

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
BOARD TELECONFERENCE MEETING  
WEDNESDAY, JUNE 2, 2021 AT 9:00 A.M.**

- 1. NOTICE OF PUBLIC MEETING**
- 2. ROLL CALL**
- 3. APPROVAL OF MEETING MINUTES**
  - a. Board Open Session Meeting Minutes of May 5, 2021
  - b. Board Executive Session Meeting Minutes of May 5, 2021
- 4. AUTHORITY MATTERS**
  - a. CEO Report
  - b. Chairman's Report
- 5. REPORT AND RECOMMENDATIONS OF THE AUDIT COMMITTEE (CHAIRMAN'S REPORT)**
  - a. 2020 Audited Financial Statements
- 6. REPORT AND RECOMMENDATIONS OF THE SCHOOL REVIEW COMMITTEE (CHAIRMAN'S REPORT)**
  - a. Release of Funds from Program Reserve, Award of Task Order, and Approval of the Final Project Charter - Newark Public Schools District – Technology High School - Boiler Room Vault and Façade Repair Emergent Project
- 7. REPORT AND RECOMMENDATIONS OF THE REAL ESTATE COMMITTEE (CHAIRMAN'S REPORT)**
  - a. Proposed New Rules for Disposition of Surplus Real and Personal Property of the New Jersey Schools Development Authority, N.J.A.C. 19:35
- 8. MONTHLY REPORTS**
  - a. *For Informational Purposes*
    - i. Active Projects Report
    - ii. Project Close Out Status Report
    - iii. Project Status Reports
    - iv. Contracts Executed Report/Amendments & Change Orders Executed Report
    - v. Contract Terminations Report (*no activity*)
    - vi. Settlement Activities Report (*no activity*)
    - vii. Diversity and Workforce Participation Report
    - viii. Regular Operating District Grant Activity Report
    - ix. Notification of Amendments to Goods and Services Contracts Not Exceeding \$100,000 or 10% of the Contract Value (*no activity*)
    - x. Communications Report (*no activity*)
    - xi. Monthly Financial Report
    - xii. Design Contract De-Obligations Report (*no activity*)
- 9. PUBLIC COMMENTS**
- 10. NO EXECUTIVE SESSION**
  - a. Litigation/Contract Matter(s) – OPMA Exemption N.J.S.A. 10:4-12b (7)  
  
CCD Report (*no activity*)
- 11. ADJOURNMENT**

**APPROVAL OF MEETING MINUTES**

**MAY 5, 2021 OPEN SESSION MINUTES**

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
BOARD OF DIRECTORS TELECONFERENCE MEETING  
WEDNESDAY, MAY 5, 2021**

A teleconference meeting of the Board of Directors of the New Jersey Schools Development Authority (SDA or the Authority) was held on Wednesday, May 5, 2021 at 9:00 A.M.

Participating by teleconference were:

Robert Nixon, Chairman  
Michael Kanef (Treasury)  
Bernard Piaia (DOE)  
David Nuse (EDA)  
Kevin Luckie (DCA)  
Richard Elbert  
Daniel Gumble  
Loren Lemelle  
Lester Lewis-Powder  
Michael Maloney  
Mario Vargas

being all the Members of the Board.

At the Chairman's request, Manuel Da Silva, chief executive officer; Andrew Yosha, vice president; Jane F. Kelly, vice president and assistant secretary; Donald Guarriello, vice president and chief financial officer; and Albert Barnes, chief counsel, of the SDA, participated in the meeting by teleconference. Joy Johnson of the Governor's Authorities Unit (GAU) also participated in the meeting by teleconference.

The meeting was called to order by Mr. Nixon, the Chairman of the Board. The Chairman asked Ms. Kelly to read the requisite notice of the meeting. Ms. Kelly announced that the meeting notice had been sent to the *Trenton Times* and *Star-Ledger* at least 48 hours prior to the

meeting. She said that a call-in number was provided on the SDA Website so that members of the public could participate in the meeting by teleconference. She also advised the Members that the call-in number for the meeting was posted at the SDA offices earlier in the morning. Ms. Kelly then conducted a roll call and indicated that all of the Members of the Board were present.

### ***Approval of Meeting Minutes***

The Chairman presented for consideration and approval the minutes of the Board's April 7, 2021 Open Session meeting. A copy of the meeting minutes and a resolution had been provided to the Members for review in advance of the meeting. Upon motion duly made by Mr. Luckie and seconded by Mr. Piaia, the Open Session minutes of the April 7, 2021 SDA Board meeting were approved by the Board with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3a***.

### ***Authority Matters***

#### ***CEO Report***

The Chairman then asked Mr. Da Silva for the Report of the CEO. Mr. Da Silva began his report with an update on design-build projects in construction. He said that exterior masonry work is being completed for the Paterson Union Avenue MS project. He advised that for the Perth Amboy HS project, production piles installation work will commence this month and all preparations are underway. For the Plainfield Woodland ES project, he reported that the Department of Community Affairs (DCA) has released design package 1 for work including foundations, and Epic Management, Inc. (Epic) and the design-builder will now obtain permits for this work. He added that, with this DCA release, the SDA has issued the notice-to-proceed with footings, foundations and structural steel work and the project is now recognized as having

entered the construction phase. He noted that Epic will now submit design package 2 for review by SDA.

Turning to design-bid-build projects in the construction stage, Mr. Da Silva reported that for the Orange Cleveland Street ES project, footings and foundations are complete. He said that underground utility work is complete and masonry work is ongoing. He added that structural steel is complete for the kitchen, multi-purpose room and stage areas of the project's addition. For the Orange HS project, he said that mechanical, electrical and plumbing rough in work for the addition is complete and final site work at the addition has begun.

Addressing projects in the programming/pre-design/in-house design stage, Mr. Da Silva advised the Board that there is no change in status to report for the Hoboken Demarest ES and Union City New Grade 7 to 9 School projects.

Turning to non-project related matters, Mr. Da Silva informed the Members that the SDA is scheduled to testify before the Assembly Budget Committee on Monday, May 10. He noted that the hearing will be virtual. He also advised the Board that on Friday, April 16, the SDA joined the Keansburg School District, Senator O'Scanlon, Assemblywoman DiMaso, Assemblyman Scharfenberger and Mayor Hoff to celebrate the groundbreaking for the new addition at the Port Monmouth Road School. He said that the addition is approximately 27,500 square-feet and will be combined with approximately 19,000 square-feet of renovations.

Finally, Mr. Da Silva said that he wanted to update the Board regarding the Astor Place property the SDA owns in Jersey City. He said that the Authority recognizes that the growing season will soon be here and is supportive of efforts to allow the Community Garden to go forward on the Astor Place property. He explained that, to accomplish this, in a March 29 letter, the SDA asked that the district and the two proposed sub-licensees provide certain information and documentation that the Authority will need to move forward and craft an agreement. He

advised that when the SDA had not heard back, management followed up with the district's counsel on April 12 to see when the Authority could expect to receive the information. He said that the district's counsel advised that the district planned to have a meeting with representatives of the Black Interest Team Enterprise (B.I.T.E.) organization and the Astor Place Neighborhood Association and that, following that meeting, SDA would get a response.

In continuing, Mr. Da Silva said that last week, when SDA's counsel had not yet received a response, the Authority sent another letter to the district's counsel on April 29. He said that in the letter management again indicated that SDA was anxious to move forward and requested the information the Authority needs to do so. He advised that the district's counsel responded that the requested documentation was under review and that SDA would receive the same early this week. He added that the information has not been provided to date and that SDA is hopeful that the district will soon provide the documentation that is needed to move forward towards an agreement for the Community Garden.

Mr. Vargas reemphasized Mr. Da Silva's statement that the SDA is supportive of the Community Garden and wants to move forward but said that there are things the Authority cannot ignore. He noted that it's not the SDA that is delaying the process. Mr. Da Silva added that the right paperwork must be in place and the SDA needs an agreement prepared but that depends on the information that has not yet been provided by the district. He said that SDA management is anxious for the district to respond.

Mr. Lewis-Powder then requested that, going forward, management provide the Board with an update regarding SDA-owned-properties in the Irvington School District.

Mr. Nixon then referenced some of the challenges and difficulties experienced with conducting Board meetings telephonically and by SKYPE and asked if management could get direction as to when the SDA can resume in-person Board meetings. He added that out of

respect for those who do not want to attend the Board meetings in person because they are not vaccinated or concerned about spacing, the SDA has the call-in ability to accommodate them.

Ms. Johnson said that guidance would be provided but it is not finalized yet. She said that the SDA is not the only Authority looking for guidance and that the Administration is concerned with how to return to live meetings safely. She noted that every Board is different in the accommodations they can provide and since public meetings are involved, it is not just the Board Members and staff whose safety must be considered. She said the Governor's office will provide guidance and the Administration is asking the Boards to continue with the current approach until such time that guidance is provided.

### ***Audit Committee***

Mr. Nixon, as Audit Committee Chairman, reported that the Audit Committee met on April 19, 2021 at which time management provided the Committee with the March 2021 New Funding Allocation and Capital Plan Update. He said that staff had informed the Committee that there were no changes in any of SDA District Reserve balances during the reporting period.

He then advised the Board that the reserve balance for the Regular Operating Districts (RODs) increased by \$1.2 million during the reporting period due to a reduction in state share for grant projects nearing completion.

Next, Mr. Nixon informed the Board that the Internal Audit Division (IA) provided the Committee with the results of one audit that was conducted to comply with the statutory requirement that capital portfolio projects with a state share over \$10 million be reviewed to assess whether state funds were expended in accordance with contractual terms, SDA practices and state regulations. He reported that the audit revealed that the State funds utilized for the project were expended prudently and consistent with legal requirements.



