

AIA Document B72-

Standard Form of Agreement Between Owner and Architect

for Special Services

1988 EDITION

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.

AGREEMENT

made as of the **First** day of **March** in the year of **Nineteen Hundred and Ninety-Six**

BETWEEN the Owner: **Town of Reading**
(Name and address)

and the Architect: **Drumme Rosane Anderson, Inc.**
(Name and address)
141 Herrick Road
P.O. Box 299
Newton Centre, MA 02159

For the following Project:
(Include detailed description of Project, location, address and scope.)

Facilities evaluation and preliminary design services in respect to renovation of the Reading Memorial High School, Hawkes Field House and athletic fields and pool.

The Owner and the Architect agree as set forth below.

ARTICLE 1
ARCHITECT'S SERVICES

(Here list those services to be provided by the Architect under the Terms and Conditions of this Agreement. Note under each service listed the method and means of compensation to be used, if applicable, as provided in Article 8.)

Richard Radville assumes
includes basic asbestos
evaluation.

In accordance with Article III, paragraphs A, B & C of the Request for Proposal dated October 10, 1995 we will provide the following services:

- Investigate the existing conditions based upon visual inspection and research of all available documentation. This investigation of the existing physical plant will inventory the condition of materials and structural, mechanical and electrical systems and identify health safety, and environmental concerns. Additionally we will identify room sizes and capacities for determination of accommodating program needs. accessibility
(i.e. A.D.A.)
- Establish educational program needs through a series of in-depth interviews with your building committee, the superintendent, administration faculty, students and the community-at-large. This phase will also involve the development of enrollment projections as required by the Department of Education.
- Produce recommended solutions to address the physical and educational needs established above. These preliminary solutions will include the appropriate site plans, floor plans and system descriptions as well as preliminary cost estimates.

All of the above information will be compiled into a bound report (one original and ten copies) for your use in publicizing the Project for Town Meeting. DRA will further assist you in preparing for Town Meeting by preparing appropriate graphic materials including the camera-ready artwork for an informational "mailing" to be distributed by you to all voters. We will also attend Town Meeting to assist you with the presentation of this Project.

Schedule to be determined.

TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT

ARTICLE 2

OWNER'S RESPONSIBILITIES

2.1 The Owner shall provide full information regarding requirements for the Project. The Owner shall furnish required information as expeditiously as necessary for the orderly progress of the Work, and the Architect shall be entitled to rely on the accuracy and completeness thereof.

2.2 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

ARTICLE 3

USE OF ARCHITECT'S DOCUMENTS

3.1 The documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including reproducible copies, of the Architect's documents for the Owner's information, reference and use in connection with the Project. The Architect's documents shall not be used by the Owner or others on other projects, for additions to this Project or for completion of this Project by others, unless the Architect is adjudged to be in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect.

ARTICLE 4

ARBITRATION

~~4.1 Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise.~~

4.2 A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.

4.3 No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement signed by the Owner, Architect and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other

~~matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~4.4 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

ARTICLE 5

TERMINATION OR SUSPENSION

5.1 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

5.2 If the Owner fails to make payment when due the Architect for services and expenses, the Architect may, upon seven days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services.

5.3 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due, and all Termination Expenses as defined in Paragraph 5.4.

~~5.4 Termination Expenses shall be computed as a percentage of the compensation earned to the time of termination, as follows:~~

- ~~1. For services provided on the basis of a multiple of Direct Personnel Expense, 20 percent of the total Direct Personnel Expense incurred to the time of termination; and~~
- ~~2. For services provided on the basis of a stipulated sum, 10 percent of the stipulated sum earned to the time of termination.~~

ARTICLE 6

MISCELLANEOUS PROVISIONS

6.1 Unless otherwise provided, this Agreement shall be governed by the law of the principal place of business of the Architect.

6.2 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date payment is due the Architect pursuant to Paragraph 8.4.

Richard Radville had assumed we would get a basic asbestos report. See Article One.

6.3 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Architect shall assign this Agreement without the written consent of the other.

6.4 This Agreement represents the entire and integrated agreement between the Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

6.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

6.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

Who is doing this if the architect is not?

ARTICLE 7

PAYMENTS TO THE ARCHITECT

7.1 DIRECT PERSONNEL EXPENSE

7.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.

7.2 REIMBURSABLE EXPENSES

7.2.1 Reimbursable Expenses are ^{included in} ~~in addition to~~ the Architect's compensation and include expenses incurred by the Archi-

tect and Architect's employees and consultants in the interest of the Project for, but not limited to:

- .1 expense of transportation and living expenses in connection with out-of-town travel authorized by the Owner;
- .2 long-distance communications;
- .3 fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 reproductions;
- .5 postage and handling of documents;
- .6 expense of overtime work requiring higher than regular rates, if authorized by the Owner;
- .7 renderings and models requested by the Owner;
- .8 expense of additional coverage or limits, including professional liability insurance, requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants; and
- .9 Expense of computer-aided design and drafting equipment time when used in connection with the Project.

7.3 PAYMENTS ON ACCOUNT OF THE ARCHITECT'S SERVICES

7.3.1 Payments on account of the Architect's services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or as otherwise provided in this Agreement.

7.3.2 An initial payment as set forth in Paragraph 8.1 is the minimum payment under this Agreement.

7.4 ARCHITECT'S ACCOUNTING RECORDS

7.4.1 Records of Reimbursable Expenses and expenses pertaining to services performed on the basis of a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

ARTICLE 8

BASIS OF COMPENSATION

The Owner shall compensate the Architect as follows:

8.1 AN INITIAL PAYMENT OF _____ Dollars (\$ _____) shall be made upon execution of this Agreement and credited to the Owner's account at final payment.

8.2 COMPENSATION FOR THE ARCHITECT'S SERVICES, as described in Article 1, Architect's Services, shall be computed as follows:

(Insert basis of compensation, including stipulated sums, multiples or percentages, and identify the services to which particular methods of compensation apply, if necessary.)

THE LUMP SUM OF FORTY THOUSAND DOLLARS (\$40,000.00)

~~8.3 FOR REIMBURSABLE EXPENSES, as described in Article 7, and any other items included in Article 9 as Reimbursable Expenses, a multiple of one point one five (1.15) times the expenses incurred by the Architect, the Architect's employees and consultants in the interest of the Project~~

8.4 Payments are due and payable thirty (30) days from the date of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof, at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of Interest agreed upon.)

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding other requirements such as written disclosures or waivers.)

8.5 IF THE SCOPE of the Project or of the Architect's services is changed materially, the amounts of compensation shall be equitably adjusted.

ARTICLE 9

OTHER CONDITIONS

9.1 The architect represents that he has examined available documents available from the owner and that these documents contain sufficient information so that the architect can provide designated services in Article 1.

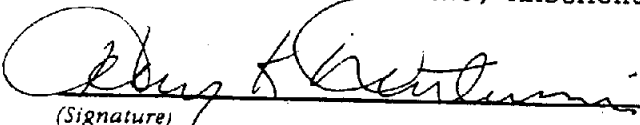
9.2 I certify that an appropriation in the amount of \$40,000.00 has been made and is available for compensation to the Architect for the work described in this Agreement, and that an officer or agent of the Town of Reading has been authorized to execute said contract and approve all requisitions and changes.


By: Elinor H. W. Hooper
Title: Town Treasurer

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

OWNER TOWN OF READING, MASSACHUSETTS

ARCHITECT DRUMMEY ROSANE ANDERSON, INC.





Harry K. Harutunian, Ph.D.
Superintendent of Schools

Owen Beenhouwer, President

(Printed name and title)

(Printed name and title)