



Massachusetts School Building Authority

Steven Grossman
Chairman, State Treasurer

Katherine P. Craven
Executive Director

May 23, 2011

Patrick J. Saitta
Municipal Building Consultants
200 Sutton Street
North Andover, MA 02133

Joel Seeley
Symmes Maini & McKee
1000 Massachusetts Avenue
Cambridge, MA 02138

Re: Marblehead Village School Project

Dear Pat and Joel:

I write in response to your memorandum of April 11, 2011 and as a follow up to our meeting on April 12, 2011 with the Town of Marblehead (the "District") regarding the Village School project.

As you know, the Massachusetts School Building Authority (the "MSBA") is very concerned about the high number of change orders for the Village School project, which resulted in a 49.18% increase to the base contract construction cost from \$11 million to \$16.4 million. The MSBA is particularly concerned that as the Owner's Project Manager (OPM) and Designer, you signed off on these change orders and according to the District advised them that this magnitude of change orders, well in excess of the \$1.1 million contingency, was acceptable and potentially eligible for reimbursement from the MSBA.

The Project Funding Agreement (the "PFA") between the MSBA and the Town (PFA), amended as of March 5, 2009 to account for the bid savings, expressly prohibits any changes to the project's scope or budget without the prior approval of the MSBA. The \$5.4 million in change orders dramatically increased the project budget and added to the project's scope. Further, as the OPM and Designer on several MSBA-funded projects, you have attended countless meetings with MSBA staff, where the MSBA has made it abundantly clear that the project budget and scope, as set forth in the Project Scope and Budget Agreement and the PFA, must be maintained and cannot be altered without the prior approval of the MSBA. The MSBA fully expects every Owner's Project Manager and Designer to guide their clients through the MSBA's process and manage their projects in such a way that school districts adhere to these fundamental tenets of the

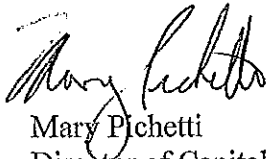
MSBA's grant program. It is troubling that the Town of Marblehead seems surprised at the MSBA's refusal to participate in any of the District's scope and budget changes that exceeded the approved contingency amount. Again, it is incumbent on you, as the OPM and Designer, to assist the District with meeting MSBA requirements.

I want to reiterate that the MSBA reviews change orders solely to determine whether they are eligible for reimbursement. The MSBA does not review or assess the validity or necessity of change orders. As you know, the MSBA's policy is to deny all change orders in the first instance and then review change orders for reimbursement at the end of the project, up to the amount of the agreed-upon contingency. It is disingenuous to suggest that Marblehead would not have approved all \$5.4 million in change orders if the MSBA had reviewed all of the Town of Marblehead's change orders as they were received. The MSBA has made it clear that a district must manage its change orders and approve as necessary to complete the project as bid, while complying with the terms of the PFA.

As stated in our meeting, upon the successful outcome of its town vote for the Glover School project, this District must submit its policy and procedure for change order review and approval to the MSBA before a PFA can be executed. The MSBA expects that, as OPM for the Glover project, Municipal Building Consultants will properly advise the District and monitor the project in accordance with the PFA and the MSBA's policies for change order review and budget revision requests. The MSBA will not tolerate any additional variances from the terms of its PFA for this District or any other district for which either consultant is engaged.

Please feel free to call me at (617) 720-4466 if you have any questions.

Sincerely,



Mary Pichetti
Director of Capital Planning

Cc: Brian Salzer, Acting Superintendent
Senator Thomas M. McGee
Representative Lori Ehrlich
EuRim Chun, Chair, School Committee
James E. Nye, Chair, Board of Selectmen
File 10.2 letters