customer shall provide to Ameresco, on a monthly basis during the Term (and in any event, within thirty (30) days of its receipt of the same), copies of all energy bills, energy usage data, and any and all other such documentation maintained by Customer, as requested by Ameresco, which is necessary for Ameresco to determine and satisfy all of its obligations under this Agreement.
- (i) **Insurance and Risk of Loss or Damage:** Without limiting any of its obligations or liabilities under this Agreement, Customer shall, at its expense, provide and maintain at all times during the

Term, sufficient insurance against the loss or theft of or damage to the ECMs, the related equipment and all components installed hereunder, for the full replacement value thereof. Customer's insurance shall be primary for any and all property damage during the performance of the work hereunder.

Customer assumes all risk of loss of or damage to the ECMs from any cause whatsoever except to the extent that such loss or damage was caused by the negligence of or, during the one (1) year warranty period set forth in Section 9 with respect to such ECM, improper installation by Ameresco. Upon damage to any item of the equipment installed hereunder or the ECMs, Customer shall promptly notify Ameresco and immediately place the same in good repair with the proceeds of any insurance received applied to the cost of such repair. If Customer determines that any item of the ECMs are lost, stolen, confiscated, destroyed or damaged beyond repair, Customer shall replace the same with like equipment in good repair in a timely fashion.

If at any time after the date of the Final Delivery and Acceptance Certificate and after Customer's complete payment to Ameresco in accordance with Section 4(a), as such amount may be modified from time to time in accordance with this Agreement, any fire, flood, other casualty, or condemnation renders a majority of the Property incapable of being occupied and renders the ECMs or the equipment installed hereunder inoperable and, in the case of a casualty, the affected portion of such ECMs or equipment is not reconstructed or restored within one hundred twenty (120) days from the date of such casualty, Ameresco and/or Customer may terminate this Agreement by delivery of a written notice to the other Party. Upon such termination, Customer shall pay Ameresco all amounts, or pro-rata portions thereof, accrued under Sections 4(b), (c), (d) and (e) and Attachment F.

- (j) **Telephone and Internet:** Customer shall be responsible for installing and maintaining telephone lines and all associated costs, including internet/Ethernet charges, for the energy management system's telephone and communication lines. Ameresco may use Customer's LAN for the purposes of any energy management system that may be included in the Scope of Services.
- (k) **Protection:** Customer shall at all times act reasonably to protect the ECMs from damage, theft or injury to the same extent and in the same manner in which it protects its other property.
- (l) **Alteration:** Customer shall not move, alter or change the ECMs in any way that causes a reduction in the level of efficiency or savings generated by any ECM or the equipment installed hereunder without obtaining Ameresco's prior written approval which shall not be unreasonably withheld.
- (m) **Storage:** Customer shall provide reasonable rent free space for Ameresco and/or its subcontractors, to mobilize and store their supplies, tools and equipment during installation of the ECMs or other activities by Ameresco within the Property pursuant to this Agreement for which such storage may be required. Such storage space shall be provided with locking capacity reasonably acceptable to Ameresco. Only Ameresco and/or its subcontractors and Customer's assigned personnel shall have access to the storage, provided however that Customer shall have reasonable access as needed to such storage upon notice to Ameresco. Customer assumes no responsibility nor will Customer provide any additional security for the storage provided.
- (n) **Fuel:** Customer shall procure and pay for all energy and fuel for the operation of the Property.
- (o) **Filings:** Customer shall make all filings required by NYSED relating to the Project which are not made by Ameresco. Ameresco will cooperate with and assist Customer regarding such filings.

SECTION 11 Defaults by Customer and Ameresco.

- (a) Customer shall be in default under this Agreement upon the occurrence of any of the following:
- (i) Customer fails to pay when due any amount to be paid under this Agreement and such failure continues for a period of ten (10) business days after notice of overdue payment is delivered by Ameresco to Customer; or
 - (ii) Any representation or warranty made by Customer in this Agreement or in any writing delivered by Customer pursuant hereto proves at any time to have been false, misleading or erroneous in any material respect as of the time when made; or
 - (iii) Customer fails to perform or meet any of its required duties or obligations under this Agreement and fails to cure such failure and the effects of such failure within thirty (30) days of receipt of written notice of default, unless such failures and effects cannot be completely cured within thirty (30) days after said written notice, in which case a default shall exist only if Customer does not commence and diligently pursue to cure such failure and effects as soon as possible; or
 - (iii) Customer goes into receivership, or makes an assignment for the benefit of creditors whether voluntary or involuntary, or a petition is filed by or against Customer under any bankruptcy, insolvency or similar law and such petition is not dismissed within sixty (60) days.

(b) Ameresco shall be in default under this Agreement upon the occurrence of either of the following:

- (i) any representation or warranty made by Ameresco in this Agreement or in any writing delivered by Ameresco pursuant hereto proves at any time to have been false, misleading or erroneous in any material respect as of the time when made; or
- (ii) Ameresco fails to perform or meet any of its required duties or obligations under this Agreement and fails to cure such failure or effects of such failure within thirty (30) days of receipt of written notice of default, unless such failure or effects of such failure cannot be completely cured within thirty (30) days after said written notice, in which case a default shall exist only if Ameresco does not commence and diligently pursue to cure such failure as soon as possible; or
- (iii)

Ameresco goes into receivership, or makes an assignment for the benefit of creditors whether voluntary or involuntary, or a petition is filed by or against Ameresco under any bankruptcy, insolvency or similar law and such petition is not dismissed within sixty (60) days.

SECTION 12 Remedies for Defaults.

- (a) In the event Customer defaults under this Agreement, Ameresco may:
- (i) bring actions for any remedies available at law or in equity or other appropriate proceedings for the recovery of direct damages, (including amounts past due), and/or bring an action in equity for specific performance; or
 - (ii) require Customer to pay (and Customer agrees that is shall pay) all out-of-pocket costs and expenses incurred by Ameresco as a result (directly or indirectly) of the event of default and/or Ameresco's actions under this Agreement, including, without limitation,

any attorney's fees and expenses and all costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of any ECMs; or

- (iii) without recourse to legal process, Ameresco may terminate this Agreement by delivery of written notice of termination.

(b) In the event Ameresco defaults under this Agreement, Customer may:

- (i) terminate this Agreement and bring an action at law for direct damages.
- (ii) bring actions for any remedies available at law or in equity or other appropriate proceedings for the recovery of direct damages, (including amounts past due), and/or bring an action in equity for specific performance; or
- (iii) require Ameresco to pay (and Ameresco agrees that it shall pay) all out-of-pocket costs and expenses incurred by Customer as a result (directly or indirectly) of the event of default and/or Customer's actions under this Agreement, including, without limitation, any attorneys fees and expenses.

SECTION 13 Dispute Resolution

Claims, disputes, or other matters in controversy ("**Claims**") arising out of or related to the Agreement or the Project shall be subject to mediation as a condition precedent to any and all remedies at law or in equity. If during the term of this Agreement a Claim arises concerning the Project or this Agreement, a representative from management of both Parties shall meet in person or by phone within ten (10) business days, unless a different date is mutually agreed to, after either Party gives the other Party written notice of the Claim (the "Dispute Notice"). The Dispute Notice shall set forth in reasonable detail the aggrieved party's position and its proposal for resolution of the Claim. If the Claim is not resolved within 30 calendar days after the first meeting of the Parties, then the Parties shall endeavor to resolve the Claim by mediation. A request for mediation shall be made in writing and delivered to the other Party. The request may be made concurrently with the filing of any and all remedies at law or in equity but, in such event, mediation shall proceed in advance of any proceedings filed in a judicial forum, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period of time by agreement of the parties or court order.

The Parties shall share the fees of the mediation equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

If the parties do not resolve the Claim through informal dispute resolution or mediation, either Party is free to pursue any other available remedy in law or at equity.

SECTION 14 Termination.

At any time after the date of the Final Delivery and Acceptance Certificate, Customer may terminate this Agreement upon thirty (30) days prior written notice to Ameresco, provided that Customer has paid to Ameresco all amounts due, subject to Section 32, as set forth in Section 4 (including, without limitation, pro-rata portions thereof accrued under Sections 4(b), (c), and (d)) and on Attachment F (other than amounts due for future performance by Ameresco).

SECTION 15 Insurance.

Ameresco shall provide and maintain, at its expense, the following minimum insurance coverage where reasonable market availability for such insurance exists:

- (a) Workers' Compensation and Employer's Liability Insurance at the level required by law.
- (b) Commercial General Liability Insurance, including contractual liability: Bodily Injury per person, \$1 million, Bodily Injury per occurrence, \$1 million; Property Damage per occurrence, \$1 million; Personal Injury per occurrence, \$1 million.
- (c) Commercial Automobile Liability Insurance, including owned, non-owned and hired automotive equipment: Bodily Injury per person, \$1 million; Bodily Injury per occurrence, \$1 million; Property Damage per occurrence, \$1 million.
- (d) Commercial Umbrella Liability Insurance with a limit not less than \$5 million.
- (e) Ameresco shall, after receipt of the Notice to Proceed and prior to the commencement of construction, deliver to Customer payment and performance bonds in a sum equal to the Contract Cost (the "***Payment and Performance Bonds***") with sureties licensed by the State of New York and reasonably satisfactory to Customer. Such Payment and Performance Bonds shall be in form and substance reasonably satisfactory to Customer and shall be conditioned upon the faithful performance by Ameresco, for the implementation of the ECMs. The Payments and Performance Bonds shall only apply to the installation portion of this Agreement and do not apply in any way to energy savings guarantees, payments or maintenance provisions, except that the performance bond shall guarantee that the installation will be free of defective materials and workmanship for a period of twelve (12) months following completion and acceptance of the work.
- (f) Customer shall provide and maintain insurance as described in Section 10(i).
- (g) Ameresco shall deliver to Customer a certificate of insurance naming Customer as an additional insured party, evidencing the coverages provided under subsections (b) and (c) above.

