Meeting Minutes

ARIZONA INDUSTRIAL DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS MEETING

Location: Virtual Meeting via Zoom

Date and Time: Thursday, August 15, 2024
3:00 p.m.

Board Members Present (Appearing via Zoom):
Ken Burns
Marcel Dabdoub
Robin Romano
Andre Whittington

Board Members Absent:
David Castillo (with prior notice)

Staff Present (Appearing via Zoom):
Dirk Swift, Executive Director
Dan Dialessi, Chief Financial Officer
Pat Ray, Cathedral Rock Issuer Services, Bond Program Manager

Meeting Facilitator (Appearing via Zoom):
Kelly McGuire, Kutak Rock LLP

Presenters (Appearing via Zoom/Telephonically):
William Gelm, Buchalter
Dane Fernandes, Kutak Rock LLP
Anand Kesavan, Equitable School Revolving Fund LLC
Eugene Clark-Herrera, Orrick, Herrington & Sutcliffe
Mary Foote, Greater Arizona Development Authority

Actions:

1. **Call to Order:**

The meeting was called to order by Robin Romano, President of the Board of the Arizona Industrial Development Authority (AZIDA), at 3:00 p.m. (though Ms. Romano began speaking at 2:59 p.m. the clock turned to 3:00 p.m. as order was called). Board members Ken Burns, Marcel Dabdoub, Robin Romano and Andre Whittington attended via Zoom. Roll was called by Kelly McGuire, as meeting facilitator, and Mr. Castillo was noted as absent. He had previously informed Ms. Romano that he would be unable to attend. A quorum was declared present. Ms. Romano asked the Board if they had any conflicts related to the items on the agenda. None of the Board members declared a conflict.

2. **Agenda Items Considered:**

Presentation, Discussion & Adoption
Approval of Resolution No. 2024-30 – Authorizing the execution and delivery of a Loan Agreement Supplement No. 1 and a First Supplemental Indenture of Trust in connection with the Authority's previously issued Education Facility Revenue and Refunding Bonds (Caurus Academy Project) Series 2018, for the benefit of Edkey, Inc., successor in interest to Caurus Academy, Inc.

William Gelm, counsel to Edkey, Inc. ("Edkey"), informed the Board that Edkey had acquired property through a merger with Caurus Academy, Inc. ("Caurus") that is subject to bond financing originated with AZIDA. He explained that Edkey plans to lease one of the two Caurus campuses to BASIS Charter Schools ("BASIS"), for a term of one year, in order for BASIS to incubate a school in the Anthem area and, after that year, acquire and relocate into a newer, larger campus. Mr. Gelm explained there is a right, under the terms of the Loan Agreement and the Deed of Trust, to lease the property, but the terms of the Loan Agreement indicate the Issuer's approval is required. He admits it was probably an oversight in the original documents because he believes AZIDA is indifferent to the lease so long as Edkey obtains bondholder approval, which it has. He indicated the bondholder has directed the trustee to execute and consent to the lease and the subordination, non-disturbance and attornment agreement ("SNDA"), pending the approval by AZIDA, in order to be in compliance with the terms of the Loan Agreement.

Kelly McGuire clarified that AZIDA would be approving the supplemental documents that contemplate leasing Edkey's campus to BASIS.

Mr. Gelm indicated that clarification was correct.

Robin Romano asked Mr. Gelm to confirm it is the supplemental documents with the stated conditions that AZIDA would be approving and not the lease itself.

Mr. Gelm stated that was correct.

Mr. Dabdoub then asked which terms of the Indenture are being modified by the supplemental documents.

Ms. McGuire stated that the supplemental documents permit the execution of the lease and the SNDA. She then introduced Dane Fernandes, bond counsel for the original bond financing.

Mr. Fernandes explained that the BASIS lease and the SNDA, by themselves, would not fit within the section of the Loan Agreement regarding leasing of the facilities. The supplemental documents would amend the definition of "permitted encumbrances" to add the lease, with bondholder consent being the key element to the process.

Mr. Dabdoub stated he understood and then asked that if bondholder authorization is required, is AZIDA approval also required?

Mr. Fernandes replied that because AZIDA is a party to the original documents, AZIDA approval is necessary to amend the documents by way of the supplements.

Mr. Dabdoub then asked if AZIDA approval comes before or after bondholder approval.

