

# Massachusetts School Building Authority

**Timothy P. Cahill**  
*Chairman, State Treasurer*

**Katherine P. Craven**  
*Executive Director*

May 13, 2009

Dr. Mark Masterson  
Superintendent  
Maynard Public Schools  
12 Bancroft Street  
Maynard, MA 01754

RE: Project Manager Approval  
Maynard High School  
MSBA Project No. 200801740505

Dear Superintendent Masterson:

As you are aware, pursuant to the provisions of G.L. c. 149, s. 44A ½ and 963 CMR 2.11, the Town of Maynard is required to procure the services of an Owner's Project Manager for the above-referenced project using a qualifications based selection process. As required by 963 CMR 2.11 (3), the Town of Maynard has certified in writing to the Massachusetts School Building Authority ("Authority") that it has used a qualifications based selection process that complies with Massachusetts law. Pursuant to 963 CMR 2.11(2) and G.L. c. 70B, s. 2, the Town of Maynard has requested in writing that the Authority approve the District's selection of Municipal Building Consultants, Inc. as the Owner's Project Manager for the above-referenced project. The Authority has reviewed the information submitted by the Town of Maynard in support of its selection of Municipal Building Consultants, Inc. Based upon the information provided by the Town of Maynard, the Authority hereby approves Maynard's selection of Municipal Building Consultants, Inc. for the above-referenced project. The Authority's approval is specific to Municipal Building Consultants, Inc. and to the key personnel identified by Municipal Building Consultants, Inc. in the proposal that was submitted to the Town of Maynard and reviewed by the Authority and as presented to MSBA's OPM Review Panel. Pursuant to the provisions of 963 CMR 2.11(4) and the applicable requirements of any agreements between the Authority and the Town of Maynard, any change in the OPM or its key personnel, as described in the attached organizational chart, must be approved in writing by the Authority. The Authority's approval is also based upon the District's representation that the Eligible Applicant for Maynard has designated Peter DiCicco as the individual who shall have the authority to act on behalf of the Owner under this Contract and who shall be responsible for day-to-day communication between Owner and the Owner's Project Manager. Any change in this designation must be approved in writing by the Authority.

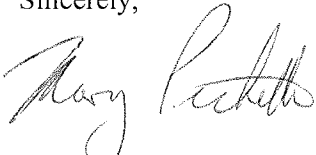
The Authority's approval of the District's selection, however, is subject to the provisions of 963 CMR 2.11 that, among other things, allow the Authority to rescind its approval and/or to direct the removal of the Owner's Project Manager in certain circumstances. The Authority retains the right to rescind its approval of Maynard's selection of Municipal Building Consultants, Inc. and to deny and/or recoup reimbursement for expenditures or costs related to the Owner's Project Manager services if

Municipal Building Consultants, Inc. does not perform its services to the satisfaction of the Authority. The Authority's approval is further subject to the execution of a contract between the Town of Maynard and Municipal Building Consultants, Inc. in a form that is satisfactory to the Authority, utilizing any standard contracts, forms, and provisions that the Authority may require.

It will be Maynard's responsibility to monitor the performance of Municipal Building Consultants, Inc., to ensure that Municipal Building Consultants, Inc. performs its obligations in a satisfactory manner, and to enforce the provisions of its contract with Municipal Building Consultants, Inc. The District must comply with all provisions of law and all conditions imposed by any agreements executed between the Authority and the Town of Maynard, including, but not limited to, a project funding agreement, project scope and budget agreement and a feasibility study agreement, that relate to the provision of services by an Owner's Project Manager. The Authority maintains the right to withhold reimbursement of costs and expenditures associated with Owner's Project Manager services if the Town of Maynard fails to comply with the applicable terms and conditions of its agreements with the Authority or any administrative directives issued by the Authority, now in effect or hereafter promulgated. The Authority's decision to approve Maynard's selection of an Owner's Project Manager; to approve changes in the Owner's Project Manager or its key personnel; or to decline to exercise any of its rights in relation to the selection or performance of the Owner's Project Manager shall not be construed as a waiver of the Authority's right to review, audit and disallow costs incurred by the District in relation to Owner's Project Manager services, to withhold reimbursement, or to take any other actions available to the Authority under the law or under its agreements with the Town of Maynard.

The Authority shall bear no liability of any kind whatsoever for any claims directly or indirectly arising out of the Authority's approval of Maynard's selection of the Owner's Project Manager; the Authority's approval or non-approval of changes in the Owner's Project Manager or its key personnel; the Authority's decision to rescind its approval or to direct the removal of an Owner's Project Manager; or any other alleged acts or omissions on the part of the Authority related to the selection, performance, acts or omissions of the Owner's Project Manager.

Sincerely,



Mary Pichetti  
Director of Capital Planning  
Massachusetts School Building Authority

cc: Senator James Eldridge (State House, Room 213-A, Boston, MA 02133)  
Representative Kate Hogan (State House, Room 33, Boston, MA 02133)  
Peter DiCicco (195 Main Street, Maynard, MA 01754)  
William Kohlman (12 Bancroft Street, Maynard, MA 01754)  
Robert Nadeau (195 Main Street, Maynard, MA 01754)

4.1 OPM Selection (Region 2)

Attachment