Next, Mr. Nixon provided the March 2021 Monthly Financial Report. He advised the Members that the Authority's operating expenses (Actual vs. Budget) for the year-to-date period totaled \$5.7 million, down \$674,000 as compared to lower year-to-date personnel costs—prior to payroll allocations, resulting from the Authority having 6 fewer FTEs than budgeted, partially offset by lower than projected payroll allocations to project expenditures. He said that the budget variance is also attributable to lower than anticipated spending related to professional and other contracted services, facilities and general office expenses and information systems. Mr. Nixon reported that year-to-date Authority operating expenses (Actual vs. Prior Year Actual) are \$2.7 million higher as compared to the operating budget for the corresponding prior year period. He explained that this increase is mainly attributable to personnel costs as a result of the annual pension payment—March 2021 vs. April 2020. He explained that this increase is offset by lower payroll expenses—net of payroll allocation as a result of having an average of 12 fewer FTEs than the previous year. Mr. Nixon then reported that school facilities project expenditures (Actual vs. Forecast) for the year-to-date period total approximately \$55.9 million, approximately \$21.9 million lower as compared to the capital spending forecast for the corresponding period. He advised the Members that this variance is the result of lower than forecasted expenditures for construction activity, grant activity, project insurance and payroll expense allocation to project expenditures. Mr. Nixon then said that project expenditures (Actual vs. Prior Year Actual), at approximately \$55.9 million, are lower by \$11.6 million when compared to the corresponding prior year period. He explained that the variance is due to decreased grant activity, project insurance, construction activity, school furniture purchases and design services. Mr. Nixon said that, since program inception, 89.5% of the funds authorized for the SDA districts have been disbursed. Additionally, he noted that 96% of all SDA disbursements relate to school facilities projects, while 4% relate to operating expenses. He

advised that the estimated value of active school facilities capital projects, along with emergent and regular operating district grant projects, is approximately \$2 billion.

### *School Review Committee*

#### **Release of Funds from Program Reserve, Award of Contract, and Approval of Final Project Charter – Paterson Public Schools District – Public School No. 5 Emergent Project – Roof Replacement, Masonry and Window Repairs - EP-0113-C01; Construction Manager Award - Paterson Public Schools District – Public School No. 5 Emergent Project - EP-0113-M01**

Mr. Nixon asked Mr. Luckie to provide the report of the School Review Committee. Mr. Luckie reported that the School Review Committee met on April 19, 2021 at which time two items were discussed in Open Session and two items were discussed in Executive Session. He noted that both items that he would be discussing in Open Session involve the Paterson Public School No. 5 emergent project (Project).

Mr. Luckie advised the Board that management is seeking approval of the release of funds from the program reserve, a contract award and a final charter for the Project. He explained that in 2008 and 2011, the SDA Board approved a total of \$197 million to fund emergent project work in SDA Districts. He said that in July 2020 an additional \$55.6 million was made available to support emergent project work when funds were reallocated from the SDA's unforeseen events reserve to the emergent projects reserve. He advised the Board that Paterson School No. 5 was built in 1939 and is a 107,000 square foot facility educating 775 students in grades Kindergarten through 6. He said that upon confirming the existence of emergent conditions related to water infiltration and deterioration of the building's roof and exterior masonry, the Authority engaged a consultant to investigate and detail the school's emergent conditions. He advised that when the consultant report detailed a minor scope of masonry and roof repairs, it was initially determined to delegate the advancement of the project to the district for management. He added, however, that after receiving a report that concluded

that the conditions that required attention were more extensive than originally identified, it was determined that SDA management of the work was in the best interest of the Project. Mr. Luckie said that, utilizing its task order contract, the SDA engaged USA Architects, Planners + Interior Designers to provide the needed design services for the Project. He explained that with design work completed in February 2021, management advertised a package to obtain general construction services for the Project. He said that upon completion of the procurement process, management recommends award of the emergent project to Paul Otto Building Company (Paul Otto) in the amount of \$7,494,000, inclusive of SDA-established allowances totaling \$1,115,000. He advised that management has determined that Paul Otto included all Project scope work in its bid and has confirmed that its price proposal is inclusive of all scope elements contained in the contract documents. He added that management further recommends that the Board approve the Project's final charter and the release of \$10,164,157 from the program reserve for the Project. He said that prior to execution of the contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

A resolution pertaining to this matter was provided to the Members in advance of the meeting. Upon motion duly made by Mr. Piaia and seconded by Mr. Lewis-Powder, the release of funds from the program reserve, contract award and final charter for the Paterson Public School No. 5 emergent project were approved with the Board's unanimous vote in favor of ***Resolution 6a.***

Next, Mr. Luckie said that the Committee also is recommending approval of an award for construction management services for the Paterson Public School No. 5 emergent project. He added that as he had just provided the Project's background, he would not repeat it. He reported that once it was determined that SDA would be managing the emergent project, in addition to procurement of general construction services, it became necessary to procure the services of a

construction management firm as well. He said that a package for construction management services was advertised as a “price and other factors” solicitation beginning in February 17, 2021, with price weighted at 40% and all non-price factors weighted at 60% of the final combined score. He explained that, upon completion of the competitive procurement process, the highest ranked firm was Greyhawk North America, LLC (Greyhawk) with a price in the amount of \$625,600 for the Project. He advised that Greyhawk has confirmed that its price proposal is inclusive of all scope elements contained in the contract documents and management recommends award of the Project to Greyhawk. Mr. Luckie said that funding for this engagement is available within the Project budget in accordance with the final charter that was approved by the Members. He added that prior to execution of the contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Vargas and seconded by Mr. Piaia, the construction management services award for the Paterson Public School No. 5 emergent project was approved with the Board’s unanimous vote in favor of ***Resolution 6b***.

In continuing his report, Mr. Luckie informed the Members that management also presented the Committee with a proposed Settlement of Cost Recovery Litigation Relating to the Egg Harbor City MS. He noted that the Members will discuss this matter in Executive Session.

Finally, Mr. Luckie advised the Board that management had shared an informational matter with the Committee involving a proposed lease extension and charter revisions for the Orange Cleveland Street ES project. He said that this matter will be presented by the Chairman of the Real Estate Committee in Executive Session.

## *Real Estate Committee*

### **Approval for Term Contracts for Real Estate Appraisal Services – GP-0277-R01**

At the Chairman's request, Mr. Vargas provided the report of the Real Estate Committee. He advised the Members that management and the Real Estate Committee are seeking Board approval of awards for task order contracts for real estate appraisal services (Appraisal Services) in connection with land acquisition and potential site divestiture activities. Referencing materials that previously were provided for Board review, he reminded the Board that the SDA has been procuring Appraisal Services since 2003, noting that the current contracts will expire September 2021. He said that management is now proposing to establish a new pool of real estate appraisal firms with the experience and qualifications to successfully perform the services. He explained that specific work assignments under the contracts would be made by way of task order assignments on an as needed, rotational basis. Mr. Vargas advised the Board that the proposed term of the contracts is 3 years, with each individual contract having a not-to-exceed value of \$50,000. He noted that the proposed hourly rates and lump sum fees are the same as those of the current appraisal services procured in 2018. In concluding his report, Mr. Vargas advised the Board that all proposed firms have submitted the required documentation to enter into the term agreements. He said that of the 17 proposed firms, 12 are currently under the existing 2018 contract and 5 are new firms.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Elbert and seconded by Mr. Piaia, the Board approved the recommended contract awards for real estate appraisal services upon its unanimous vote in favor of *Resolution 7a*.

## *Public Comments*

The Chairman indicated that he wished to make a brief statement in opening the Public Comments portion of the meeting. He referenced statements made earlier by CEO Da Silva and Mr. Vargas about the status of the Astor Place Community Garden (APCG) matter. He said that over the last two months, the SDA Board has heard approximately ninety minutes of testimony from the public in support of the APCG and that no one objects to the proposed continuation of that good work. Mr. Nixon said that he is aware that the SDA CEO and the General Counsel have spent significant time and attention on the APCG issue and recently communicated to the district that SDA would like to resolve this matter as soon as possible. He said that SDA is awaiting receipt of information that was requested of the district and has asked them to respond promptly. He said that as SDA is waiting for the district's response, there is nothing new that the Board could say today except that there is support for continuation of the APCG. He said that for this reason and due to Member time constraints, the Board would not be taking formal public comment at this time, however, he noted the support for the APCG of those on the call for the meeting record. As a courtesy, the Chairman asked Bishop Militinia Bland to offer comments on behalf of the supporters of the APCG.

Bishop Bland thanked the Board for working expediently to quell a problem that her organization knew would come with the closure of the APCG. She said that she wanted to provide the Board with an update regarding the situation there. She said that the drug dealers are back along with the selling of the paraphernalia that no one wanted to see and the police. She said that the APCG should be up and running, noting that the asparagus beds and other beds are overgrown. She said that this is not a small issue and reminded the Board that the nation is in a state of unrest. Bishop Bland expressed concern that if the police come in and there are injuries there would be problems. She said that when the property was functioning as a garden, things

were neatly controlled there in a way that cost the City of Jersey City, the School Board and the SDA nothing.

In conclusion, Bishop Bland urged that the matter move forward so that next month the supporters of the APCG would be in a position where they can continue to do their work with the children and the community and would be able to simply say “thank you” to the Board.

The Chairman thanked Bishop Bland for her comments. He reiterated that SDA has done everything that it could possibly do at this point and is waiting to hear back from the district after urging them to provide the information required to move forward.

Mr. Nixon then asked for a motion to adjourn the Open Session of the meeting and to move into Executive Session. He asked Ms. Kelly to announce the matters to be considered in Executive Session. Ms. Kelly said that the Board has resolved to adjourn into Executive Session to discuss two matters. She said that the first matter is a proposed settlement of cost recovery litigation relating to the Egg Harbor City MS; and the second matter is a proposed extension of the lease of temporary educational facilities and final charter revisions relating to the Orange Cleveland Street ES project. She said that the Board would vote on these matters upon its return to Open Session. Ms. Kelly then asked that the Chairman present **Resolution 10** for Board consideration and approval reflecting its resolve to move into Executive Session to discuss these matters.