Mr. Fernandes further explained the process noting that under the original documents, the consent of the bondholders is a prerequisite to AZIDA's ability to execute the supplemental documents. The bondholder consents would be provided to Ms. McGuire, who would sign off on the final forms of the documents and have them executed on behalf of AZIDA. While the consents have, in fact, already been obtained, if the consents were not delivered, then AZIDA would be under no obligation to execute the supplemental documents notwithstanding the approval sought today.

Board member **Ken Burns** then motioned to approve Resolution No. 2024-30, as presented. Board member **Marcel Dabdoub** seconded the motion.

By a vote of 4 ayes, 0 opposed and 0 abstentions, the motion passed.

Presentation, Discussion & Adoption
Approval of Resolution No. 2024-31 – Authorizing final approval of the issuance of not-to-exceed $300,000,000 of Senior National Charter School Revolving Loan Fund Revenue Bonds, Series 2024A – Social Bonds, in one or more tax-exempt and/or taxable series, for the benefit of Equitable School Revolving Fund, LLC.

Anand Kesavan of Equitable School Revolving Fund, LLC ("ESRF") thanked the Board and staff for its wonderful, many-year partnership. He informed the Board that ESRF has loaned more than $1.4 billion to some of the highest quality charter schools serving children around the country, saving a total of over $300 million for these schools through lower borrowing rates. ESRF is hoping to close its sixth issuance through AZIDA in October.

In 2019, AZIDA issued $90 million for the benefit of ESRF and, since then, ESRF has had more than a billion dollars issued for its benefit nationwide, with over $700 million through AZIDA. ESRF's structure works similarly to a state revolving fund where philanthropy funds are put into one big pot of money and then matched with capital markets investments. ESRF has been working with AZIDA to issue bonds once a year since 2019. ESRF then makes individual loans with the proceeds of the bonds to charter schools every month. ESRF has supported over 150 schools and almost 100,000 children and wants to continue growing. ESRF is looking forward to issuing at least once, if not twice, a year over the next decade.

ESRF has never had a borrower default on a loan, a statistic which ESRF's board and investors are extremely proud of. In the process, ESRF has saved these schools over $300 million. This savings allows the schools to operate more sustainably and create a "race to the top" so they do better. If the schools do better, ESRF does better, and then ESRF is able to recycle the money to help other schools. ESRF focuses on charter schools that serve a subset of the population. Of the students attending schools with ESRF financing, 88% identify as people of color and over 70% are economically disadvantaged. Those same schools are often amongst the top quartile of academic performers. In evaluating potential school borrowers, ESRF focuses on test scores, graduation rates and other career results. ESRF has been successful by focusing on serving marginalized communities, lower income students and very high performing schools.

Mr. Kesavan paused his presentation to ask if the Board had any questions and noted that the presentation may be a review for some of the Board. Ms. Romano asked the Board if they had questions. Hearing none, Ms. Romano directed Mr. Kesavan to continue the presentation.

Mr. Kesavan shared a slide deck showing a quick overview of some of the feedback received from several of the schools ESRF has served. ESRF saves the schools millions of dollars over time and the schools value not having to enter into complex financing transactions to finance their facilities. He likened the process to obtaining a home mortgage from Fannie Mae, with ESRF being the party that does all the diligence on the schools. Mr. Kesavan again noted that the feedback from the schools has been extremely positive.

Ms. Romano stated she believes Arizona School for the Arts attended the Board meeting for the last ESRF transaction and spoke highly of the program.

Mr. Kesavan shared Arizona School for the Arts has been one of ESRF's repeat borrowers. He added that Standard and Poor's ("S&P") has been a strong advocate of ESRF over the years. ESRF has an "A" senior lien rating from S&P with a positive outlook and plans to maintain that rating, with the hope of an upgrade within the next few months. The rating is an important part of ESRF's overall philosophy to investors.

ESRF started working with AZIDA in 2017 and hopes to double or triple the size of the bond issuances in the coming years with the continued support of AZIDA, S&P, over 80 of ESRF's investors, and almost 80 borrowers with more than 150 schools.

Mr. Kesavan thanked the Board for its long-term partnership and stated, "it takes a village to raise a nonprofit like ours." ESRF appreciates the relationship.

Ms. Romano said those thoughts are very appreciated.

Board member **Andre Whittington** then motioned to approve Resolution No. 2024-31, as presented. Board member **Ken Burns** seconded the motion.

By a vote of 4 ayes, 0 opposed and 0 abstentions, the motion passed.