SECTION 16 Indemnification.

- (a) Anything in this Agreement to the contrary notwithstanding, neither Party nor its respective officers, directors, agents, employees, parent, subsidiaries or affiliates or their officers, directors, agents or employees shall be liable to any other Party, or its parent, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insureds, for any incidental, indirect, punitive or consequential damages, connected with or resulting from performance or non-performance of this Agreement (irrespective of whether such claim of liability is based upon breach of warranty, strict liability, tort, contract, operation of law or otherwise) or anything done in connection therewith including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), or increased expense of, reduction in or loss of power generation production or equipment used therefor.
- (b) Ameresco's total aggregate liability for any and all injuries, damages, claims, losses, expenses or claim expenses (including attorney's fees) arising out of this Agreement from all causes or any causes, regardless of the legal theory under which liability is imposed, shall in all cases be limited to the sum of the payments received by Ameresco under Section 4. Such causes shall include, but not be limited to, Ameresco's negligence, errors, omissions, strict liability, breach of contract, warranty, breach of warranty or any indemnified claims.
- (c) Ameresco agrees to indemnify and hold Customer harmless from and against any and all third party claims for damages but only to the extent such damages arise by reason of bodily injury, death or damage to property caused by Ameresco's negligence or willful misconduct. In no event, however, shall Ameresco be obligated to indemnify Customer to the extent that any such

injury or damage is caused by the negligence of Customer or any entity for which Customer is legally responsible.

- (d) Customer agrees to indemnify and hold harmless Ameresco, its officers, agents and employees, from and against any and all third party claims for damages but only to the extent such damages arise by reason of bodily injury, death or damage to property caused by Customer's negligence or willful misconduct. In no event, however, shall Customer be obligated to indemnify Ameresco to the extent that such injury or damage is caused by the negligence of Ameresco or any entity for which Ameresco is legally responsible.

SECTION 17 Agreement Interpretation and Performance.

The interpretation and performance of this Agreement, and the interpretation and enforcement of the rights of the Parties hereunder, shall be construed in accordance with and governed by the laws of the State of New York. In the event of any ambiguity or conflict in meaning, the terms of this Agreement shall not be construed against the drafting Party based upon that Party's having drafted this Agreement.

SECTION 18 Privileged and Proprietary Information.

Ameresco's systems, means, cost, and methodologies of evaluating, implementing, accomplishing and determining energy savings and the terms of this Agreement for the Project shall be considered privileged and proprietary information. Customer shall use the same level of effort to protect and safeguard such information as it employs to safeguard its own confidential information. Customer shall not disclose such proprietary information without the express written consent of an officer of Ameresco unless required to do so by statute or regulation. When any request for disclosure of such information is made under any applicable freedom of information law (the "**FOIL**"), Customer shall provide prompt verbal and written notice to Ameresco such that Ameresco will have the opportunity to timely object under the FOIL should it desire to object to such disclosure of that information in whole or in part. In the event that Customer is required to make a filing with any agency or other governmental body, which includes such information, Customer shall notify Ameresco and cooperate with Ameresco in order to seek confidential treatment of such information included within any such filing or, if all such information cannot be protected from disclosure, to request that Customer be permitted to redact portions of such information, as Ameresco may designate, from that portion of said filing which is to be made available to the public.

SECTION 19 Severability.

Any term or provision of this Agreement that is declared invalid by any court of competent jurisdiction, shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement.

SECTION 20 Assignments and Subcontracting.

- (a) Ameresco may use subcontractors and/or subconsultants in meeting its obligations hereunder and as set forth in Attachment F.
- (b) Customer shall not assign, transfer, or otherwise dispose of, in whole or in part, this Agreement, the ECMs, or any interest therein, or sublet or lend the ECMs or permit the ECMs to be used by anyone other than Customer and Customer's employees without the prior express written consent of Ameresco (or, if applicable, the Lessor) such consent not to be unreasonably withheld, conditioned or delayed. If Customer transfers ownership of its interest in the Property, this Agreement shall terminate automatically.
- (c) Ameresco shall not assign this Agreement, in whole or in part, to any other party without first obtaining the written consent of Customer, which consent shall not be unreasonably withheld,

conditioned or delayed. The foregoing notwithstanding, Ameresco may assign, without the prior written consent of Customer, its (i) rights and obligations under this Agreement, in whole or in part, to any affiliated or associated company of Ameresco and (ii) rights for payments under this Agreement to any financial institution, lender or investor in connection with a leasing or financing arrangement for the ECMs. Ameresco will notify Customer ten (10) business days prior to any such assignment and Customer agrees to acknowledge receipt of such notice in writing within three (3) business days after such notice.

SECTION 21 Waiver.

The failure of either Party to require compliance with any provision of this Agreement shall not affect that Party's right to later enforce the same. It is agreed that the waiver by either Party of performance of any term of this Agreement or of any breach thereof will not be held or deemed to be a waiver by that Party of any subsequent failure to perform the same or any other term or condition of this Agreement or any breach thereof.

SECTION 22 Force Majeure.

- (a) If either Party shall be unable to carry out any part of its obligations under this Agreement (except Customer's obligation to make payments when due) due to causes beyond its control ("**Force Majeure**"), including but not limited to an act of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts of terrorism, orders or restraints of any kind of the government of the United States or any state or any of their departments agencies or officials or any other civil governmental, military or judicial authority, war, blockage, insurrection, riot, sudden action of the elements, fire, explosion, flood, earthquake, storms, drought, landslide, or explosion or nuclear emergency, this Agreement shall remain in effect but the affected Party's obligations shall be suspended for a period equal to the disabling circumstances, provided that:
- (i) the non-performing Party gives the other Party prompt written notice describing the particulars of the Force Majeure, including but not limited to the nature of the occurrence and its expected duration, and continues to furnish timely regular reports with respect thereto during the period of Force Majeure;
 - (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
 - (iii) no obligations of either Party that arose before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure;
 - (iv) the non-performing Party uses reasonable efforts to remedy its inability to perform; and
 - (v) the Term, at Ameresco's option, shall be extended for a period equal to the number of days that the Force Majeure prevented the non-performing Party from performing.
- (b) Any decision by Customer to close or change the use of the facilities or ECMs at the Property shall not constitute a Force Majeure excusing Customer's performance under this Agreement.

SECTION 23 Contract Documents.

- (a) Upon execution of this Agreement by both Parties, this Agreement and its Attachments (including the CEA attached as a part of Attachment B) shall constitute the entire Agreement between the Parties relating to the subject matter hereof, and shall supersede all proposals, previous agreements, discussions, correspondences, and all other communications, whether oral or written,

between the Parties relating to the subject matter of this Agreement.

- (b) Section headings used herein are for the convenience of reference only and are not to be construed as a part of this Agreement.
- (c) This Agreement may not be modified or amended except in writing signed by the Parties.

SECTION 24 Notices.

All notices, requests, demands, claims and other communications hereunder shall be in writing. Any notice, request, demand, claim or other communication hereunder (other than regularly scheduled payments) shall be deemed properly given or made upon receipt if delivered in person or sent by electronic facsimile with regular mail follow-up, or two business days after being deposited in the mail if sent by registered or certified mail, return receipt requested, postage prepaid, or the next business day if sent by overnight delivery service, in each case, addressed as follows:

East Ramapo Central School District
105 South Madison Avenue
Spring Valley, NY 10977
Attention:

Ameresco, Inc.
111 Speen Street, Suite 410
Framingham, MA 01701
Attention: Peter Christakis
Senior Vice President

With a copy to: General Counsel at the same address

Either Party may change such address from time to time by written notice to the other Party.

SECTION 25 Records.

To assist Ameresco in its performance of this Agreement, Customer shall (to the extent it has not already done so) furnish (or cause its energy suppliers and transporters to furnish) to Ameresco, upon its written request, accurate and complete data (kept by Customer or Customer's energy suppliers and transporters in the regular course of their respective businesses) concerning energy usage for the existing facilities at the Property. Such records shall include, without limitation, the following data for the most current thirty-six (36) month period: (i) utility records; (ii) occupancy information; (iii) descriptions of any changes in building structure or heating, cooling or other systems or energy requirements; (iv) descriptions of all energy consuming or saving equipment used on Property; and (v) descriptions of all energy management procedures presently utilized. If requested by Ameresco, Customer shall also provide any prior energy analyses of the Property to the extent reasonably available.

SECTION 26 Representations and Warranties.

Each Party warrants and represents to the other that:

- (a) it has all requisite power, authority, licenses, permits and franchises, corporate or otherwise, to execute and deliver this Agreement and perform its obligations hereunder;
- (b) its execution, delivery and performance of this Agreement have been duly authorized by, and are in accordance with, as to Ameresco, its organic instruments and, as to Customer, by all requisite municipal, school board or other action and are not in breach of any applicable law, code or regulation;
- (c) this Agreement has been duly executed and delivered by the signatories so authorized, and

constitutes its valid and binding obligation;

- (d) its execution, delivery and performance of this Agreement shall not result in a breach or violation of, or constitute a default under, any agreement, lease or instrument to which it is a party or by which it or its properties may be bound or affected;
- (e) it has not received any notice of, nor to the best of its knowledge there is no, pending or threatened violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially adversely affect its ability to perform its obligations hereunder; and
- (f) the persons executing this Agreement are duly authorized to do so.
- (g) Customer represents and warrants to Ameresco that Customer has obtained all necessary governmental, legal, administrative and any other approval necessary for it to enter into this Agreement.
- (h) Customer has delivered to Ameresco complete copies of all policies, rules and regulations concerning its facilities.