The Chairman presented **Resolution No. 10** for a vote. Upon motion duly made by Mr. Vargas and seconded by Mr. Piaia, the Members of the Authority unanimously voted to approve **Resolution 10** and thereby adjourned the Open portion of the meeting into Executive Session.

Following discussion in Executive Session, the Board returned to Open Session.

Mr. Luckie announced that in Executive Session, the Board had discussed the School Review Committee's recommendation that the Board approve a proposed settlement of cost recovery litigation relating to the Egg Harbor City MS project.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Vargas and seconded by Ms. Lemelle, the Committee's recommendation in this matter was approved by the Board with its unanimous vote in favor of ***Resolution A1.***

Next, Mr. Vargas announced that in Executive Session, the Board had discussed the Real Estate Committee's recommendation that the Board approve a proposed extension of the lease of temporary educational space and final charter revisions for the Orange Cleveland ES project.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Piaia and seconded by Mr. Elbert, the Committee's recommendation in this matter was approved by the Board with its unanimous vote in favor of ***Resolution A2.***

### ***Adjournment***

There being no further business to come before the Board, upon motion by the Chairman and with unanimous consent, the meeting was adjourned.



**Certification:** The foregoing represents a true and complete summary of the actions taken by the Board of the New Jersey Schools Development Authority at its May 5, 2021 meeting.

/s/ Jane F. Kelly  
Assistant Secretary

***Resolution—3a./3b.***

**Approval of Minutes**

**WHEREAS**, the By-Laws provide that the minutes of actions taken at meetings of the New Jersey Schools Development Authority be approved by the Authority's Board of Directors; and

**WHEREAS**, pursuant to Section 3(k) of P.L. 2007, Chapter 137, the minutes of the May 5, 2021 Board meeting of the New Jersey Schools Development Authority, for the Open and Executive Sessions were duly forwarded to the Office of the Governor following the meeting.

**NOW, THEREFORE, BE IT RESOLVED**, that the minutes of the New Jersey Schools Development Authority's May 5, 2021 Open and Executive Session meetings are hereby approved.

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Dated: June 2, 2021

## **AUTHORITY MATTERS**

## **CEO REPORT**

## **CHAIRMAN'S REPORT**

**REPORT AND RECOMMENDATIONS OF THE AUDIT COMMITTEE  
(CHAIRMAN'S REPORT)**

**Draft 2020 Audited Financial Statements**

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Sherman E. Cole, MBA, CPA  
Controller

**DATE:** June 2, 2021

**SUBJECT:** Draft 2020 Audited Financial Statements

**Background**

Pursuant to Executive Order 122 (2004), as amended by Executive Order 37 (2006), the Office of the Chief Financial Officer is pleased to present the attached draft of the 2020 audited financial statements to the Members of the Authority for their review and approval.

The 2020 financial statement audit was performed by Ernst & Young LLP (EY). EY performed their audit in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States in accordance with U.S. Generally Accepted Auditing Standards.

It should be mentioned that the attached draft 2020 financial statements will require further revisions following receipt of the June 30, 2020 GASB Statement No. 68 pension information from the New Jersey Department of the Treasury, Division of Pensions & Benefits, which information is currently anticipated to be available in June 2021. However, at present all other accounting entries have been recorded in the 2020 financial statements and the required disclosures updated accordingly. As a result, the EY audit is now substantially completed such that EY can foresee issuing an unmodified opinion on the 2020 financial statements following the recording of the GASB 68 information and EY completing their audit. An unmodified opinion is the highest level of assurance an auditor can give in a financial statement audit.

In accordance with *Government Auditing Standards*, EY is also required to issue a report on internal control over financial reporting and on compliance and other matters. The purpose of this report is to describe the scope of testing of internal control and compliance and the results of that testing; the report is not intended to offer an opinion on the effectiveness of the Authority's internal control and compliance. Accordingly, EY has advised management that during the performance of their audit they did not identify any deficiencies in internal control that the auditor considered to be a material weakness, nor did the results of their tests disclose instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

**Audit Committee Review**

On May 17, 2021, the Audit Committee was provided a draft of the 2020 audited financial statements, accompanied by a financial analysis, prepared by staff, of key amounts including sensitive accounting estimates, reserves and accruals, and judgmental areas. Independently, EY presented their audit results and required communications in accordance with Statement of Auditing No. 114. At the conclusion of EY's presentation, the Audit Committee agreed to



advance the draft 2020 financial statements to the Members of the Authority for final approval.

Recommendation

The Members of the Authority are recommended to approve the attached draft 2020 audited financial statements, a requirement of Executive Order 122, as amended by Executive Order 37. The Members of the Authority recognize and acknowledge that the draft 2020 financial statements, as presented herein to the Board and as recommended by the Audit Committee, will require further revisions following receipt of the GASB Statement No. 68 pension information from the New Jersey Department of the Treasury, Division of Pensions & Benefits. Following receipt and recording of the aforementioned GASB Statement No. 68 entries, a final draft report will be submitted to EY in order for EY to complete their audit.

Prior to finalization of the EY audit, management shall advise the Authority's Audit Committee of any material change to the 2020 financial statements as presented to the Board that may arise and that is unrelated to the recording of the forthcoming GASB Statement No. 68 entries and related note disclosures. Should there be no material change to the 2020 financial statements as presented to the Board, management shall so advise the SDA Audit Committee when the EY audit is completed, including the date of the auditor's report.

A copy of the final 2020 audited financial statements will be included in the Authority's 2020 Annual Report and posted to the SDA web site.

Attachment

**DRAFT 4-8-21**

**STATE OF NEW JERSEY**  
**SCHOOLS DEVELOPMENT AUTHORITY**  
(a component unit of the State of New Jersey)



**FINANCIAL STATEMENTS**  
**AND REQUIRED SUPPLEMENTARY INFORMATION**

For the Year Ended December 31, 2020

New Jersey Schools Development Authority  
(a component unit of the State of New Jersey)

Financial Statements and Required Supplementary Information

For the Year Ended December 31, 2020

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New Jersey Schools Development Authority  
(a component unit of the State of New Jersey)

Management's Discussion and Analysis

For the Year ended December 31, 2020

This section of the New Jersey Schools Development Authority's (the "Authority" or "SDA") annual financial report presents our discussion and analysis of the Authority's financial performance during the fiscal year ended December 31, 2020. This management discussion and analysis should be read in conjunction with the Authority's financial statements and accompanying notes.

**Nature of the Authority**

The SDA was established on August 6, 2007 to replace the New Jersey Schools Construction Corporation ("SCC") pursuant to reform legislation (P.L.2007, c.137). As of the date of the legislation, the SCC was dissolved and all its functions, powers, duties and employees were transferred to the SDA. Organizationally, the Authority is situated in, but not of, the New Jersey Department of the Treasury.

The School Construction Program is the largest public construction program undertaken by the State of New Jersey (the "State") and represents one of the largest school construction programs ever undertaken in the nation. The program was initiated in response to the New Jersey Supreme Court's decision in Raymond Abbott et al. v. Fred G. Burke, 153 N.J. 480 (1998), which eventually led to the Legislature's adoption of the Educational Facilities Construction and Financing Act, P.L.2000, c.72 ("EFCFA") on July 18, 2000. The EFCFA, as amended in P.L.2008, c.39, provides for an aggregate \$12.5 billion principal amount of bond proceeds ("EFCFA funding") to be issued by the New Jersey Economic Development Authority ("EDA"), the financing agent for the Schools Construction Program, and transferred to the Authority. Of this amount, \$8.9 billion is allocated to 31 urban school districts referred to as the "SDA Districts" (formerly Abbott Districts), \$3.45 billion is for non-SDA districts ("Regular Operating Districts") and \$150 million is reserved for vocational schools.

**School Construction Program Authorized Funding and Disbursements**

The Authority does not have an economic interest in any school facility project. With the exception of interest income on invested funds, the Authority does not generate substantial operating revenues, yet it incurs significant operating expenses to administer the School Construction Program. Costs related to school facilities projects are reported as school facilities project costs in the statement of activities. Program administrative and general expenses not identifiable specifically to school facilities projects are considered eligible project costs under EFCFA and are therefore paid from EFCFA funding.

Through December 31, 2020, the Authority has received \$11.5 billion of the designated \$12.5 billion principal amount of bond proceeds authorized for the School Construction Program. In addition, as of that date, the Authority has disbursed 90.0% of the currently authorized program funding, as follows:

	<u>Bonding Cap</u>	<u>Program Funding</u> <sup>1</sup>	<u>Disbursements</u>	<u>% Paid</u>
SDA Districts	\$ 8,900,000,000	\$ 9,026,886,210	\$ 8,022,018,398	88.9%
Regular Operating Districts	3,450,000,000	3,500,222,151	3,269,064,989	93.4%
Vocational Schools	150,000,000	152,007,024	122,188,380	80.4%
Totals	<u>\$ 12,500,000,000</u>	<u>\$ 12,679,115,385</u>	<u>\$ 11,413,271,767</u>	90.0%

<sup>1</sup> Program funding includes the amounts authorized under the respective bonding caps in addition to approximately \$179 million of interest income and miscellaneous revenue earned through December 31, 2020.