3. **<u>Discussion; No Board Action – Trust Certificate Presentation</u>**

In relation to the previous agenda item, Anand Kesavan from ESRF and Eugene Clark-Herrera from Orrick Herrington & Sutcliffe, as bond counsel ("Orrick"), gave a presentation on trust certificates, a type of financing structure ESRF would like to pursue with AZIDA but that the Board has not yet seen.

Mr. Clark-Herrera introduced himself and informed the Board that Orrick would be in the role of special counsel in connection with the certificates. He then turned the presentation over to Mr. Kesavan.

Mr. Kesavan explained to the Board that in order to continue growing in a sustainable manner, ESRF is funding additional high performing charter schools in new jurisdictions. Given local tax law in certain localities (such as New York City ("NYC") and Washington, DC ("DC")), for policy reasons, those jurisdictions simply will not approve the tax-exemption documentation for bond issuances for issuers outside of those jurisdictions, such as AZIDA. To get those schools into ESRF's program, ESRF has developed the trust certificate structure to reimburse financings that necessarily had to have been issued by a local issuer and not part of an ESRF multistate bond financing. Local conduit issuers in NYC and DC have approved their respective tax-exempt charter school bonds issued by local issuers. ESRF then purchased those bonds. As such, ESRF is seeking to reimburse itself for the purchase of these NYC/DC bonds by selling trust certificates to investors issued by AZIDA so that ESRF will have a liquid and tradeable municipal security, therefore continuing to lower the cost of funding for high performing schools. The trust certificates will have the same credit as the ESRF senior lien bonds issued through AZIDA because the security will be the same. Like the senior lien bonds, the trust certificates will be secured by ESRF's pool of charter school loans. While the credit for the trust certificates is effectively the same as the senior lien bonds, the legal structure is different. Mr. Kesavan then turned the presentation back to Mr. Clark-Herrera to describe the legal structure.

Mr. Clark-Herrera explained that the structure involves the issuance of trust certificates by AZIDA, which would be backed by custody receipts that represent interests in credit enhanced charter school bonds (each a "Bond"). The Series 2024-1 trust certificates would be backed by a NYC charter school bond and the Series 2024-2 trust certificates would be backed by a DC charter school bond. For each of the NYC/DC Bonds, ESRF will enter into a custodial agreement with U.S. Bank, as custodian ("Custodian"), who also acts as the bond trustee under the related underlying Bond Indenture and as the master trustee under the ESRF Master Trust Indenture ("MTI"). ESRF will deposit the unenhanced Bond with the Custodian and receive custody receipts in return. In addition to depositing the NYC/DC Bonds with the Custodian, ESRF will also provide its own direct pay letter of credit as credit enhancement for each Bond. The holder of the custody receipts will receive payments from the direct pay letter of credit, backed by a senior obligation issued under the ESRF MTI (providing identical security as for the senior lien bonds). ESRF, through a sale agreement, will sell the custody receipts to AZIDA and AZIDA will enter into a trust agreement and deposit the custody receipts into the AZIDA certificates trust. AZIDA, through a certificate purchase agreement, will sell the Class A certificates to investors and the proceeds thereof will be used to purchase the custody receipts from ESRF. The trust certificates will behave like municipal securities and be issued in authorized denominations and will have CUSIP numbers assigned. The certificate trustee holds the custody receipts and distributes custody receipt payments to the certificate holders in accordance with the trust agreement. Mr. Clark-Herrera noted that this type of financing structure has been used in many other sectors of the municipal market such as housing. Mr. Clark-Herrera noted that this structure operates like a mortgage-backed security transaction. The end result is the holder of the trust certificate will benefit from the tax-exempt income stream that comes from the underlying tax-exempt NYC/DC Bond being held in the custody account. It is expected that when the trust certificates are sold by Siebert, they will price in a manner commensurate with the tax-exempt Bonds. ESRF will be the recipient of the sale proceeds and will recycle those sale proceeds into other loans to schools. Mr. Clark-Herrera then offered to answer questions.

Ms. Romano asked if any of the Board members had any questions.

Mr. Dabdoub responded no, and that he will need some time to go through all of the information.

Mr. Clark-Herrera stated that was the reason for this presentation as a discussion item prior to coming before the Board for final approval.

Mr. Dabdoub said that he was glad he didn't have to vote now.

Ms. Romano said that, from what she understands, there are certain municipalities that will not authorize TEFRA on other conduit issuers' bonds. Ms. Romano clarified that, therefore, ESRF is taking those bonds and putting them into a custodial agreement to create a trust. Out of that trust, ESRF will sell receipts to investors so it won't technically be a bond. Ms. Romano further clarified that the security instrument will be a trust, but it's still wrapped up like a bond.

