

# MINUTES



## Tuesday, October 29, 2014 Special Board Meeting Board Room, 6:30 PM

### 1. Call to Order – 6:34 PM

#### In attendance:

Ms. Tracy Baron, Board President; Ms. Lynne Black; Mr. Greengrass; Mr. Michael Goldman; Mr. Louis Schwartz; Ms. Jean Lucasey; Dr. Lisa Brady, Superintendent; and Ms. Fassler-Wallach, Assistant Superintendent of Finance, Facilities and Operations were in attendance.

Mr. Robert Reiser, Board Vice President, was not in attendance.

#### 1.01 Pledge of Allegiance

Ms. Black moved, and Ms. Lucasey seconded, that the Board waive the reciting of the Pledge of Allegiance.

Vote: 6 ayes - 0 nays

#### 1.02 Acceptance of the Agenda

Ms. Black moved, and Ms. Lucasey seconded, that the Board move to accept the October 29th Agenda.

Vote: 6 ayes - 0 nays

### 2. Board Actions

#### 2.01 Agreement

Ms. Black moved, and Ms. Lucasey seconded, that the Board move to agree and authorize the following:

**RESOLUTION: AUTHORIZING THE SCHOOL DISTRICT TO ENTER INTO TOLLING AGREEMENT AND TO DISCONTINUE THE ACTION, WITHOUT PREJUDICE, WITH A & J CONSTRUCTION OF NY, INC. REGARDING THE CAFETERIA RENOVATION AND RELATED WORK – DOBBS FERRY MIDDLE/HIGH SCHOOL**

**WHEREAS**, the Dobbs Ferry Union Free School District (the "District") by and through its Board of Education (the "Board") entered into a contract (the "Contract") with A&J Construction of NY, Inc. ("A&J"), pursuant to which A&J was to provide certain construction services relating to the project to renovate the Cafeteria at the Dobbs Ferry Middle/High School Complex (the "Project");

**WHEREAS**, at this date, a significant amount of work covered by the Contract remains incomplete and/or in deficient condition;

**WHEREAS**, on or about November 18, 2013, A&J sued the District in a litigation captioned A&J Construction of NY, Inc. v. Dobbs Ferry Union Free School District, et al., Index No. 68979/2013, currently pending in the Supreme Court of New York State, County of Westchester, concerning the within Project (the "Action"),

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alleging among other things that the District breached the Contract, allegations that the District strongly denies;

**WHEREAS**, since the commencement of the Action, the Board's approved construction counsel, John E. Osborn P.C., have defended the School District in the Action;

**WHEREAS**, on or about October 23, 2014, via a teleconference with the Court, the Court encouraged counsel for A&J and the District to discontinue the Action;

**AND WHEREAS**, at the Court's encouragement, counsel for A&J and the District proposed such a plan in the form of a tolling agreement, along with a stipulation to discontinue the Action, without prejudice, involving A&J and the District, and the District's attorneys recommend entering into such an agreement to toll the statutes of limitation and other time-related defenses until August 31, 2015, and executing a stipulation to discontinue the Action, without prejudice;

**NOW, BE IT RESOLVED** that the District's interests are best served through entering into a tolling agreement and executing a stipulation to discontinue the Action without prejudice;

**BE IT FURTHER RESOLVED** that the Board, hereby authorizes the School District's Assistant Superintendent for Finance, Facilities, and Operations to execute the tolling agreement, in the form attached and already signed by A&J, and the Board's approved construction counsel, John E. Osborn P.C., to execute the stipulation to discontinue the Action, without prejudice, annexed as Exhibit 1 of the tolling agreement and already signed by A&J's counsel.

Vote: 6 ayes - 0 nays

#### 4. Adjournment

At 6:50 PM, Ms. Black moved, and Ms. Lucasey seconded, to adjourn the meeting.

Vote: 6 ayes - 0 nays

**IF INTERESTED IN REVIEWING BACK UP MATERIALS PERTAINING TO ANY ITEMS ON THIS AGENDA, ONCE APPROVED BY THE BOARD OF EDUCATION PLEASE CONTACT LORETTA TULARZKO AT 693-1506.**



District Clerk