The 31 SDA Districts are located in 14 Counties throughout the State, as follows:

<u>County</u>	<u>School District</u>	<u>County</u>	<u>School District</u>
Atlantic	Pleasantville	Hudson	Union City
Bergen	Garfield	Hudson	West New York
Burlington	Burlington City	Mercer	Trenton
Burlington	Pemberton Township	Middlesex	New Brunswick
Camden	Camden	Middlesex	Perth Amboy
Camden	Gloucester City	Monmouth	Asbury Park
Cumberland	Bridgeton	Monmouth	Keansburg
Cumberland	Millville	Monmouth	Long Branch
Cumberland	Vineland	Monmouth	Neptune Township
Essex	East Orange	Passaic	Passaic City
Essex	Irvington	Passaic	Paterson
Essex	Newark	Salem	Salem City
Essex	Orange	Union	Elizabeth
Hudson	Harrison	Union	Plainfield
Hudson	Hoboken	Warren	Phillipsburg
Hudson	Jersey City		

In 2020, the SDA celebrated the opening of three capital plan school facilities projects, providing 1,820 new student seats in the SDA Districts. The total State investment in these three projects was more than \$136 million.

As of December 31, 2020, the SDA has 9 active construction projects in the SDA Districts. In addition, pre-construction activity has commenced on several other projects. Furthermore, the Authority is currently in construction on 2 emergent needs projects in the SDA Districts. Emergent need projects most often address roof repairs or replacements; deteriorating façades; water infiltration; heating and cooling system issues; and plumbing, electrical, mechanical and security systems. The Authority maintains separate program reserves to address such emergent conditions as well as unforeseen events.

From inception through December 31, 2020, the School Construction Program has completed 698 projects in the SDA Districts. The completed projects consist of: 90 new schools, including 6 demonstration projects; 47 extensive addition, renovation and/or rehabilitation projects; 31 rehabilitation projects; 354 health and safety projects; and 177 Section 13 Grants for SDA District-managed projects. The demonstration projects serve as a cornerstone of revitalization efforts and were funded by the Authority but managed by a municipal redevelopment entity and redeveloper. In addition, in the Regular Operating Districts, the Authority has completed 26 projects that it partially funded and managed for the districts, including 8 new schools. Also, state funding was provided through Section 15 Grants for 5,136 school projects throughout the 21 counties of New Jersey.

The following information provides insight into the activities of the School Construction Program during the last five years and is not intended to be presented in accordance with generally accepted accounting principles.

	\$ In thousands				
	2020	2019	2018	2017	2016
EFCFA funding received from State	\$ -	\$ 350,000	\$ 350,000	\$ 350,000	\$ 342,574
Investment earnings, net	2,696	9,341	7,204	3,787	1,730
Administrative and general expenses	14,824	15,910	18,466	19,821	22,256
Capital expenditures	577	628	312	25	124
School facilities project costs	291,279	306,967	333,271	341,480	388,133
Employee count at end of year	174	183	222	211	229

### 2020 Financial Highlights

- At year end, the Authority’s net position is \$130.8 million.
- At year end, cash and cash equivalents total \$268.6 million.
- For the year, revenues total \$2.7 million, consisting primarily of investment earnings and rental property income. The Authority did not receive revenue from bond sales in 2020 but nevertheless had sufficient cash on hand to meet its current obligations.
- For the year, expenses total \$306.3 million, \$291.3 million (95.1%) of which is for school facilities project costs.
- For the year, general fund expenditures exceed general fund revenues by \$305.0 million. This is due to the fact that the Authority did not receive revenue from bond sales in 2020 as it did not have an urgent need for cash.

### Overview of the Financial Statements

The financial section of this annual report consists of three parts: Management’s Discussion and Analysis; the basic financial statements; and required supplementary information. The Authority’s basic financial statements consist of three components: 1) government-wide financial statements; 2) governmental fund financial statements (these are also referred to as the “general fund” financial statements); and 3) notes to financial statements. Because the Authority operates a single governmental program, its government-wide and governmental

fund financial statements have been combined using a columnar format that reconciles individual line items of general fund financial data to government-wide data in a separate column on the face of the financial statement.

Government-wide financial statements are designed to provide readers with a broad overview of the Authority's finances, in a manner similar to a private sector business. The statement of net position presents information on all of the Authority's assets, deferred outflows of resources, liabilities and deferred inflows of resources with the residual balance reported as net position. Over time, an increase or decrease in net position may serve as a useful indicator of whether the financial position of the Authority is improving or deteriorating.

The statement of activities presents information showing how the Authority's net position changed during the most recent period. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of the related cash flows. Thus, revenue and expenses are reported in this statement for some items that will only result in cash flows in the future fiscal period.

Governmental fund financial statements are designed to provide the reader information about an entity's various funds. A fund is a grouping of related accounts that is used to maintain control over the resources that have been segregated for specific activities or objectives. The Authority uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The Authority operates a single governmental fund for financial reporting purposes and this fund is considered a general fund.

The focus of governmental fund financial statements is on near-term inflows and outflows of spendable resources as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating the Authority's near-term financing requirements.

Because the focus of the governmental fund is narrower than that of the government-wide financial statements, it is useful to compare the information presented for the governmental fund with similar information presented in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the Authority's near-term financing decisions. Both the fund balance sheet and the statement of revenues, expenditures, and changes in fund balance provide a reconciliation to facilitate this comparison.

### **Financial Analysis of the Authority**

The Authority's net position decreased to \$130.8 million at year-end, primarily due to 2020 expenditures for school facilities projects (\$291.3 million) and administrative and general expenses (\$14.8 million) exceeding total revenues (\$2.7 million).

The following table summarizes the Authority's net position at December 31, 2020 and 2019.

	<b>\$ In thousands</b>			
	<b>2020</b>	<b>2019</b>	<b>\$ Increase/ (Decrease)</b>	<b>% Increase/ (Decrease)</b>
Current assets	\$ 268,904	\$ 571,633	\$ (302,729)	(53.0)%
Capital assets-net	1,498	1,083	415	38.3%
Total assets	270,402	572,716	(302,314)	(52.8)%
Deferred outflows of resources	14,083	9,153	4,930	53.9%
<b>Total assets and deferred outflows of resources</b>	<b>\$ 284,485</b>	<b>\$ 581,869</b>	<b>\$ (297,384)</b>	<b>(51.1)%</b>
Current liabilities	\$ 49,894	\$ 47,643	\$ 2,251	4.7%
Non-current liabilities	77,442	72,914	4,528	6.2%
Total liabilities	127,336	120,557	6,779	5.6%
Deferred inflows of resources	26,335	26,973	(638)	(2.4)%
Net position:				
Net investment in capital assets	1,498	1,083	415	38.3%
Restricted for schools construction	129,316	433,256	(303,940)	(70.2)%
Total net position	130,814	434,339	(303,525)	(69.9)%
<b>Total liabilities, deferred inflows of resources and net position</b>	<b>\$ 284,485</b>	<b>\$ 581,869</b>	<b>\$ (297,384)</b>	<b>(51.1)%</b>

*Note: All percentages are calculated using unrounded figures.*

#### *Significant Account Variances for Net Position*

*Current assets:* The decrease is due to lower cash and cash equivalents, and prepaid expenses.

*Capital assets-net:* The increase is due to capital asset additions for computer software in development, slightly offset by depreciation expense for assets in service during the year.

*Deferred outflows of resources:* The increase is due mainly to higher deferred outflows of resources associated with other postemployment benefits (“OPEB”) as a result of the change in assumption related to the decrease in discount rate.

*Current liabilities:* The increase is due mostly to higher local share deposits received from school districts to fund ineligible project costs.

*Non-current liabilities:* The increase is due primarily to the higher total other postemployment benefits liability as a result in the decrease in the discount rate assumption.

*Deferred inflows of resources:* The decrease is due mainly to the lower deferred inflows of resources associated with OPEB.



The following table summarizes the change in net position for the years ended December 31, 2020 and 2019.

	<b>\$ In thousands</b>			
	<b>2020</b>	<b>2019</b>	<b>\$ Increase/ (Decrease)</b>	<b>% Increase/ (Decrease)</b>
<b>Revenues</b>				
EFCFA funding received from State	\$ -	\$ 350,000	\$ (350,000)	(100.0)%
Investment earnings	2,696	9,341	(6,645)	(71.1)%
Rental property income	37	36	1	3.5%
Other revenue	7	3	4	171.9%
<b>Total revenues</b>	<b>2,740</b>	<b>359,380</b>	<b>(356,640)</b>	<b>(99.2)%</b>
<b>Expenses</b>				
Administrative and general expenses	14,824	15,910	(1,086)	(6.8)%
Depreciation	162	180	(18)	(10.0)%
School facilities project costs	291,279	306,967	(15,688)	(5.1)%
<b>Total expenses</b>	<b>306,265</b>	<b>323,057</b>	<b>(16,792)</b>	<b>(5.2)%</b>
Change in net position	(303,525)	36,323	(339,848)	(935.6)%
Beginning net position	434,339	398,016	36,323	9.1%
Ending net position	\$ 130,814	\$ 434,339	\$ (303,525)	(69.9)%

*Note: All percentages are calculated using unrounded figures.*

*Significant Account Variances for the Change in Net Position*

*EFCFA funding received from State:* The Authority did not receive any revenue from bond sales during the year as the Authority had sufficient cash on hand to meet its current obligations.

*Investment earnings:* The Authority earns interest on invested funds primarily through its participation in the State Cash Management Fund, a fund managed by the Division of Investment under the Department of the Treasury. The fund consists of U.S. Treasury obligations, government agencies obligations, certificates of deposit and commercial paper.

The decrease is due to lower investment return rates and a smaller average invested cash balance during 2020.

*Administrative and general expenses:* The decrease is due primarily to lower employee salaries and benefit costs. Also contributing to the decrease are lower spending for facilities and general office expenses, information systems, and professional and other contracted services.

*School facilities project costs:* The decrease is due mainly to lower spending in Regular Operating Districts grants, partially offset by an increase in construction costs for SDA Districts.