Mr. Clark-Herrera thought that was a good characterization. He added that if the NYC bond borrower (Zeta Academy) stops paying its loan repayments under the NYC Bond documents, the holders of the Series 2024-1 trust certificates will still receive their scheduled interest and principal because it will be paid from the MTI for the ESRF senior obligations, and that is the core credit dynamic. Mr. Clark-Herrera stated that the key to this structure is to follow the money. If ESRF is paying through the letter of credit to the certificate holders, and the NYC Bond is also paying, that would be two payment streams going out. As ESRF makes the payments to the certificate holders, the custodian takes the payments from the NYC Bonds and reimburses ESRF so that money goes back into the MTI and supports all of the senior bonds that have ever been issued.

Ms. Romano said she just wanted to make sure she understood and asked if anyone else had questions. She noted that the Board is not voting on this today. This presentation was for educational purposes since this is different than what the Board normally sees and she and the Board's counsel felt it was important to learn more about the purpose and structure before being asked to vote on it. She then asked Mr. Clark-Herrera for a copy of the presentation.

Mr. Clark-Herrera said that the presentation had already been provided and encouraged all of the Board members to ask questions today or route them through Ms. McGuire so ESRF can be responsive and make sure the Board is comfortable with the structure.

Ms. McGuire invited the Board members to send her any questions that may occur after the meeting so she can ensure they are included in the materials for next month's meeting.

Mr. Whittington then addressed Mr. Clark-Herrera and said that he didn't have a question right now but would appreciate more context relating to the reasons behind ESRF taking this approach when this issue is brought before the Board again. Mr. Whittington said he thought Mr. Clark-Herrera's response to Ms. Romano's question and the second explanation was very helpful.

Mr. Clark-Herrera asked if Mr. Whittington wanted an explanation now or if he preferred to wait until the next meeting. Mr. Whittington stated it could wait and that he just wanted to add his request now.

Mr. Clark-Herrera added an additional point that was not presented earlier. The trust certificates will be municipal securities and ESRF will have a continuing disclosure obligation just like it will with the Bonds. The certificates will have CUSIP numbers and will be offered for sale by Siebert in authorized denominations similar to the Bonds, but Mr. Clark-Herrera reminded the Board that they are not Bonds, they are certificates.

Ms. Romano thanked Mr. Clark-Herrera and then asked Mr. Burns if he had any questions.

Mr. Burns responded that he did not have any questions but understands the need for it. He understands the TEFRA piece is always a question and he likes the creative solution.

Ms. McGuire added the underlying NYC/DC bonds have TEFRA approval from their local jurisdictions. The tax-exemption on the certificates is derived from the portfolio of assets as the tax-exempt bonds, not because they're issued by AZIDA.

Mr. Clark-Herrera said that was correct and it was a great question and clarification. When ESRF issues its bonds through AZIDA, typically AZIDA provides TEFRA approval and ESRF has also received local host TEFRA approval from each jurisdiction where a school loan is originated. If it's an Arizona loan, AZIDA is giving both of those approvals, but if a loan is for a school in Tennessee, ESRF obtains TEFRA from, for instance, the county commission in Nashville. In this instance, the NYC and DC jurisdictions won't grant TEFRA approval for the AZIDA bonds. NYC and DC have granted TEFRA approval for their own local bonds, though, which ESRF has purchased and now owns.

Mr. Dabdoub thanked Mr. Clark-Herrera and then asked Ms. McGuire if she would be distributing the presentation slides.

Ms. McGuire stated that she thought the slides were already in the share file, but she would certainly send them to the Board members.

Mr. Swift added that the slides are in this month's folder in SharePoint. The slides were a late arrival and may have been missed if SharePoint was accessed earlier in the week.

Ms. Romano thanked Mr. Swift for pointing that out because she didn't see them originally. She then thanked Mr. Kesavan and Mr. Clark-Herrera for the presentation and said it was appreciated very much and she looks forward to seeing ESRF next month. She urged the Board members to make sure they review the slides prior to the next meeting.