SECTION 27 Independent Contractor.

Nothing in this Agreement shall be construed as reserving to Customer any right to exercise any control over or to direct in any respect the conduct or management of business or operations of Ameresco. The entire control or direction of such business and operations shall be in and shall remain in Ameresco, subject only to Ameresco's performance of its obligations under this Agreement. Neither Ameresco nor any person performing any duties or engaged in any work on the Property on behalf of Ameresco shall be deemed an employee or agent of Customer. Nothing in this Section shall be deemed to be a waiver of Customer of the right to use its property. Customer and Ameresco are independent of one another and shall have no other relationship relating to or arising out of this Agreement. Neither Party shall have or hold itself out as having the right or authority to bind or create liability for the other by its intentional or negligent act or omission, or to make any contract or otherwise assume any obligation or responsibility in the name of or on behalf of the other Party.

SECTION 28 Additional Representations and Warranties of Customer.

Customer hereby warrants and represents to Ameresco that:

- (a) Customer intends to continue to use the Property in a manner reasonably similar to its present use;
- (b) Customer does not intend to make any changes to the electrical and thermal consumption characteristics of the Property from those which existed during the base period except as may have been disclosed in writing by Customer to Ameresco prior to the date of this Agreement;
- (c) Customer has provided Ameresco with all records heretofore requested by Ameresco (and, in that regard, Ameresco acknowledges that it has received base period data from Customer which appear to be complete as of the date of this Agreement) and that the information set forth therein is, and all information in other records to be subsequently provided pursuant to this Agreement shall be, true and accurate in all material respects except as may be disclosed by Customer in writing;
- (d) Customer has not entered into any contracts or agreements for the Property with persons or

entities other than Ameresco regarding the provision of the services referenced herein.

- (e) Since the date of the CEA, there has been no change, event, circumstance or development that has or could reasonably be expected to have a material adverse effect on (i) the operation or condition of the Property, (ii) the energy usage at the Property, or (iii) the ability of Customer to perform its obligations hereunder.

SECTION 29 Absence of Fraud or Collusion.

Ameresco hereby certifies, by its execution of this Agreement, that no official or employee of Customer has any pecuniary interest in this Agreement or in the expected profits to arise hereunder, and that this Agreement is made in good faith without fraud or collusion with any other person involved in the bidding process.

SECTION 30 Negligent/Wrongful Acts.

It is understood and agreed that neither Party to this Agreement shall be liable for any negligent or wrongful acts, either of commission or omission, chargeable to the other, unless such liability is imposed by law, and that this Agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one Party against the other or against third parties.

SECTION 31 Further Documents and Events.

The Parties shall execute and deliver all instruments and documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement. Ameresco agrees to execute and deliver all documents reasonably required to release any lien held by Ameresco or its assignees upon the termination of this Agreement and payment of all amounts required to be paid by Customer to Ameresco pursuant to this Agreement. Customer agrees to execute and deliver all documents which may be required by an entity which provides funds for any financing contemplated herein and to cooperate with Ameresco in obtaining such funds. Customer agrees to execute and deliver all instruments and documents which may be required to obtain all licenses, permits and governmental approvals required by Ameresco for installation and operation of the ECMs. Customer agrees that Ameresco shall have the right to all environmental, energy, tax, financial, and electrical-related attributes, rights, credits, benefits and characteristics associated with or arising out of the transactions contemplated by this Agreement or associated with the ECMs or with the energy, capacity or other electrical savings created under this Agreement, howsoever created or recognized in the United States, any political subdivision thereof or any foreign jurisdiction (other than dollar savings realized by Customer from reductions in Customer's energy use or other operating costs). Customer shall provide Ameresco all reasonable assistance in perfecting its rights to such attributes, rights, credits, benefits and characteristics. Ameresco's obligations hereunder are subject to obtaining all such required licenses, permits and governmental approvals.

SECTION 32 Non-Appropriation.

- (a) This Agreement shall be deemed executory only to the extent of the monies appropriated and available for the purpose of this Agreement, and no liability on account therefore shall be incurred beyond the amount of such monies. This Agreement is not a general obligation of Customer. The full faith and credit of Customer is not pledged to the payment of any amount due or to become due under this Agreement. It is understood that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purposes of this Agreement. Notwithstanding the foregoing statutory provision, Customer hereby covenants and agrees to the following:
 - (i) Customer shall not engage any other party to perform the services described herein, or

services similar to those described herein, during the Term.

- (ii) Subject to said statutory limitations, Customer shall take all necessary and timely action during the Term to obtain funds and maintain appropriations sufficient to satisfy its obligations under this Agreement (the “**Obligations**”) including, without limitation, providing for the Obligations in each required budget submitted to obtain applicable appropriations, using its best efforts to obtain approval of such budget, and exhausting all available reviews and appeals in order to effectuate an appropriation sufficient to satisfy the Obligations.
- (b) Ameresco and Customer agree that upon the occurrence of all the events described in subparagraphs (i) through (iv) below (collectively, the “**Non-Appropriation Occurrence**”) that Customer may terminate this Agreement in accordance with Section 14 (subject to said statutory limitations), effective as of the first day of fiscal year (July 1 through June 30) for which funds have not been appropriated. The descriptions of the following events are not intended to impose requirements beyond the current term of the presently constituted Board of Education of Customer but rather to set forth occurrences which give rise to the right of Customer to terminate this Agreement.

 - (i) An authorized governmental action, or non-action, of the Board of Education of Customer, including a board of education to be constituted in the future, shall have resulted in the lack of an appropriation of funds sufficient to satisfy the Obligations and Customer shall have provided Ameresco a true, correct and complete copy of a document describing such action.
 - (ii) Customer shall have exhausted all available funds and have no funds available from any other source to satisfy the Obligations.
 - (iii) Customer shall have provided written notice to Ameresco of the governmental action resulting in the lack of appropriations of funds (as described in subsection (i)) within twenty (20) days of Customer’s knowledge thereof.
 - (iv) Customer shall have fully performed its obligations described in subsection (a) above.
- (c) If this Agreement is terminated following a Non-Appropriation Occurrence, Customer and Ameresco agree that during the Term (as would otherwise have been in effect): (i) Customer shall not purchase, lease, rent, engage the services of an agent or independent contractor or otherwise pay for the use of a system or equipment performing functions or services similar to those performed by the ECMs installed pursuant to this Agreement and (ii) if Customer receives an appropriation of funds which permits Customer to purchase, lease, rent, engage the services of an agency or independent contractor, or otherwise pay for the use of a system or equipment performing functions or services similar to those performed by the ECMs installed pursuant to this Agreement, upon receipt of such funds such other obligations shall immediately be rescinded and Customer shall satisfy the Obligations then owed to Ameresco prior to Customer’s appropriation of such funds for the purpose of paying any other payee(s).

SECTION 33 Third Party Beneficiaries.

Except as may be specifically provided for in this Agreement, the Parties hereto do not intend to create any rights for, or grant any remedies to, any third party beneficiary of this Agreement.

SECTION 34 Notifications of Governmental Action - Occupational Safety and Health.

The Parties agree to notify each other as promptly as is reasonably possible upon becoming aware of an inspection under, or any alleged violation of, the Public Employer Safety and Health Act or any other provision of federal, state or local law rule or regulation relating in any way to the undertakings of either Party under this Agreement.

SECTION 35 References.

Unless otherwise stated all references to a particular “*Attachment*” or to “*Attachments*” are to the referenced Attachment or Attachments which are attached to this Agreement and all such referenced Attachments are incorporated by reference within this Agreement. All references herein to a Section or subsection shall refer to a Section or a subsection, as the case may be, of this Agreement unless this Agreement specifically provides otherwise.

SECTION 36 Approval.

This Agreement is subject to approval by the Commissioner of Education of the State of New York and shall not be executory until approved by the Commissioner.

* * * * * *

IN WITNESS WHEREOF, the duly authorized officers or representatives of the Parties have set their hand on the date first written above with the intent to be legally bound.

EAST RAMAPO CENTRAL SCHOOL DISTRICT


Authorized Signature

Name: Shimon Rose

Title: President, Board of Education

AMERESCO, INC.


Peter Christakis
Senior Vice President

ATTACHMENT A

PROPERTY DESCRIPTION

The following buildings, facilities, and areas, which are owned and operated by Customer (the “*Property*”), are included in the Scope of Services detailed in Attachment B:

Facility	Address
Chestnut Ridge Middle School	892 Route 45, Chestnut Ridge, NY, 10977
Early Childhood Center/Kakiat STEAM Academy	465 Viola Road, Spring Valley, NY, 10977
Eldorado Elementary School	5 Eldorado Drive, Chestnut Ridge, NY, 10977
Elmwood Elementary School	43 Robert Pitt Drive, Monsey, NY, 10952
Fleetwood Elementary School	22 Fleetwood Avenue, Spring Valley, NY, 10977
Grandview Elementary School	151 Grandview Avenue, Monsey, NY, 10952
Hempstead Elementary School	80 Brick Church Road, Spring Valley, NY, 10977
Lime Kiln Intermediate School	35 Lime Kiln Road, Suffern, NY, 10901
Margetts Elementary School	25 Margetts Road, Chestnut Ridge, NY, 10952
Pomona Middle School	101 Pomona Road, Suffern, NY, 10901
Ramapo High School	400 Viola Road, Spring Valley, NY, 10977
Spring Valley High School	361 East Route 59, Spring Valley, NY, 10977
Summit Park Elementary School	925 Route 45, New City, NY, 10956
Central Administration	105 S. Madison Avenue, Spring Valley, NY, 10977

ATTACHMENT B

SCOPE OF SERVICES

**DESCRIPTION OF THE ENERGY CONSERVATION MEASURES
AND EQUIPMENT**

This Attachment B provides a description of existing equipment and the ECMs and related equipment to be installed by Ameresco at the facilities scheduled on Attachment A. Installation of the ECMs and the included equipment is subject to change if Ameresco discovers unforeseen conditions at the Property that render its preliminary analysis of the Property inaccurate, or significantly affect Ameresco’s anticipated economic benefit or the Guarantee of Energy Savings.