## **Contacting the Authority's Financial Management**

This financial report is designed to provide New Jersey citizens and taxpayers, and the Authority's customers, clients and creditors, with a general overview of the Authority's finances and to demonstrate the Authority's accountability for the funds it receives from the State. If you have questions about this report or need additional financial information, contact the Office of the Chief Financial Officer, New Jersey Schools Development Authority, P.O. Box 991, Trenton, NJ 08625-0991, or visit our web site at **[www.njsda.gov](http://www.njsda.gov)**.

New Jersey Schools Development Authority  
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Statement of Net Position and General Fund Balance Sheet

December 31, 2020

	<b>General Fund Total</b>	<b>Adjustments (Note 8)</b>	<b>Statement of Net Position</b>
<b>Assets</b>			
Cash and cash equivalents	\$ 268,635,774	\$ -	\$ 268,635,774
Receivables	41,180	-	41,180
Prepaid expenses	227,090	-	227,090
Capital assets-net	-	1,497,713	1,497,713
<b>Total assets</b>	<b>268,904,044</b>	<b>1,497,713</b>	<b>270,401,757</b>
<b>Deferred Outflows of Resources</b>			
Deferred amount for pensions	-	9,495,715	9,495,715
Deferred amount for other postemployment benefits	-	4,587,660	4,587,660
<b>Total deferred outflows of resources</b>	<b>-</b>	<b>14,083,375</b>	<b>14,083,375</b>
<b>Total Assets and Deferred Outflows of Resources</b>	<b>\$ 268,904,044</b>	<b>\$ 15,581,088</b>	<b>\$ 284,485,132</b>
<b>Current Liabilities</b>			
Accrued school facilities project costs	\$ 43,641,482	\$ -	\$ 43,641,482
Other accrued liabilities	1,163,240	-	1,163,240
Escrow deposits	5,089,508	-	5,089,508
<b>Total current liabilities</b>	<b>49,894,230</b>	<b>-</b>	<b>49,894,230</b>
<b>Non-Current Liabilities</b>			
Accrued school facilities project costs	-	1,815,093	1,815,093
Net pension liability	-	44,045,377	44,045,377
Total postemployment benefits liability	-	27,307,940	27,307,940
Other accrued liabilities	-	4,273,654	4,273,654
<b>Total non-current liabilities</b>	<b>-</b>	<b>77,442,064</b>	<b>77,442,064</b>
<b>Deferred Inflows of Resources</b>			
Deferred amount for pensions	-	19,423,097	19,423,097
Deferred amount for other postemployment benefits	-	6,911,992	6,911,992
<b>Total deferred inflows of resources</b>	<b>-</b>	<b>26,335,089</b>	<b>26,335,089</b>
<b>Fund Balance/Net Position</b>			
Net investment in capital assets	-	1,497,713	1,497,713
Nonspendable:			
Prepaid expenses	227,090	(227,090)	-
Restricted for schools construction	218,782,724	(89,466,688)	129,316,036
<b>Total fund balance/net position</b>	<b>219,009,814</b>	<b>(88,196,065)</b>	<b>130,813,749</b>
<b>Total Liabilities, Deferred Inflows of Resources and Fund Balance/Net Position</b>	<b>\$ 268,904,044</b>	<b>\$ 15,581,088</b>	<b>\$ 284,485,132</b>

See accompanying notes.

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Statement of Activities and General Fund Revenues,  
Expenditures and Changes in Fund Balance

For the Year Ended December 31, 2020

	<b>General Fund Total</b>	<b>Adjustments (Note 8)</b>	<b>Statement of Activities</b>
<b>Revenues</b>			
General:			
Investment earnings	\$ 2,696,018	\$ -	\$ 2,696,018
Rental property income	37,150	-	37,150
Other revenue	6,961	-	6,961
Total revenues	2,740,129	-	2,740,129
<b>Expenditures/Expenses</b>			
Administrative and general expenses	13,870,163	953,961	14,824,124
Capital expenditures	576,861	(576,861)	-
Depreciation expense	-	162,032	162,032
School facilities project costs (credits)	293,273,534	(1,994,637)	291,278,897
Total expenditures/expenses	307,720,558	(1,455,505)	306,265,053
Deficiency of revenues over expenditures/Change in net position	(304,980,429)	1,455,505	(303,524,924)
<b>Fund Balance/Net Position</b>			
Beginning of year, January 1, 2020	523,990,243	(89,651,570)	434,338,673
End of year, December 31, 2020	\$ 219,009,814	\$ (88,196,065)	\$ 130,813,749

*See accompanying notes.*

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Notes to Financial Statements

**1. Nature of the Authority**

The New Jersey Schools Development Authority (the “Authority” or “SDA”) was established on August 6, 2007 to replace the New Jersey Schools Construction Corporation (“SCC”) pursuant to reform legislation (P.L.2007, c.137). As of the date of the legislation, the SCC was dissolved and all its functions, powers, duties and employees were transferred to the SDA. The Authority is governed by its own Board of Directors and is fiscally dependent upon the State of New Jersey (the “State”) for funding. Organizationally, the Authority is situated in, but not of, the New Jersey Department of the Treasury.

The School Construction Program was initiated in response to the New Jersey Supreme Court’s decision in Raymond Abbott et al. v. Fred G. Burke, 153 N.J. 480 (1998), which eventually led to the Legislature’s adoption of the Educational Facilities Construction and Financing Act, P.L.2000, c.72 (“EFCFA”) on July 18, 2000. The EFCFA, as amended in P.L.2008, c.39, provides for an aggregate \$12.5 billion principal amount of bond proceeds (“EFCFA funding”) to be issued by the New Jersey Economic Development Authority (“EDA”), the financing agent for the Schools Construction Program, and transferred to the Authority. Of this amount, \$8.9 billion is allocated to 31 urban school districts referred to as the “SDA Districts” (formerly Abbott Districts), \$3.45 billion is for non-SDA districts (“Regular Operating Districts”) and \$150 million is reserved for vocational schools.

**2. Summary of Significant Accounting Policies**

**(a) Government-Wide and Fund Financial Statements**

The government-wide financial statements (i.e., the statement of net position and the statement of activities) report information on all the activities of the Authority.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment is offset by program revenues. Direct expenses are those that are clearly identifiable with a specific program. Program revenues include (1) EFCFA funding received from the State which monies are restricted to meeting either the operational or capital requirements of the School Construction Program, and (2) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment.

Separate financial statements are provided for the Authority’s governmental fund (these are also referred to as the “general fund” financial statements). Because the Authority operates a single governmental program, its government-wide and governmental fund financial statements have been combined using a columnar format that reconciles individual line items of general fund financial data to government-wide data in a separate column on the face of the financial statement.

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Notes to Financial Statements (Continued)

**(b) Measurement Focus, Basis of Accounting, and Financial Statement Presentation**

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of the related cash flows.

The Authority's governmental fund is classified as a general fund and its financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the Authority considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual basis accounting; however, expenditures related to compensated absences and certain other accruals are recorded only when payment is due. With regard to the Authority's general fund, restricted amounts are considered to have been spent only after the expenditure is incurred for which there is available restricted fund balance.

**(c) Revenue Recognition**

Rental property income is received by the Authority under various lease occupancy agreements. Additionally, properties acquired for the construction of school facilities projects may generate rental revenue prior to the relocation of the occupants. Rental property income is generally recognized when received.

**(d) Allocation of Employee Salaries and Benefits Costs**

The Authority allocates employee salaries and benefits costs between operating expense (i.e., administrative and general expenses) and school facilities project costs on the Statement of Activities and General Fund Revenues, Expenditures and Changes in Fund Balance. The allocation of employee salaries to school facilities project costs is supported by weekly time sheet data; employee benefits costs are allocated to projects based on a projected annual fringe benefit rate determined by the Authority. The fringe benefit rate utilized for 2020 is 40.74%.

For the year ended December 31, 2020, employee salary and benefit costs are allocated as follows:

Employee salary and fringe benefits costs:	
Charged to administrative and general expenses	\$ 10,892,598
Charged to school facilities project costs	<u>12,178,570</u>
Total employee salary and benefits costs	<u>\$ 23,071,168</u>

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Notes to Financial Statements (Continued)

**(e) Rebate Arbitrage**

Rebate arbitrage is defined by Internal Revenue Code (“IRC”) Section 148 as earnings on investments purchased with the gross proceeds of a bond issue in excess of the amount that would have been earned if the investments were invested at a yield equal to the yield on the bond issue. The amount of rebates due the federal government is determined and payable during each five-year period and upon final payment of the tax-exempt bonds. The Authority, the EDA and the New Jersey Department of the Treasury, Office of Public Finance have determined that any rebate arbitrage liability associated with an issue of School Facilities Construction Bonds shall be recorded on the Authority’s books since the Authority retains the income on the investment of bond proceeds.

It is the Authority’s policy to record rebate arbitrage liabilities only when it is probable that any excess investment income, as defined above, will not be retained by the Authority. The Authority does not record rebate liabilities in cases where it is projected that the liability will be negated by the 24-month spending exception in accordance with the IRC.

Rebate arbitrage calculations have been performed for all series of School Facilities Construction Bonds up through 2020 Series OOO. As of December 31, 2020, no rebate arbitrage liabilities exist.

**(f) Cash and Cash Equivalents**

Cash and cash equivalents consist of cash on hand and highly liquid short-term investments with original maturities of three months or less, and participation in the State of New Jersey Cash Management Fund (“NJCMF”), a fund managed by the Division of Investment under the Department of the Treasury. It consists of U.S. Treasury Notes and Bills; short-term commercial paper; U.S. Agency Bonds; corporate bonds; and certificates of deposit. NJCMF is stated at fair value, which is measured based on the units of ownership at a value per unit of \$1.

**(g) Prepaid Expenses**

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both the government-wide and governmental fund financial statements.