4. **Discussion; No Board Action – FY 2024 Conduit Revenue Bond Year in Review Presentation**

Pat Ray, the Bond Program Manager, gave an overview of the Conduit Revenue Bond Year in Review for FY 2024, since the Board would be meeting for its strategy session to discuss the program in more detail. He informed the Board there were 21 bond issues closed in 2024, with an aggregate principal amount of roughly $1.2 billion. As is typical, there was a concentration of bond issues in the fourth quarter of 2023, with 11 of the 21 bond issues closing in that quarter. He expects to close 10 or 11 financings in the upcoming fourth quarter, as well. Mr. Ray noted that October is queuing up to be a big month and expects five or six closings. Over the course of the year, the bond program generated about $5.4 million in gross revenues, with $4.4 million consisting of upfront fees from 19 of the 21 financings, at roughly $230,000 per transaction. The other two financings were annual fee transactions where the Borrowers elected to pay the annual fees. Typically, there are a few of those transactions each year, generating approximately $800-$900,000 annually. Most of these fees are due by January 1st, and invoices are sent out mid-November and are usually collected prior to year-end. There was $96,000 in application fees from 32 applications, indicating a healthy number of financings in the pipeline. Typically, the applications number in the 25-28 range. In comparison with 2023, there is good news and bad news. The good news is volume is up significantly, approximately 80% over 2023. The bad news is 2023 was awful, as it was half the volume of 2021 and 2022, which were huge years, so hopefully we are getting back to that volume level. Historically, AZIDA has closed over $10 billion in financings through 160 bond issues. There are, of course, headwinds going forward such as high interest rates and private activity bond volume cap limits. Increased competition from other issuers, locally and nationally, also makes business difficult. However, Mr. Ray is optimistic and thinks fiscal year 2025 will be better than fiscal year 2024.

Ms. Romano asked the Board if there were any questions. Seeing none, she noted that the Board will wait until next week to discuss the headwinds and all should think very good thoughts that the Federal Reserve starts down the path to lowering rates. Ms. Romano thanked Mr. Ray for his presentation.

5. **Presentation, Discussion and Possible Action**

Approval of Resolution No. 2024-32 – Approving the transfer of $200,000 to the Arizona Finance Authority for the purpose of providing funding for the Greater Arizona Development Authority's Technical Assistance Program.

Mary Foote, the Executive Director of the Greater Arizona Development Authority ("GADA"), updated the Board on the relaunch of GADA. The relaunch has given GADA the opportunity to speak with many communities outside of the metro urban areas to get a better understanding of their infrastructure needs. A number of the conversations with these communities has shown there is a great need for assistance relating to the financing of public infrastructure projects but also the technical assistance to prepare a project to qualify for GADA financing, such assistance to include environmental impact studies, feasibility studies, report surveys, and consultants. Ms. Foote is having conversations with community members and regular contact with organizations like the League of Cities and

Towns, Local First Arizona, the County Supervisors Association and the Arizona Association for Economic Development, the Councils of Governments and others to understand what those needs are. There is strong interest and support for additional technical assistance resources from GADA for public infrastructure projects.

Ms. Romano noted there was discussion during the May board meeting with regard to providing assistance for this very purpose to AFA and GADA to especially focus on rural and tribal areas, and she thinks this resolution will accomplish that by putting money where it needs to be to get these projects moving.

Board member **Marcel Dabdoub** then motioned to approve Resolution No. 2024-32, as presented. Board member **Andre Whittington** seconded the motion.

By a vote of 4 ayes, 0 opposed and 0 abstentions, the motion passed.

6. **Adoption of Minutes of the July 18, 2024 AZIDA Board Meeting**

Board member **Ken Burns** moved to adopt the minutes of the July 18, 2024 AZIDA Board meeting. Board member **Marcel Dabdoub** seconded the motion.

By a vote of 4 ayes, 0 opposed and 0 abstentions, the motion passed.

7. **Call to the Public**

Ms. McGuire announced a call to the public for comments.

No members of the public appeared in person or by telephone to comment.

8. **Announcements**

Ms. Romano announced that the Board will have a noticed strategy session on Sunday, August 18, 2024, and Monday, August 19, 2024, but the next regular meeting of the Arizona Industrial Development Authority is scheduled to be held in person on Thursday, September 19, 2024, at 3:00 p.m., but noted that people should consult the AZIDA website for any changes to meeting details.

9. **Adjournment**

Board member **Andre Whittington** motioned for adjournment of the AZIDA Board meeting at 3:50 p.m. Board member **Marcel Dabdoub** seconded.

By a vote of 4 ayes, 0 opposed and 0 abstentions, the motion passed.

[*Remainder of page left blank; signature page follows*]

Approval: The undersigned hereby certifies that the Board of Directors of the Arizona Industrial Development Authority formally adopted these Minutes on the date shown below.

Dirk Swift, Executive Director

September 19, 2024
Date of Board Action