This Attachment B includes by reference the CEA dated as of January 13, 2023 for the Property and submitted under separate cover.

The following table summarizes the ECMs recommended and described in the CEA that are incorporated into the Scope of Services:

East Ramapo CSD Energy Conservation Measures (ECMs)	Lighting System Improvement	Integrated and New Energy Management Systems	Replace Unit Ventilator	Vending Misery	Infiltration Reduction	
	1	2	4	7	8	
Facility	1	2	4	7	8	
Chestnut Ridge Middle School	X	X			X	
Early Childhood Center/Kakiat STEAM Academy	X	X			X	
Eldorado Elementary School	X	X	X		X	
Elmwood Elementary School	X	X	X		X	
Fleetwood Elementary School	X	X	X		X	
Grandview Elementary School		X	X			
Hempstead Elementary School	X	X	X		X	
Lime Kiln Intermediate School		X	X		X	
Margetts Elementary School	X	X			X	
Pomona Middle School		X			X	
Ramapo High School	X	X		X	X	
Spring Valley High School	X	X		X	X	
Summit Park Elementary School		X	X		X	
Central Administration	X	X				

ATTACHMENT C

NOTICE TO PROCEED

[PLACE ON CUSTOMER LETTERHEAD]

Mr. Peter Christakis
Senior Vice President
Ameresco, Inc.
111 Speen Street, Suite 410
Framingham, MA 01701

SUBJECT: NOTICE TO PROCEED

Dear Mr. Christakis:

In accordance with Section 1(a) of the Energy Services Agreement (the “*ESA*”) dated as of _____, 2023, by and between the East Ramapo Central School District (“*Customer*”) and Ameresco, Inc. (“*Ameresco*”), Customer hereby submits to Ameresco this Notice to Proceed in relation to the Scope of Services as defined in the ESA.

Sincerely,

East Ramapo Central School District

By: _____
Duly Authorized Signatory

Name: _____

Title: _____

Date: _____

ATTACHMENT D

FINAL DELIVERY AND ACCEPTANCE CERTIFICATE

[PLACE ON CUSTOMER LETTERHEAD]

Mr. Peter Christakis, Senior Vice President
Ameresco, Inc.
111 Speen Street, Suite 410
Framingham, Massachusetts 01701

Re: Energy Services Agreement (the “*ESA*”; capitalized terms used and not defined herein shall have the meanings given to such terms in the *ESA*) dated as of _____, 2023 by and between East Ramapo Central School District (“*Customer*”) and Ameresco, Inc. (“*Ameresco*”)

Dear Mr. Christakis:

Customer hereby acknowledges its receipt and acceptance of all ECMs described in Attachment B of the *ESA* which are installed and in good working condition.

Sincerely,

East Ramapo Central School District

By: _____

Duly Authorized Signatory

Name: _____

Title: _____

Date accepted: _____

ATTACHMENT E

DETERMINATION OF ENERGY COST SAVINGS

Section F of the Comprehensive Energy Audit dated as of January 13, 2023 is hereby incorporated herein by reference. These services will be provided for the first three (3) years of the guarantee period at no cost to the Customer, subject to extension as provided in Attachment F.

ATTACHMENT F

CONTRACT COST AND ANNUAL SERVICES

(a) Contract Cost: Customer shall pay to Ameresco, an amount equal to Twelve Million Two Hundred Eighty Five Thousand One Hundred Seventy Four Dollars and No Cents (\$12,285,174.00) (the “**Contract Cost**”) in accordance with the terms described in Section 4 of this Agreement. The Contract Cost includes the preconstruction services described in Section 1(a)(i) of this Agreement.

(b) Operations and/or Maintenance: Operations and maintenance services are not included in this Agreement.

(c) Monitoring: The cost of monitoring for the first three (3) years shall be provided by Ameresco to Customer at no additional cost. At Customer’s election, monitoring services shall be provided by Ameresco for years 4 through 18 of the Term at the following cost:

Year	Monitoring Cost
1	\$0
2	\$0
3	\$0
4	\$35,000
5	\$35,000
6	\$35,000
7	\$35,000
8	\$35,000
9	\$35,000
10	\$35,000
11	\$35,000
12	\$35,000
13	\$35,000
14	\$35,000
15	\$35,000
16	\$35,000
17	\$35,000
18	\$35,000

(d) Other Annual Services: Not applicable.

ATTACHMENT G

1. IRAN DIVESTMENT ACT: By entering into this Agreement, **AMERESCO** certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerors Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the NEW YORK STATE OFFICE OF GENERAL SERVICES website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. **AMERESCO** agrees that should it seek to renew or extend its Agreement, it also agrees that any proposed Assignee of the Agreement will be required to certify that it is not on the Prohibited Entities List before the District may approve a request for Assignment of Contract.

During the term of the Contract, should the Customer receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the District will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within ninety (90) days after the determination of such violation, then the District shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring **AMERESCO** in default.

2. EXCLUDED/DEBARRED PARTY CLAUSE: **AMERESCO** represents and warrants that it, nor its employees or contractors are not excluded from participation, and is not otherwise ineligible to participate, in a “federal health care program” as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program. In the event **AMERESCO**, or one of its employees or contractors, is excluded from participation, or becomes otherwise ineligible to participate in any such program during the Term of this Agreement, **AMERESCO** will notify the Customer in writing within three (3) days after such event. Upon the occurrence of such event, whether

or not such notice is given to **AMERESCO**, the Customer reserves the right to immediately cease contracting with **AMERESCO**.

AMERESCO further represents and warrants it will, prior to commencing the Scope of Services, check all of its employees and subcontractors performing any portion of the Scope of Services against:

1. The General Services Administration's Federal Excluded Party List System (or any successor system);
2. The United States Department of Health and Human Services Office of the Inspector General list of Excluded individuals and entities or successor list; and,
3. The New York State Department of Health's Office of the Medicaid Inspector General's list of restricted terminated or excluded individuals or entities.

In the event an excluded party is discovered, **AMERESCO** will notify the Customer in writing within three (3) days of such event. Upon the occurrence of such event, whether or not such notice is given to **AMERESCO**, the Customer reserves the right to immediately cease contracting with **AMERESCO**.

3. CONFIDENTIAL MATTERS AND PROPRIETARY INFORMATION: **AMERESCO** its employees, and/or agents agree that all information obtained in connection with the services provided for in this Agreement is deemed confidential information. **AMERESCO**, its employees, and/or agents shall not use, publish, discuss, disclose or communicate the contents of such information, directly or indirectly with third parties, except as provided for in this Agreement. **AMERESCO** further agrees that any information received by **AMERESCO**, its employees, and/or agents during the course of the services provided pursuant to this Agreement which concerns the personal, financial, or other affairs of the Customer, its employees, agents, clients, and/or students will be treated by **AMERESCO**, its employees, and/or agents in full confidence and will not be revealed to any other persons, firms, or organizations. In the event of a breach of the within confidentiality provision, **AMERESCO** shall immediately notify the Customer and advise it as to the nature of the breach and steps **AMERESCO** has taken to minimize said breach. **AMERESCO** shall indemnify and hold the Customer harmless from any claims arising from its breach of the within confidentiality

provision. The parties further agree that the terms and conditions set forth herein shall survive the expiration and/or termination of this Agreement. **AMERESCO** acknowledges responsibility to maintain the security and privacy of student and school data and responsibility to adhere to the provisions of New York Education Law Section 2-d.

4. FINGERPRINTING/BACKGROUND CHECK: **AMERESCO** shall provide the District proof that each of its employees and/or those who perform services under this Agreement are properly fingerprinted and background check cleared in accordance with the rules of the New York State Education Department.
5. NON-DISCRIMINATION REQUIREMENTS: To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, **AMERESCO** agrees it and those it employs or contracts with to provide services pursuant to this Agreement shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status, or any other basis protected by law.
6. SEXUAL HARASSMENT: Federal law and the policies of the Customer prohibit sexual harassment of employees and students. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature that create a hostile or offensive working environment for Customer employees or students. **AMERESCO** shall exercise control over itself and employees so as to prohibit acts of sexual harassment of District employees or students. In the event the Customer, in its reasonable judgment, determines that **AMERESCO** or any of its employees have committed an act of sexual harassment, upon notice from the District, **AMERESCO** shall cause such person to be removed and shall take such other action as may be reasonably necessary to cause such sexual harassment to cease.

ATTACHMENT H
MAINTENANCE SERVICES

NO MAINTENANCE SERVICES ARE INCLUDED.

ATTACHMENT I

CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT NAME & ADDRESS:	PROJECT NO.:
_____	_____
_____	CONTRACT DATE:
_____	_____
_____	DESCRIPTION:
_____	_____
_____	_____

The installation of [list each ECM being accepted with this certificate] under the Agreement has/have been reviewed and found to be substantially complete. The date of Substantial Completion of the forgoing ECM(s) is hereby established as:

SUBSTANTIAL COMPLETION DATE: _____

The date of Substantial Completion of an ECM is the date certified by Customer when such ECM is sufficiently complete in accordance with the Agreement so that Customer derives beneficial use thereof.