**(h) Capital Assets**

Capital assets are reported in the governmental activity column in the government-wide financial statements and are recorded at historical cost or estimated historical cost if purchased and constructed. The Authority’s current capitalization threshold is as follows: \$5,000 for equipment; \$30,000 for vehicles; \$100,000 for software; and \$50,000 for leasehold improvements for individual items meeting all other capitalization criterion. As of December

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Notes to Financial Statements (Continued)

31, 2020, the Authority's capital assets consist of leasehold improvements, automobiles, equipment, computer software and furniture and fixtures. Depreciation is provided by the straight-line method over the shorter of the life of the lease or the useful life of the related asset.

The Authority does not have an economic interest in any school facility project that it finances. Therefore, costs related to school facilities projects are not recorded as capital assets in the Authority's Statement of Net Position but instead are reported as school facilities project costs in the statement of activities.

**(i) Taxes**

The Authority is exempt from all federal and state income taxes and real estate taxes under Internal Revenue Code Section 115.

**(j) Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

**(k) Pensions**

For purposes of measuring the net pension liability, deferred outflows of resources and deferred inflows of resources related to pensions, and pension expense, information about the fiduciary net position of the New Jersey Public Employee Retirement System ("PERS") and additions to/deductions from PERS's fiduciary net position have been determined on the same basis as they are reported by the plan. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Plan asset investments are reported at fair value.

**(l) New Accounting Standards Adopted**

GASB Statement No. 84, *Fiduciary Activities*, was issued in January 2017. The primary objective of this statement is to improve guidance regarding the identification of fiduciary activities for accounting and financial reporting purposes and how those activities should be reported. The statement establishes criteria for identifying activities of all state and local governments. The focus of the criteria generally is on (1) whether a government is controlling the assets of the fiduciary activity and (2) the beneficiaries with whom a fiduciary relationship exists. Separate criteria are included to identify fiduciary component units and postemployment benefit arrangements that are fiduciary activities.



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Notes to Financial Statements (Continued)

This statement describes four fiduciary funds that should be reported, if applicable: (1) pension (and other employee benefit) trust funds, (2) investment trust funds, (3) private-purpose trust funds, and (4) custodial funds. Custodial funds generally should report fiduciary activities that are not held in a trust or equivalent arrangement that meets specific criteria.

The Authority's adoption of this statement on January 1, 2020 did not have a material impact on the financial statements.

GASB Statement No. 88, *Certain Disclosures Related to Debt, Including Direct Borrowings and Direct Placements*, was issued in April 2018. The primary objective of this statement is to improve the information that is disclosed in notes to government financial statements related to debt, including direct borrowings and direct placements. It also clarifies which liabilities governments should include when disclosing information related to debt.

This statement defines debt for purposes of disclosure in notes to financial statements as a liability that arises from a contractual obligation to pay cash (or other assets that may be used in lieu of cash) in one or more payments to settle an amount that is fixed at the date the contractual obligation is established.

This statement requires that additional essential information related to debt be disclosed in notes to financial statements, including unused lines of credit; assets pledged as collateral for the debt; and terms specified in debt agreements related to significant events of default with finance-related consequences, significant termination events with finance-related consequences, and significant subjective acceleration clauses.

The Authority's adoption of this statement on January 1, 2020 did not have an impact on the financial statements.

GASB Statement No. 90, *Majority Equity Interests – An Amendment of GASB Statements No. 14 and No. 61*, was issued in August 2018. The primary objectives of this statement are to improve the consistency and comparability of reporting a government's majority equity interest in a legally separate organization and to improve the relevance of financial statement information for certain component units. It defines a majority equity interest and specifies that a majority equity interest in a legally separate organization should be reported as an investment if a government's holding of the equity interest meets the definition of an investment. A majority equity interest that meets the definition of an investment should be measured using the equity method, unless it is held by a special-purpose government engaged only in fiduciary activities, a fiduciary fund, or an endowment (including permanent and term endowments) or permanent fund. Those governments and funds should measure the majority equity interest at fair value.

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Notes to Financial Statements (Continued)

For all other holdings of a majority equity interest in a legally separate organization, a government should report the legally separate organization as a component unit, and the government or fund that holds the equity interest should report an asset related to the majority equity interest using the equity method. This statement establishes that ownership of a majority equity interest in a legally separate organization results in the government being financially accountable for the legally separate organization and, therefore, the government should report that organization as a component unit.

This statement also requires that a component unit in which a government has a 100 percent equity interest account for its assets, deferred outflows of resources, liabilities, and deferred inflows of resources at acquisition value at the date the government acquired a 100 percent equity interest in the component unit. Transactions presented in the statements of the component unit in that circumstance should include only transactions that occurred subsequent to the acquisition. The statement, as amended by GASB 95, is effective for fiscal years beginning after December 15, 2020. The Authority adopted GASB 90 on January 1, 2020 and it had no impact on the financial statements.

GASB Statement No. 95, *Postponement of the Effective Dates of Certain Authoritative Guidance*, was issued in May 2020. The primary objective of this statement is to provide temporary relief to governments and other stakeholders in light of the COVID-19 pandemic. That objective is accomplished by postponing the effective dates of certain provisions in GASB Statements and Implementation Guides that first became effective or are scheduled to become effective for periods beginning after June 15, 2018, and later. The effective dates of certain provisions contained in the previous pronouncements are postponed by one year. The effective date for GASB 87 is postponed by 18 months. The requirements of GASB 95 are effective immediately. The Authority adopted GASB 95 which deferred the adoption of several pronouncements as detailed below.

**(m) Accounting Standards Issued But Not Yet Adopted**

GASB Statement No. 87, *Leases*, was issued in June 2017. The primary objective of this statement is to better meet the information needs of financial statement users by improving accounting and financial reporting for leases by governments. This statement increases the usefulness of governments' financial statements by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources or outflows of resources based on the payment provisions of the contract. It establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. Under this statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources, thereby enhancing the relevance and consistency of information about governments' leasing activities.

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Notes to Financial Statements (Continued)

The statement, as amended by GASB 95, is effective for fiscal years beginning after June 15, 2021. The Authority is in the process of evaluating the impact of its adoption on the financial statements.

GASB Statement No. 89, *Accounting for Interest Cost Incurred before the End of a Construction Period*, was issued in June 2018. The primary objectives of this statement are (1) to enhance the relevance and comparability of information about capital assets and the cost of borrowing for a reporting period and (2) to simplify accounting for interest cost incurred before the end of a construction period.

This statement establishes accounting requirements for interest cost incurred before the end of a construction period. Such interest cost includes all interest that previously was accounted for in accordance with the requirements of paragraph 5-22 of Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1980 FASB and AICPA Pronouncements*, which are superseded by this statement. This statement requires that interest cost incurred before the end of a construction period be recognized as an expense in the period in which the cost is incurred for financial statements prepared using the economic resources measurement focus. As a result, interest cost incurred before the end of a construction period will not be included in the historical cost of a capital asset reported in a business-type activity or enterprise fund.

The statement, as amended by GASB 95, is effective for fiscal years beginning after December 15, 2020. The Authority is in the process of evaluating the impact of its adoption on the financial statements.

GASB Statement No. 91, *Conduit Debt Obligations*, was issued in May 2019. The primary objectives of this statement are to provide a single method of reporting conduit debt obligations by issuers and eliminate diversity in practice associated with (1) commitments extended by issuers, (2) arrangements associated with conduit debt obligations, and (3) related note disclosures. This statement achieves those objectives by clarifying the existing definition of a conduit debt obligation; establishing that a conduit debt obligation is not a liability of the issuer; establishing standards for accounting and financial reporting of additional commitments and voluntary commitments extended by issuers and arrangements associated with conduit debt obligations; and improving required note disclosures. The statement, as amended by GASB 95, is effective for reporting periods beginning after December 15, 2021. The Authority is in the process of evaluating the impact of its adoption on the financial statements.

GASB Statement No. 92, *Omnibus 2020*, was issued in January 2020. The objectives of this statement are to enhance comparability in accounting and financial reporting and to improve the consistency of authoritative literature by addressing practice issues that have been identified during implementation and application of certain GASB Statements. This

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statement addresses a variety of topics and includes specific provisions about the following:

- The effective date of Statement No. 87, *Leases*, and Implementation Guide No. 2019-3, *Leases*, for interim financial reports
- Reporting of intra-entity transfers of assets between a primary government employer and a component unit defined benefit pension plan or defined benefit other postemployment benefit (“OPEB”) plan
- The applicability of Statements No. 73, *Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB Statement 68, and Amendments to Certain Provisions of GASB Statements 67 and 68*, as amended, and No. 74, *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*, as amended, to reporting assets accumulated for postemployment benefits
- The applicability of certain requirements of Statement No. 84, *Fiduciary Activities*, to postemployment benefit arrangements
- Measurement of liabilities (and assets, if any) related to asset retirement obligations (“AROs”) in a government acquisition
- Reporting by public entity risk pools for amounts that are recoverable from reinsurers or excess insurers
- Reference to nonrecurring fair value measurements of assets or liabilities in authoritative literature
- Terminology used to refer to derivative instruments

The requirements related to all other items, as amended by GASB 95, are effective for fiscal years beginning after June 15, 2021. The Authority is in the process of evaluating the impact of its adoption on the financial statements.

GASB Statement No. 93, *Replacement of Interbank Offered Rates*, was issued in March 2020. Some governments have entered into agreements in which variable payments made or received depend on an interbank offered rate (“IBOR”)—most notably, the London Interbank Offered Rate (“LIBOR”). As a result of global reference rate reform, LIBOR is expected to cease to exist in its current form at the end of 2021, prompting governments to amend or replace financial instruments for the purpose of replacing LIBOR with other reference rates, by either changing the reference rate or adding or changing fallback provisions related to the reference rate. The objective of this statement is to address those and other accounting and financial reporting implications that result from the replacement of an IBOR. The removal of LIBOR as an appropriate benchmark interest rate is effective for reporting periods ending after December 31, 2021. All other requirements of this statement, as amended by GASB 95, are effective for reporting periods beginning after June 15, 2021.