The Substantial Completion date set forth above is the date of commencement of applicable warranties for such ECM(s), as required by the Agreement. A list of items to be completed or corrected is identified below as punchlist items. The failure to include any items on such punchlist does not alter the responsibility of Ameresco to complete all work in accordance with the Agreement.

CONTRACTOR: Ameresco, Inc., 111 Speen Street, Suite 410, Framingham, Massachusetts 01701

AUTHORIZED SIGNATURE: _____ **DATE:** _____
NAME: _____
(type or print)

CUSTOMER: East Ramapo Central School District, 105 South Madison Avenue, Spring Valley, NY 10977

AUTHORIZED SIGNATURE: _____ **DATE:** _____
NAME: _____
(type or print)

PUNCHLIST ITEMS

Attach additional page(s) as necessary. Number of pages attached _____.

ATTACHMENT J

STANDARDS OF SERVICE & COMFORT

In general, the space temperature will be maintained as follows:

Heating Season - (Sept. - May)

Space	Maximum average temperature
Occupied	70 deg F
Unoccupied	55 deg F
Storage area requiring heat	40 deg F, except where existing use does not permit
Areas not requiring heat	Minimum temperature required to prevent damage to the facility

Cooling Season (May - Sept.)

Space	Minimum average temperature
Occupied	72 deg F
Unoccupied	80 deg F
Storage area requiring cooling	N/A
Areas not requiring cooling	N/A

ATTACHMENT K
TEST INSTALLATION ACCEPTANCE LETTER

[PLACE ON CUSTOMER LETTERHEAD]

Date _____

Mr. Peter Christakis
Senior Vice President
Ameresco, Inc.
111 Speen Street
Suite 410
Framingham, MA 01701

Re: Energy Services Agreement (the “*ESA*”; capitalized terms used and not defined herein shall have the meanings given to such terms in the ESA) dated as of _____, 2023 by and between East Ramapo Central School District (“*Customer*”) and Ameresco, Inc. (“*Ameresco*”)

Dear Mr. Christakis:

Customer has reviewed samples of certain ECMs (as set forth on the list attached hereto) to be installed pursuant to the ESA. Customer hereby approves such ECMs and, if applicable, their respective lighting levels, for installation in Customer’s Property located at [_____]. Ameresco and its lenders may rely upon Customer’s approval herein for the purpose of procuring such ECMs to be used in the performance of the ESA.

Sincerely,

East Ramapo Central School District

By: _____

Duly Authorized Signatory

Name: _____

Title: _____

Date: _____

ASSET LIFE CHART

East Ramapo Central School District - Energy Performance Contract

Weighted Average Reasonably Expected Economic Life of Financed Assets

	Asset	School	FIM	Cost of Each Asset	Economic Life of Each Asset
1	Lighting System Improvements	1 ChestnutMS	Lighting System Improvements	\$ 268,023	10
2	Lighting System Improvements	2 KakiatES	Lighting System Improvements	\$ 418,072	10
3	Lighting System Improvements	3 EldoradoES	Lighting System Improvements	\$ 172,756	10
4	Lighting System Improvements	4 ElmwoodES	Lighting System Improvements	\$ 139,658	10
5	Lighting System Improvements	5 FleetwoodES	Lighting System Improvements	\$ 163,395	10
6	Lighting System Improvements	6 HempsteadES	Lighting System Improvements	\$ 163,837	10
7	Lighting System Improvements	7 MargettsES	Lighting System Improvements	\$ 111,362	10
8	Lighting System Improvements	8 RamapoHS	Lighting System Improvements	\$ 593,603	10
9	Lighting System Improvements	9 SpringValleyHS	Lighting System Improvements	\$ 577,356	10
10	Lighting System Improvements	10 Admin	Lighting System Improvements	\$ 260,589	10
11	Integrated and New Energy Management Systems	11 ChestnutMS	Integrated and New Energy Management Systems	\$ 195,755	15
12	Integrated and New Energy Management Systems	12 KakiatES	Integrated and New Energy Management Systems	\$ 65,474	15
13	Integrated and New Energy Management Systems	13 EldoradoES	Integrated and New Energy Management Systems	\$ 45,133	15
14	Integrated and New Energy Management Systems	14 ElmwoodES	Integrated and New Energy Management Systems	\$ 32,864	15
15	Integrated and New Energy Management Systems	15 FleetwoodES	Integrated and New Energy Management Systems	\$ 35,286	15
16	Integrated and New Energy Management Systems	16 GrandviewES	Integrated and New Energy Management Systems	\$ 35,931	15
17	Integrated and New Energy Management Systems	17 HempsteadES	Integrated and New Energy Management Systems	\$ 33,348	15
18	Integrated and New Energy Management Systems	18 LimeKilnES	Integrated and New Energy Management Systems	\$ 54,820	15
19	Integrated and New Energy Management Systems	19 MargettsES	Integrated and New Energy Management Systems	\$ 28,667	15
20	Integrated and New Energy Management Systems	20 PomonaMS	Integrated and New Energy Management Systems	\$ 28,667	15
21	Integrated and New Energy Management Systems	21 RamapoHS	Integrated and New Energy Management Systems	\$ 103,897	15
22	Integrated and New Energy Management Systems	22 SpringValleyHS	Integrated and New Energy Management Systems	\$ 113,744	15
23	Integrated and New Energy Management Systems	23 SummitParkES	Integrated and New Energy Management Systems	\$ 28,667	15
24	Integrated and New Energy Management Systems	24 Admin	Integrated and New Energy Management Systems	\$ 66,420	15
25	Replace Unit Ventilators	25 EldoradoES	Unit Ventilator Replacements	\$ 1,282,187	20
26	Replace Unit Ventilators	26 ElmwoodES	Unit Ventilator Replacements	\$ 1,282,190	20
27	Replace Unit Ventilators	27 FleetwoodES	Unit Ventilator Replacements	\$ 1,372,597	20
28	Replace Unit Ventilators	28 GrandviewES	Unit Ventilator Replacements	\$ 1,244,488	20
29	Replace Unit Ventilators	29 HempsteadES	Unit Ventilator Replacements	\$ 376,206	20
30	Replace Unit Ventilators	30 LimeKilnES	Unit Ventilator Replacements	\$ 1,282,190	20
31	Replace Unit Ventilators	31 SummitParkES	Unit Ventilator Replacements	\$ 1,367,948	20
32	Vending Misers	32 RamapoHS	Control Vending Machines	\$ 1,742	15
33	Vending Misers	33 SpringValleyHS	Control Vending Machines	\$ 896	15
34	Infiltration Reductions	34 ChestnutMS	Infiltration Reductions	\$ 44,702	20
35	Infiltration Reductions	35 KakiatES	Infiltration Reductions	\$ 12,626	20
36	Infiltration Reductions	36 EldoradoES	Infiltration Reductions	\$ 35,620	20
37	Infiltration Reductions	37 ElmwoodES	Infiltration Reductions	\$ 36,172	20
38	Infiltration Reductions	38 FleetwoodES	Infiltration Reductions	\$ 10,023	20
39	Infiltration Reductions	39 HempsteadES	Infiltration Reductions	\$ 15,488	20
40	Infiltration Reductions	40 LimeKilnES	Infiltration Reductions	\$ 3,700	20
41	Infiltration Reductions	41 MargettsES	Infiltration Reductions	\$ 11,978	20
42	Infiltration Reductions	42 PomonaMS	Infiltration Reductions	\$ 6,077	20
43	Infiltration Reductions	43 RamapoHS	Infiltration Reductions	\$ 52,062	20
44	Infiltration Reductions	44 SpringValleyHS	Infiltration Reductions	\$ 105,019	20
45	Infiltration Reductions	45 SummitParkES	Infiltration Reductions	\$ 3,938	20
				\$ 12,285,174	17.3

PRO FORMA CASH FLOW

East Ramapo CSD - Pro-Forma

Initial Project Costs:	
Present Value of O&M and M&V (excluded from State Aid)	\$ 104,845
District A/E Design and Specifications	\$ 803,703
Implementation costs for the energy efficiency measures	\$ 11,376,626
Total Initial Project Costs	\$ 12,285,174
Estimated Rebates and Incentives (NYSERDA)	\$ 185,045
Net Project Costs After Rebates	\$ 12,100,129

Financial Assumptions	
Improvements excluded from State Aid	\$ 668,878
Term of Project (yrs)	18.0 yrs
Term of Financing (yrs)	15.0 yrs
Estimated Financing Rate	3.50%
Payments per year (frequency)	1
Discount Rate	3.50%
Net Present Value of cash flow	\$ 2,460,256
SED contribution ratio	44.0%
Average Energy escalation rate (annual)	2.00%
Average Cost escalation rate (annual)	3.00%
Project Simple Payback	17.08

Pro-forma												
Year	1	2	3	4	5	6	7	8	9	10	11	12
	Annual Energy Costs Without Improvements	Annual Energy Costs With Improvements	Annual Energy Cost Savings (1 - 2)	O&M Savings	Total Project Savings (3 + 4)	Demand Response Revenues	Payments for Financing Equipment	Payments for Ongoing Services	Net Annual Benefits (5 + 6 - 7 - 8) without State Financial Assistance	State Financial Assistance	Net Annual Benefits (8 + 9) with State Financial Assistance	Cumulative Cash Flow
1	\$ 2,137,039	\$ 1,423,730	\$ 713,309	\$ 9,207	\$ 722,516	\$ -	\$ 1,008,842	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 69,645
2	\$ 2,179,780	\$ 1,452,205	\$ 727,575	\$ 9,392	\$ 736,967	\$ -	\$ 1,023,292	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 139,291
3	\$ 2,223,375	\$ 1,481,249	\$ 742,127	\$ 9,579	\$ 751,706	\$ -	\$ 1,038,032	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 208,936
4	\$ 2,267,843	\$ 1,510,874	\$ 756,969	\$ 9,771	\$ 766,740	\$ -	\$ 1,053,066	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 278,581
5	\$ 2,313,200	\$ 1,541,091	\$ 772,109	\$ 9,966	\$ 782,075	\$ -	\$ 1,068,401	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 348,226
6	\$ 2,359,464	\$ 1,571,913	\$ 787,551	\$ 10,166	\$ 797,717	\$ -	\$ 1,084,042	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 417,872
7	\$ 2,406,653	\$ 1,603,351	\$ 803,302	\$ 10,369	\$ 813,671	\$ -	\$ 1,099,996	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 487,517
8	\$ 2,454,786	\$ 1,635,418	\$ 819,368	\$ 10,576	\$ 829,944	\$ -	\$ 1,116,270	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 557,162
9	\$ 2,503,882	\$ 1,668,127	\$ 835,755	\$ 10,788	\$ 846,543	\$ -	\$ 1,132,869	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 626,808
10	\$ 2,553,959	\$ 1,701,489	\$ 852,470	\$ 11,004	\$ 863,474	\$ -	\$ 1,149,800	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 696,453
11	\$ 2,605,039	\$ 1,735,519	\$ 869,520	\$ 11,224	\$ 880,744	\$ -	\$ 1,167,069	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 766,098
12	\$ 2,657,139	\$ 1,770,229	\$ 886,910	\$ 11,448	\$ 898,358	\$ -	\$ 1,184,684	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 835,743
13	\$ 2,710,282	\$ 1,805,634	\$ 904,648	\$ 11,677	\$ 916,326	\$ -	\$ 1,202,651	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 905,389
14	\$ 2,764,488	\$ 1,841,746	\$ 922,741	\$ 11,911	\$ 934,652	\$ -	\$ 1,220,978	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 975,034
15	\$ 2,819,778	\$ 1,878,581	\$ 941,196	\$ 12,149	\$ 953,345	\$ -	\$ 1,239,671	\$ -	\$ (286,325)	\$ 355,971	\$ 69,645	\$ 1,044,679
16	\$ 2,876,173	\$ 1,916,153	\$ 960,020	\$ 12,392	\$ 972,412	\$ -	\$ -	\$ -	\$ 972,412	\$ -	\$ 972,412	\$ 2,017,091
17	\$ 2,933,697	\$ 1,954,476	\$ 979,221	\$ 12,640	\$ 991,860	\$ -	\$ -	\$ -	\$ 991,860	\$ -	\$ 991,860	\$ 3,008,952
18	\$ 2,992,371	\$ 1,993,566	\$ 998,805	\$ 12,893	\$ 1,011,698	\$ -	\$ -	\$ -	\$ 1,011,698	\$ -	\$ 1,011,698	\$ 4,020,649
Totals	\$ 45,758,947	\$ 30,485,350	\$ 15,273,598	\$ 197,151	\$ 15,470,749	\$ -	\$ 16,789,661	\$ -	\$ (1,318,912)	\$ 5,339,561	\$ 4,020,649	\$ 4,020,649
	Annual Energy Costs Savings		33.4%									
	Annual Energy Savings (mmbtu)		40.6%									

Notes:

- 1 This Proforma Cash Flow reflects an estimated tax exempt lease rate of 3.5%. The actual rate will increase or decrease based on market conditions and customer credit rating at the time of lease funding.
- 2 Savings are based on current utility rate structures and usage information provided for purposes of this project.

STATE MONITORS

EAST RAMAPO CENTRAL SCHOOL DISTRICT

State Monitors

A Fiscal Monitor was first assigned to the East Ramapo Central School District in June 2014. Monitors for the ERCSD, worked with the board of to develop proposed financial plans which are required to be approved by the Commissioner and are updated annually. In the case of the ERCSD, the monitors also work with the board of education to develop a long-term strategic academic and fiscal improvement plan, which was approved by the Commissioner and is revised annually.

In May 2025, the term of the monitor legislation in the ERCSD, was extended for two-additional years beginning with the start of the 2025-2026 school year. As a result, monitors in the ERCSD will work with the boards of the district to develop a three-year financial plan that will include 2025-2026 and two subsequent school years. For ERCSD the monitors will work with the board of education to develop a long-term strategic academic and fiscal improvement plan for the same time period.

- Serve as a non-voting ex-officio member of the board of education.
- Assist the board in adopting a conflict of interest policy that ensures board members and administrators act in the district's best interest.
- Ensure that the budget is balanced and consistent with the district's long-term financial plan.
- Provide semiannual reports on the academic, fiscal, and operational status of the district, except for the WUFSD, where the report is limited to fiscal and operational issues.
- Assist in resolving any disputes and conflicts between the superintendent and the board and among members of the board.
- Disapprove travel outside the State paid for by the district;
- Recommend cost saving measures including, but not limited to, shared service agreements; and
- Notify the commissioner and board in writing regarding violations of the academic or financial plan.
- **The ERCSD monitors have the additional authority to:**
- Override proposed or adopted resolutions or submit resolutions for adoption by the board of education in the event that the district is in violation of law or regulation or taking actions inconsistent with the approved long-term strategic academic and fiscal improvement plan.
- Approve or disapprove the appointment of a superintendent.
- Mandate that board of education members, the superintendent, and/or other school district officers undergo up to 15 hours of training per year.
- The monitors currently assigned by the Commissioner to these districts are as follows:

Mr. Shawn Farr, Fiscal Monitor

Mr. Farr retired from the position of Chief Financial Officer of the Rochester City School District and had previously served as the Chief Financial Officer or Chief Operations Officer of numerous school districts, institutes of higher education, and not-for-profit organizations, and as special assistant to Pennsylvania's Secretary of Education. Additionally, Mr. Farr worked with Dr. Jallow when she was the monitor assigned to the Rochester City School District.

Dr. Shelley Jallow, Academic Monitor

Dr. Shelley Jallow was previously the State-appointed Monitor for the Rochester City School District. Prior to that, she served as Senior Director of School Improvement in the Learning Innovations Program at WestEd. Prior to joining WestEd, Dr. Jallow supervised, coached and mentored school and district leaders in school districts throughout New Jersey, representing low-performing elementary, middle, and high schools. Her work resulted in a state designation change from Priority Schools to Schools in Good Standing. Dr. Jallow's classroom and administrative experience is vast, having served as a mathematics teacher, mathematics director, director of curriculum and instruction, chief academic officer, founding principal, assistant superintendent and deputy superintendent. She earned her doctorate in education at St. John Fisher College in Rochester.

Assistant Superintendent for Business

- **Eric Stark** Mr. Eric Stark began working as the Assistant Superintended for Business for the District on August 15, 2024. With 18 years of experience in school business administration, Mr. Stark brings a wealth of knowledge and expertise to our district.

Mr. Stark has worn many hats in his career, most recently serving as the Director of Business Administration at North Salem Central School District. Before that, he dedicated over two decades to the Carmel Central School District, starting as a Social Studies Teacher and teaching AP Macroeconomics, before rising to the position of Assistant Superintendent of Business. Notably, he served as the Interim Superintendent of Schools at Carmel Central from July 2020 to February 2021, providing steady leadership during the height of the pandemic.

He also served as President of the Lower Hudson Association of School Business Officials during the 2017-2018 school year. Mr. Stark holds an undergraduate degree from Brandeis University and an M.B.A. in Accounting from Baruch College.

Board Members

The nine Board members are elected to staggered three-year terms.

- **Shimon Rose, President**, Ward 4, a Chestnut Ridge resident, is serving his second term, which will expire in 2027
- **Sherry McGill, Vice-President**, Ward 3, a Spring Valley resident, is serving her second term, which will expire in 2026
- **Sabrina Charles-Pierre**, Ward 2, a Spring Valley resident, is serving a term which will expire in 2028.
- **Moshe Samuel Feder**, Ward 8, a Pomona resident, is serving his first term on the Board, which will expire in 2026.
- **Yitzchok Gruber**, Ward 6, a Monsey resident, is serving his first term on the Board, which will expire in 2028.
- **Moses Koth**, Ward 7, a Monsey resident, was elected to a first term on the Board, which will expire in 2027.
- **Simon Koth**, Ward 5, a Monsey resident, is serving his second term on the Board which will expire in 2026.
- **Hiram Rivera**, Ward 1, a Spring Valley resident, is serving his first term, which will expire in 2027.
- **Ephraim Weissmandl**, Ward 9, a Monsey resident, was re-elected in May 2022, to a term which will expire in 2028.

**CREDIT OPINION
DATED DECEMBER 5, 2024**

CREDIT OPINION

5 December 2024



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East Ramapo Central School District, NY

Update following removal of negative outlook

Summary

[East Ramapo Central School District's](#) (Baa3) credit profile reflects uncertainty around the district's long-term financial position. The latest audited financials for fiscal 2024 reflect an unexpected surplus of \$30 million that bolsters available reserves to \$72 million equal to 24% of revenue. However, the large variance of roughly \$50 million in actual results compared to budget projections is a concern and further highlights the district's financial difficulties. The district's long history of financial challenges along with voters' and the school board's history of unwillingness to increase tax revenue is a material risk.

While the improved reserves and liquidity provide the district with greater resources today, the school board's historical management indicates the financial position will be gradually depleted over time. We will monitor the district's fiscal 2025 operating results, the fiscal 2026 budget, and plans for use of reserves going forward as to whether the district's fiscal management evolves to a more sustainable position.