GASB Statement No. 94, *Public-Private and Public-Public Partnerships and Availability Payment Arrangements*, was issued in March 2020. The primary objective of this statement

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is to improve financial reporting by addressing issues related to public-private and public-public partnership arrangements (“PPPs”). As used in this statement, a PPP is an arrangement in which a government (the “transferor”) contracts with an operator (a governmental or nongovernmental entity) to provide public services by conveying control of the right to operate or use a nonfinancial asset, such as infrastructure or other capital asset (the underlying PPP asset), for a period of time in an exchange or exchange-like transaction. Some PPPs meet the definition of a service concession arrangement (“SCA”), which the Board defines in this Statement as a PPP in which (1) the operator collects and is compensated by fees from third parties; (2) the transferor determines or has the ability to modify or approve which services the operator is required to provide, to whom the operator is required to provide the services, and the prices or rates that can be charged for the services; and (3) the transferor is entitled to significant residual interest in the service utility of the underlying PPP asset at the end of the arrangement.

This statement also provides guidance for accounting and financial reporting for availability payment arrangements (“APAs”). As defined in this statement, an APA is an arrangement in which a government compensates an operator for services that may include designing, constructing, financing, maintaining, or operating an underlying nonfinancial asset for a period of time in an exchange or exchange-like transaction. The requirements of this Statement are effective for fiscal years beginning after June 15, 2022, and all reporting periods thereafter.

GASB Statement No. 96, *Subscription-Based Information Technology Arrangements*, was issued in May 2020. This statement provides guidance on the accounting and financial reporting for subscription-based information technology arrangements (“SBITAs”) for government end users. This statement (1) defines a SBITA; (2) establishes that a SBITA results in a right-to-use subscription asset—an intangible asset—and a corresponding subscription liability; (3) provides the capitalization criteria for outlays other than subscription payments, including implementation costs of a SBITA; and (4) requires note disclosures regarding a SBITA. To the extent relevant, the standards for SBITAs are based on the standards established in Statement No. 87, *Leases*, as amended. The requirements of this Statement are effective for fiscal years beginning after June 15, 2022, and all reporting periods thereafter.

GASB Statement No. 97, *Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans - an amendment of GASB Statements No. 14 and No. 84, and a supersession of GASB Statement No. 32*, was issued in June 2020. The primary objective of GASB 97 is to require that Internal Revenue Code (“IRC”) Section 457 deferred compensation plans (“Section 457 plans”) be classified as either a pension plan or another employee benefit plan, depending on whether the plan meets the definition of a pension plan and (2) clarifies that GASB 84, as amended, should be applied to all arrangements organized under IRC Section 457 to determine whether those arrangements should be reported as fiduciary activities. The requirements of GASB 97 are effective for either fiscal years or reporting periods beginning after June 15, 2021. Earlier

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application is encouraged. The Authority is in the process of evaluating the impact of its adoption on the financial statements.

**3. Deposits and Investments**

**(a) Cash Flows**

Cash and cash equivalents decreased during the year by \$302.3 million to \$268.6 million as follows:

Cash and cash equivalents, beginning of year	\$ 570,947,546
Changes in cash:	
Investment and interest income	2,696,018
Miscellaneous revenue	44,111
School facilities project costs	(293,539,122)
Administrative and general expenses	(13,265,155)
Capital expenditures	(575,150)
Escrow deposits	2,327,526
Cash and cash equivalents, end of year	<u>\$ 268,635,774</u>

**(b) Cash and Cash Equivalents**

Operating cash, in the form of Negotiable Order of Withdrawal (“NOW”) accounts, is held in the Authority’s name by two commercial banking institutions. At December 31, 2020, the carrying amount of operating cash is \$2,838,115 and the bank balance is \$3,131,212. Deposits of up to \$250,000 at each commercial banking institution are insured with Federal Deposit Insurance.

Pursuant to GASB Statement No. 40, *Deposit and Investment Risk Disclosures*, NOW accounts are profiled in order to determine exposure, if any, to custodial credit risk (risk that in the event of failure of the counterparty the account owner would not be able to recover the value of its deposits or investment). Deposits are considered to be exposed to custodial credit risk if they are: uninsured and uncollateralized (securities not pledged to the depositor); collateralized with securities held by the pledging financial institution; or collateralized with securities held by the financial institution’s trust department or agent but not in the government’s name. At December 31, 2020, all of the Authority’s deposits were insured or collateralized by securities held in its name and, accordingly, not exposed to custodial credit risk. The Authority does not have a policy for custodial credit risk.

**(c) Investments**

In order to maximize liquidity, the Authority utilizes the NJCMF as its sole investment. Participation in the NJCMF is voluntary. All investments in the NJCMF are governed by the regulations of the State of New Jersey, Department of the Treasury, Division of Investment,

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which prescribes specific standards designed to ensure the quality of investments and to minimize the risks related to investments. The NJCMF invests pooled monies from various State and non-State agencies in primarily short-term investments. These investments include: U.S. Treasury Notes and Bills; short-term commercial paper; U.S. Agency Bonds; corporate bonds; and certificates of deposit. Agencies that participate in the NJCMF typically earn returns that mirror short-term investment rates. Monies can be freely added or withdrawn from the NJCMF on a daily basis without penalty. At December 31, 2020, the Authority's investments in the NJCMF total \$265,797,659. Of this amount, \$5,089,508 relates to district local share funding requirements (see Note 5).

*Custodial Credit Risk:* Pursuant to GASB Statement No. 40, the NJCMF, which is a pooled investment, is exempt from custodial credit risk disclosure. As previously stated, the Authority does not have a policy for custodial credit risk.

*Credit Risk:* The Authority does not have an investment policy regarding the management of credit risk. GASB Statement No. 40 requires that disclosure be made as to the credit rating of all debt security investments except for obligations of the U.S. government or investments guaranteed by the U.S. government. The NJCMF is not rated by a rating agency.

*Interest Rate Risk:* The Authority does not have a policy to limit interest rate risk. The average maturity of the Authority's sole investment, the NJCMF, is less than one year.

#### 4. Prepaid Expenses

As of December 31, 2020, the Authority's prepaid expenses are as follows:

Office rents	\$ 105,817
Service contracts	90,976
Other	30,297
Total prepaid expenses	<u>\$ 227,090</u>

#### 5. Escrow Deposits

The Authority has received funds from several local school districts as required by Local Share Agreements for the funding of certain ineligible costs relating to projects in the SDA Districts. These deposits, including investment earnings, are reflected as liabilities in the accompanying financial statements. As of December 31, 2020, deposits held in SDA bank accounts, inclusive of interest earned but not yet refunded to the district, are as follows:

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Harrison	\$	8,842
Millville		351,431
Newark		479,422
Orange		29,282
Passaic City		153,811
Pemberton		65,271
Perth Amboy		<u>4,001,449</u>
Total escrow deposits		<u>\$ 5,089,508</u>

**6. Rental of Office Space**

The Authority rents commercial office space for its headquarters facility in Trenton, as well as other office space in Newark. The remaining terms of these leases are 3 years. Total rental expense for the year ended December 31, 2020 amounted to \$1,534,597.

Future rent commitments under operating leases as of December 31, 2020 are as follows:

2021	\$	1,250,629
2022		1,267,041
2023		<u>1,283,699</u>
Total future rent expense		<u>\$ 3,801,369</u>

**7. Capital Assets**

Capital asset activity for the year ended December 31, 2020 is as follows:

	<b>Beginning Balance</b>	<b>Additions</b>	<b>Retirements</b>	<b>Ending Balance</b>
Depreciable capital assets:				
Leasehold improvements	\$ 134,149	\$ -	\$ -	\$ 134,149
Office furniture and Equipment	5,970,596	28,322	-	5,998,918
Computer software	568,993	-	-	568,993
Automobiles	329,875	-	(13,071)	316,804
Computer software in Development	790,460	548,539	-	1,338,999
Capital assets-gross	<u>7,794,073</u>	<u>576,861</u>	<u>(13,071)</u>	<u>8,357,863</u>
Less: accumulated Depreciation	(6,711,189)	(162,032)	13,071	(6,860,150)
Capital assets-net	<u>\$ 1,082,884</u>	<u>\$ 414,829</u>	<u>\$ -</u>	<u>\$ 1,497,713</u>



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**8. Reconciliation of Government-Wide and Fund Financial Statements**

**(a) Explanation of certain differences between the governmental fund balance sheet and the government-wide statement of net position**

“Total fund balances” for the Authority’s general fund (\$219,009,814) differs from the “net position” reported on the statement of net position (\$130,813,749). This difference results from the long-term economic focus of the statement of net position versus the current financial resources focus of the fund balance sheet. When capital assets that are to be used in the Authority’s activities are constructed or acquired, the costs of those assets are reported as expenditures in the fund financial statements. However, the statement of net position includes those capital assets among the assets of the Authority as a whole. In addition, expenses associated with depreciation, accrued school facilities project costs not currently due for payment and non-current other postemployment benefits and compensated absences are not recorded in the fund financial statements until paid.