The district's credit profile includes below-average resident income, a positive enrollment trend despite enrolling less than 20% of the school age district residents, moderate leverage driven by the unfunded OPEB liability and a likely very large amount of deferred maintenance across the district which requires significant capital investment. Environmental, social and governance risks are key rating drivers. For more information on these key drivers please read the ESG consideration.

Credit strengths

- » Recent operating surpluses leading to sound reserves
- » State fiscal and academic monitors provide oversight
- » Positive enrollment trend

Credit challenges

- » Very weak governance
- » Lack of voter support for property tax increases
- » Low resident income and wealth

Rating outlook

We do not assign outlooks to local governments with this amount of debt outstanding. The negative outlook was removed because of the improved financial position as of the fiscal 2024 audit.

Factors that could lead to an upgrade

- » A trend of voter approved operating budget that reflects sustainable structural balance
- » Re-authorization of the state fiscal monitor legislation that is equal or greater in authority over the district

Factors that could lead to a downgrade

- » Fiscal 2026 budget or financial projections that reflect ongoing failure to generate voter approved and structurally balanced operating budgets
- » Re-authorization of the state fiscal monitor legislation that reduces authority over the district compared to current levels

Key indicators

Exhibit 1

East Ramapo Central School District, NY

	2021	2022	2023	2024	Baa Medians
Economy					
Resident income	89.6%	88.4%	N/A	N/A	83.5%
Full value (\$000)	\$11,374,225	\$11,451,845	\$12,850,778	\$15,623,960	\$731,072
Population	133,487	135,408	N/A	N/A	10,869
Full value per capita	\$85,208	\$84,573	N/A	N/A	\$77,643
Enrollment	9,225	9,484	9,811	10,189	1,271
Enrollment trend	1.4%	2.4%	1.5%	3.4%	-2.5%
Financial performance					
Operating revenue (\$000)	\$216,182	\$259,782	\$275,227	\$299,025	\$20,769
Available fund balance (\$000)	-\$21,239	\$5,303	\$40,103	\$72,806	\$3,906
Net cash (\$000)	-\$10,882	-\$6,107	\$54,019	\$67,987	\$3,680
Available fund balance ratio	-9.8%	2.0%	14.6%	24.3%	14.7%
Net cash ratio	-5.0%	-2.4%	19.6%	22.7%	14.4%
Leverage					
Debt (\$000)	\$55,117	\$52,163	\$49,115	\$46,372	\$18,108
ANPL (\$000)	\$535,759	\$393,349	\$283,636	\$225,400	\$37,199
OPEB (\$000)	\$381,601	\$335,316	\$351,228	\$358,570	\$3,632
Long-term liabilities ratio	449.8%	300.6%	248.5%	210.8%	303.6%
Implied debt service (\$000)	\$4,153	\$3,866	\$3,643	\$3,412	\$1,259
Pension tread water (\$000)	\$13,257	\$3,649	\$11,420	N/A	\$953
OPEB contributions (\$000)	\$14,266	\$14,780	\$15,187	\$15,014	\$162
Fixed-costs ratio	14.7%	8.6%	11.0%	10.0%	11.3%

For definitions of the metrics in the table above please refer to the [US K-12 Public School Districts Methodology](#) or see the Glossary in the Appendix below. Metrics represented as N/A indicate the data were not available at the time of publication. The medians come from our most recently published [K12 Median Report](#).

Sources: US Census Bureau, East Ramapo Central School District, NY's financial statements and Moody's Ratings

Profile

East Ramapo Central School District is located in [Rockland County](#) (Aa1 stable) approximately 30 miles north of [New York City](#) (Aa2 stable). The district provides public education to grades K-12 with an enrollment of around 10,266 students as of August 2023. The district is governed by a nine-member board of education. Since 2016 the district has had a state appointed fiscal monitor and academic monitor.

Detailed credit considerations

The district's economy benefits from its proximity to New York City and has relatively affordable housing options for the region. The affordability has contributed to a growing immigrant population and an increase in district enrollment that is expected to continue

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the issuer/deal page on <https://ratings.moody's.com> for the most updated credit rating action information and rating history.

over the next three years. Despite enrollment growth, the district provides public education to less than 30% of the district's total student population with most students attending non-public schools, one of the lowest capture rates in the country. This unique student composition has led to a lack of voter support for the district's annual budget and proposed property tax increases.

The financial position has recently improved with an available fund balance at the end of fiscal 2024 equal to \$72 million or 24% of revenue. A sound reserve level that has been maintained for the last two fiscal years. The fiscal 2024 operating results are in contrast to the district's prior management teams indication during last fiscal year that the financial position was likely to decline. Our prior credit opinion also included financial projections that indicated future year operating deficits assuming only a 1% annual tax increase that would deplete reserves by fiscal 2028.

To date, the impact of the improved financial position on the district's credit profile is limited by the long history of financial challenges and lack of voter support for material property tax increases. We will review the fiscal 2025 operating results, fiscal 2026 budget, and plans for the use of reserves going forward in considering positive pressure on the rating.

The 2024 operating surplus was driven by expenditure savings of around \$29 million from salaries and benefits that were budgeted for 100% full-time-equivalent (FTE) employees despite the district's actual FTE's trending below full staffing. The other driver of the surplus was the use of federal grant revenue that was not budgeted.

Fiscal 2025 began with a new superintendent, assistant superintendent for business, and a new state fiscal monitor. The budget was approved with a 1% property tax increase followed by an additional 4.38% increase mandated by the state education commissioner which the board ultimately approved. The budget also included the use of \$18 million in fund balance as a revenue source. Currently the district anticipates a balanced to positive year-end given what is expected to be a positive variance in expenses and the tax increase.

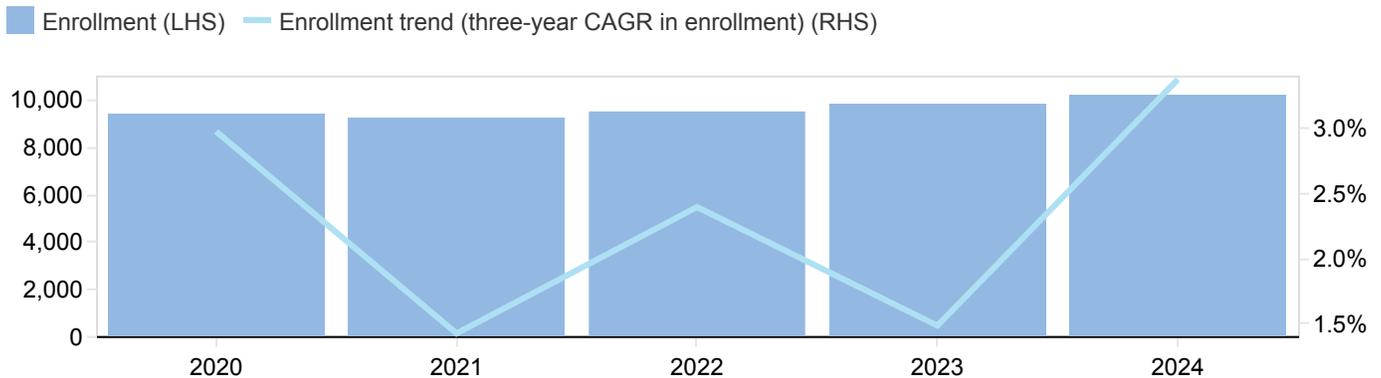
Another factor that will impact the credit profile of the district over the next year is the expiration of the district's state fiscal monitor legislation that expires on June 30, 2025. We will monitor whether new legislation provides for greater, less or similar powers as are currently authorized.

The district's leverage is a moderate 211% of fiscal 2024 revenue driven primarily by the unfunded OPEB liability. However, the district has accumulated significant deferred maintenance across the district. The 2023 building conditions survey report estimated over \$230 million in costs to address the capital needs.

Economy

Exhibit 2

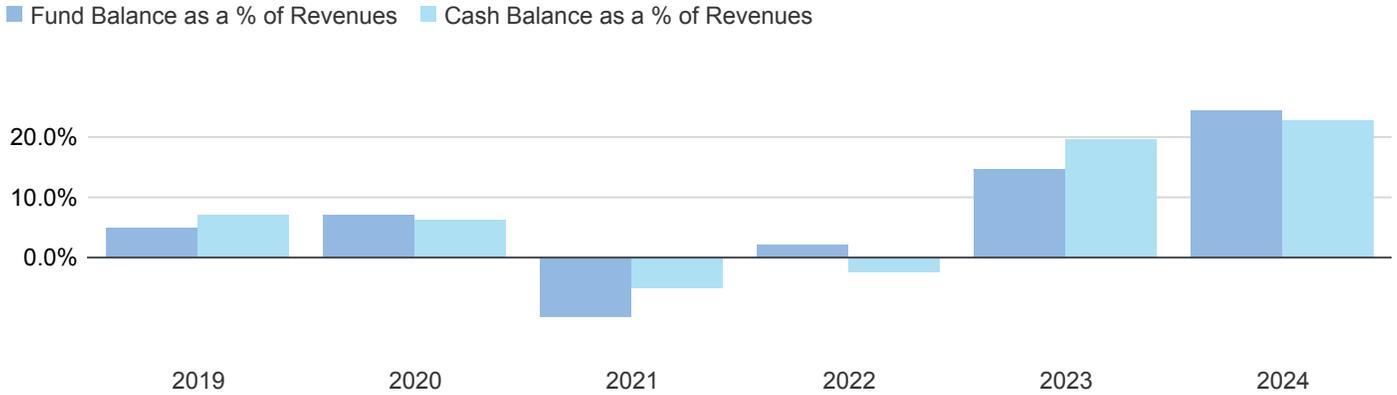
Enrollment likely to remain positive despite large portion of district students attending private school



Source: Moody's Ratings

Financial operations

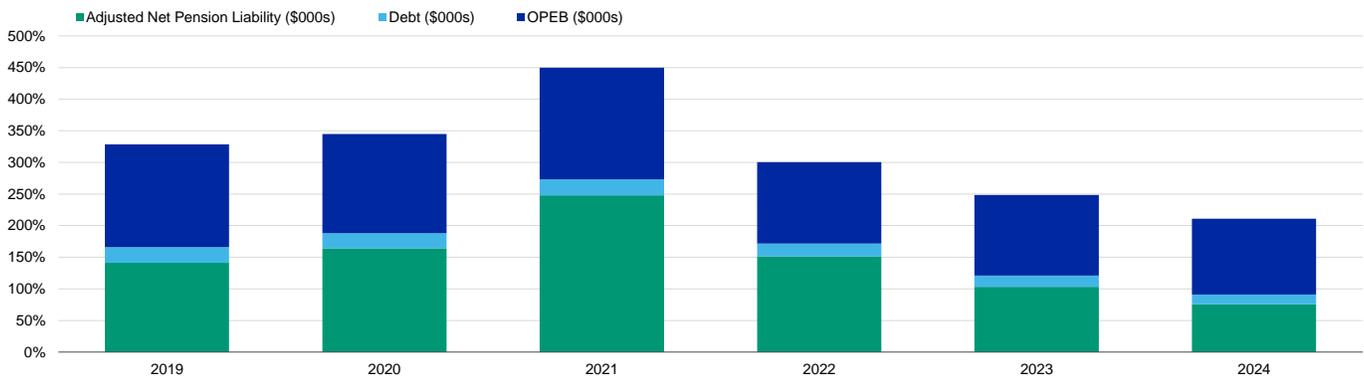
Exhibit 3
Financial position has recently stabilized with satisfactory reserves



Source: Moody's Ratings

Leverage

Exhibit 4
Leverage driven by large unfunded OPEB liability
 Long-term liabilities as a % of revenue



Decline in the leverage ratio is largely driven by the increase in the Moody's adjusted discount rate used for ANPL and ANOL
 Source: Moody's Ratings

» New York school districts participate in the New York State Teachers' Retirement System (NY STRS) and State and Local Employees' Retirement System (SLERS). Based on the plans' reporting, we project New York school districts' ANPLs will fall by around 19% in fiscal 2024. While results will vary across US public pension systems, we generally expect local governments' fiscal year 2025 ANPLs to fall by another 20% based on our aggregate estimates. In contrast to strongly funded pensions, some New York school districts carry exceptionally high OPEB liabilities and costs because of the magnitude of promised retiree health care benefits and inability to prefund these obligations under state law.

ESG considerations

Environmental

Environmental risk remains a key rating driver given the district's building condition survey results that rated all 13 schools as either failing or unsatisfactory indicating significant infrastructure investment is needed. Positively, over the last year the district has invested in short-term remediation of the poor water supply by installing water filters and access to drinking water in all school buildings.

Social

Social challenges are a key rating driver and include a low graduation rate, very high dropout rates, high percentage of English as a second language students, and a high poverty rate compared to the state average for school districts.

Governance

Weak governance is a key driver to the rating because of the inability of the school board to provide adequate resources for students despite the state monitors powers and efforts to adhere to long-term strategic fiscal and academic plans. The weak governance also impacts the district's ability to effectively manage a challenging social and demographic profile.

New York school districts have an Institutional Framework score ¹ of Aa. Control of revenue varies across the sector with some districts primarily dependent on state-controlled state aid that is allocated based largely on wealth, while others are funded primarily with locally controlled property taxes. Historically, the state has provided regular increases in annual state aid. The state's property tax caps provide enough room for districts to meaningfully raise property taxes each year. Districts can go to voters for increases that exceed the caps.

Rating methodology and scorecard factors

The US K-12 Public School Districts Methodology includes a scorecard, a tool providing a composite score of a school district's credit profile based on the weighted factors we consider most important, universal and measurable, as well as possible notching factors dependent on individual credit strengths and weaknesses. Its purpose is not to determine the final rating, but rather to provide a standard platform from which to analyze and compare school district credits.

The difference between the public rating and the scorecard-indicated rating is the history of financial challenges including the lack of voter approved budgets in 12 out of the last 16 fiscal years, very weak governance, material social risks, and potential environmental risk.

Exhibit 5

East Ramapo Central School District, NY

	Measure	Weight	Score
Economy			
Resident Income (MHI Adjusted for RPP / US MHI)	88.4%	10.0%	A
Full value per capita (full valuation of the tax base / population)	115,384	10.0%	Aa
Enrollment trend (three-year CAGR in enrollment)	3.4%	10.0%	Aaa
Financial performance			
Available fund balance ratio (available fund balance / operating revenue)	24.3%	20.0%	Aa
Net cash ratio (net cash / operating revenue)	22.7%	10.0%	Aa
Institutional framework			
Institutional Framework	Aa	10.0%	Aa
Leverage			
Long-term liabilities ratio ((debt + ANPL + adjusted net OPEB) / operating revenue)	210.8%	20.0%	Aa
Fixed-costs ratio (adjusted fixed costs / operating revenue)	10.0%	10.0%	Aaa
Notching factors			
Potential for significant change in leverage	-0.50		
Scorecard-Indicated Outcome			Aa2
Assigned Rating			Baa3

The complete list of outstanding ratings assigned to the East Ramapo Central School District, NY is available on their [issuer page](#). Details on the current ESG scores assigned to the East Ramapo Central School District, NY are available on their [ESGView page](#).

Sources: US Census Bureau, East Ramapo Central School District, NY's financial statements and Moody's Ratings

Appendix

Exhibit 6

Key Indicators Glossary

	Definition	Typical Source*
Economy		
Resident income	Median Household Income (MHI), adjusted for Regional Price Parity (RPP), as a % of the US	MHI: American Community Survey (US Census Bureau) RPP: US Bureau of Economic Analysis
Full value (\$000)	Estimated market value of taxable property accessible to the district	State repositories, district's audited financial reports, offering documents or continuing disclosure
Population	Population of school district	American Community Survey (US Census Bureau)
Full value per capita	Full value / population of school district	
Enrollment	Student enrollment of school district	State data publications
Enrollment trend	3-year Compound Annual Growth Rate (CAGR) of Enrollment	State data publications; Moody's Ratings
Financial performance		
Operating revenue (\$000)	Total annual operating revenue in what we consider to be the district's operating funds	Audited financial statements
Available fund balance (\$000)	Committed, assigned and unassigned fund balances in what we consider to be the district's operating funds	Audited financial statements
Net cash (\$000)	Net cash (cash and liquid investments minus short-term debt) in what we consider to be the district's operating funds	Audited financial statements
Available fund balance ratio	Available fund balance / Operating Revenue	Audited financial statements
Net cash ratio	Net Cash / Operating Revenue	Audited financial statements
Leverage		
Debt (\$000)	District's direct gross debt outstanding	Audited financial statements; official statements
ANPL (\$000)	District's pension liabilities adjusted by Moody's to standardize the discount rate used to compute the present value of accrued benefits	Audited financial statements; Moody's Ratings
OPEB (\$000)	District's net other post-employment benefit (OPEB) liabilities adjusted by Moody's to standardize the discount rate used to compute the present value of accrued benefits	Audited financial statements; Moody's Ratings
Long-term liabilities ratio	Debt, ANPL and OPEB liabilities as % of operating revenue	Audited financial statements, official statements; Moody's Ratings
Implied debt service (\$000)	Annual cost to amortize district's long-term debt over 20 years with level payments	Audited financial statements; official statements; Moody's Ratings
Pension tread water (\$000)	Pension contribution necessary to prevent reported unfunded pension liabilities from growing, year over year, in nominal dollars, if all actuarial assumptions are met	Audited financial statements; Moody's Ratings
OPEB contributions (\$000s)	District's actual contribution in a given period, typically the fiscal year	Audited financial statements; official statements
Fixed-costs ratio	Implied debt service, pension tread water and OPEB contributions as % of operating revenue	Audited financial statements, official statements, pension system financial statements

*Note: If typical data source is not available then alternative sources or proxy data may be considered. For more detailed definitions of the metrics listed above please refer to the [US K-12 Public School Districts Methodology](#).

Source: Moody's Ratings

Endnotes

- The institutional framework score categorically assesses whether a district has the legal ability to raise the bulk of its operating revenue at the local level or if the state determines the bulk of its operating revenue. Beyond the local versus state categorization, the strength of the institutional framework score is a measure of the district's flexibility in raising additional locally determined operating revenue. See [US K-12 Public School Districts Methodology](#) for more details.

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“Energy Performance Contract”***

***East Ramapo Central School District
Rockland County, New York***

Fiscal Advisors & Marketing, Inc.
250 South Clinton Street – Suite 502
Syracuse, New York 13202
Attn: Elyse M. Andrews
Email: eandrews@fiscaladvisors.com
Phone: (315) 752-0051 Ext. 349

Lessor/Agent: _____

Address: _____

Phone No. _____ Fax No. _____

E-mail address: _____

Contact Person: _____

Title: _____

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Prepayment Terms: _____

Signature: _____ **Date:** _____

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Upon verbal or written notification of successful bid award, the successful bidder shall be required to promptly deliver the leasing documents to both Fiscal Advisors & Marketing, Inc., Bond Counsel, and the School District Attorney at:

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