A summary of these differences at December 31, 2020 is as follows:

Fund balances	\$ 219,009,814
Capital assets, net of accumulated depreciation of \$(6,860,150)	1,497,713
Deferred outflows of resources for pensions and other postemployment benefits	14,083,375
Accrued school facilities project costs	(1,815,093)
Net pension liability	(44,045,377)
Total other postemployment benefits liability	(27,307,940)
Accrued compensated absences	(1,427,037)
Accrued pension payable	(2,846,617)
Deferred inflows of resources for pensions and other postemployment benefits	<u>(26,335,089)</u>
Net position	<u>\$ 130,813,749</u>

**(b) Explanation of certain differences between the governmental fund statement of revenues, expenditures, and changes in fund balances and the government-wide statement of activities**

The governmental fund statement of revenues, expenditures, and changes in fund balances includes a reconciliation between excess of revenues over expenditures and changes in net position as reported in the government-wide statement of activities. Governmental funds report capital outlays as expenditures. However, in the statement of activities the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense. Also, some expenses reported in the statement of activities do not require the use of current financial

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resources and therefore are not reported as expenditures in governmental funds. A summary of these differences for the year ended December 31, 2020 is as follows:

Deficiency of revenues over expenditures	\$ (304,980,429)
School facilities project (costs)/credits	1,994,637
Pension (expense)/credit (GASB 68)	-
Other postemployment benefits expense (GASB 75)	(746,997)
Compensated absences (expense)/credit	(206,964)
Capital expenditures	576,861
Depreciation expense	<u>(162,032)</u>
Changes in net position	<u>\$ (303,524,924)</u>

**9. Pollution Remediation Obligations**

In accordance with GASB Statement No. 49, *Accounting and Financial Reporting for Pollution Remediation Obligations*, the Authority has recorded in the statement of net position a pollution remediation obligation (“PRO”) liability (net of environmental cost recoveries not yet realized) in the amount of \$1,628,816 as of December 31, 2020. This liability is included in accrued school facilities project costs reported on the statement of net position. The Authority’s PRO liability and asset are charged or credited to school facilities project costs in the statement of activities. The Authority’s PRO liability is measured based on the current cost of future activities. Also, the PRO liability was estimated using “the expected cash flow technique,” which measures the liability as the sum of probability weighted amounts in a range of possible estimated outcomes.

The Authority owns numerous properties with environmental issues that meet the criteria for “obligating events” and disclosure under GASB Statement No. 49. All of the properties meeting the criteria were acquired by the Authority for the purpose of constructing a school facilities project on behalf of an SDA District and, at the present, the Authority believes it has obligated itself to commence clean-up activities. The Authority will continue to evaluate the applicability of this Statement relating to specific project sites as adjustments are made to its portfolio of school facilities projects. The Authority’s remediation activities generally include: pre-cleanup activities including preliminary assessment and site investigation; asbestos and lead based paint removal; underground storage tank removal; neutralization, containment, removal and disposal of ground pollutants; site restoration; and post-remediation monitoring and oversight. The following table summarizes the Authority’s expected cash outlays (estimated costs), payments and cost recoveries related to numerous SDA-owned properties associated with school facilities projects in various stages of pre-development and construction.

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	Estimated Cost	Payments to Date	PRO at 12-31-2020
Pre-cleanup activities	\$ 1,387,345	\$ 1,238,662	\$ 148,683
Site remediation work	15,433,879	12,823,853	2,610,026
Post-remediation monitoring	225,121	56,284	168,837
Asbestos and lead based paint removal	4,382,659	4,195,135	187,524
Sub-total	21,429,004	18,313,934	3,115,070
Less: Estimated environmental cost recoveries (ECR) not yet realized	1,486,254	-	1,486,254
Liability for pollution remediation Obligations	\$ 19,942,750	\$ 18,313,934	\$ 1,628,816

The following table summarizes the changes in the Authority's PRO liability during the year ended December 31, 2020:

PRO at 12-31-2019	Increase in Expected Cash Outlays	PRO Payments	Change in ECR Not Yet Realized	PRO at 12-31-2020
\$1,414,460	\$277,516	\$(63,160)	\$ -	\$1,628,816

## 10. Commitments and Contingencies

### (a) Contractual Commitments

At December 31, 2020, the Authority has approximately \$585 million of unaccrued contractual commitments relating to future expenditures associated with school facilities projects.

### (b) Contractor and Other Claims

Numerous contractor and other claims, the vast majority of which are not in litigation, have been filed with the Authority by design consultants, general contractors, project management firms and school districts relating to disputes concerning school construction matters (e.g., delays, labor and material price increases). The Authority resolves contractor claims by following the administrative process noted in the relevant contract. As of December 31, 2020, the Authority's potential loss from all claims has been estimated at approximately \$0.2 million, which represents a decrease of \$2.2 million from the prior year end accrual. Accordingly, as of December 31, 2020, an accrued liability of \$0.2 million is reflected in the statement of net position as a component of accrued school facilities project costs and, for the year then ended, \$2.2 million is charged to school facilities project costs on the statement of activities.

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**(c) Insurance**

The Authority maintains commercial insurance coverage for, among other things, workers' compensation, tort liability (including public liability and automobile) and property damage. Additionally, in support of its construction operations the Authority has implemented an Owner Controlled Insurance Program ("OCIP") and has also purchased Builders Risk and Owners Protective Professional Indemnity Insurance ("OPPI"), all of which are discussed below. As of December 31, 2020, management is not aware of any insurable claim that is expected to exceed its commercial insurance coverage.

The Authority has implemented an OCIP that "wraps up" multiple types of insurance coverage into one program. The Authority initially implemented a three-year OCIP, effective December 31, 2003 ("OCIP I"), to provide workers' compensation, commercial general liability and umbrella/excess liability insurance for all eligible contractors performing labor on school facilities projects. OCIP I was subsequently extended to March 31, 2009. Policy limits for OCIP I vary depending upon, among other things, the type of insurance coverage; a \$300 million umbrella/excess liability program provides additional protection against potentially catastrophic losses resulting from workers' compensation and commercial general liability claims. Losses are subject to a \$250,000 per claim deductible. Although OCIP I is no longer enrolling new projects into the program since its expiration, completed operations coverage continues for 10 years for claims that arise after the completion of construction.

In 2009, the Authority approved the purchase of a succeeding five-year OCIP ("OCIP II") program to coincide with the expiration of the OCIP I enrollment period for new projects. OCIP II, as originally purchased, provided coverage for projects commencing construction between March 31, 2009 and March 31, 2012. The OCIP II enrollment period was extended to March 31, 2014 at no additional cost to the Authority. The extension also provided an additional two years for the completion of enrolled projects. Subsequently, the Authority authorized the purchase of a new three-year OCIP ("OCIP III") with an effective date of March 1, 2015 and an OCIP IV with an effective date of March 1, 2018. Similar to OCIP I, policy limits for OCIP II, III and IV vary depending upon, among other things, the type of insurance coverage; a \$200 million umbrella/excess liability program provides additional protection against potentially catastrophic losses resulting from workers' compensation and commercial general liability claims. Losses are subject to either a \$250,000 per claim deductible or a \$350,000 "clash" deductible in the event that both a workers' compensation and general liability claim occur from the same incident. Additionally, OCIPs II, III and IV each provide 10 years of completed operations coverage for claims that arise after the completion of construction. Premiums for each OCIP are adjustable based upon actual construction values for enrolled contractors (not all trades are eligible for enrollment) on insured projects.

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In connection with OCIP I, the Authority executed a Funded Multi-Line Deductible Program Agreement which, among other things, required the Authority to fund a Deductible Reimbursement Fund (“DRF”) to collateralize the Authority’s estimated deductible obligations under certain OCIP I policies. The DRF, which was established at \$37 million, consists of cash payments by the Authority totaling \$34.9 million, and a one-time credit of \$2.1 million received at inception for estimated interest. The cash portion of the DRF was funded by the Authority in installments during the period from December 2003 through December 2006 and expensed as paid as school facilities project costs on the statement of activities and general fund revenues, expenditures and changes in fund balance.

Concurrent with the Authority’s purchase of OCIP II, the insurer agreed to transfer a portion of the remaining available funds from the Authority’s DRF to a new Loss Reimbursement Fund (“LRF”). The LRF for OCIP II was initially established at approximately \$18.9 million to partially fund a maximum deductible obligation of \$26 million. Approximately \$9.9 million remained in the LRF for OCIP I. In connection with the OCIP II extension, discussed above, the maximum deductible obligation was reduced to \$16 million. In 2015, concurrent with the purchase of OCIP III with a new insurer, the Authority was required to fund a new LRF in the amount of approximately \$4.5 million to partially fund a maximum deductible obligation of \$12.4 million. Likewise, the purchase of OCIP IV with a new insurer required the Authority to partially fund a new LRF in the amount of \$4.5 million with a maximum obligation of \$10.9 million. All monies deposited in the respective LRFs are available to pay claim costs arising from construction projects enrolled in a specific OCIP.

As of December 31, 2020, the Authority has open reserves for general liability and workers’ compensation claims totaling approximately \$78,746, \$119,837, \$412,950 and \$349,256, under OCIPs I, II III and IV, respectively. All monies deposited in the LRF and not used to pay claims will be refunded to the Authority along with accrued interest, as applicable. Under the terms of the contract, the Authority has no claim or interest in the LRF until six (6) months after the expiration of the program. Since their respective enrollment periods have expired, the DRF for OCIP I and the LRF for OCIP II are reviewed annually and the deductible obligation re-determined; if the respective deductible fund is determined to be overfunded based on the annual re-determination, the Authority is entitled to a refund of the difference.

Since the inception of OCIP I, the Authority has purchased and maintained Builders Risk property insurance that protects the Authority from unexpected losses due to fire, vandalism, lightning, wind and similar forces during construction of a school facilities project. The current insurance policy expiration date is July 15, 2023 and provides a limit of \$250 million for any one project.

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In October 2009, the Authority purchased a 5-year, \$25 million limit of liability OPPI policy designed to provide additional protection in excess of the professional liability insurance maintained by the Authority's contracted design professionals. The policy is subject to a \$500,000 self-insured retention and provides coverage for construction projects. The policy also provides an Extended Reporting Period ("ERP") of up to 10 years to report claims, commencing on the earlier of project substantial completion or the policy expiration date of October 1, 2014.

In December 2014, the Authority approved the purchase of a new 5-year OPPI policy, including excess Contractors Pollution Liability ("CPL"), for SDA construction projects commencing construction on or after December 31, 2014 and prior to December 31, 2020. The policy provides a \$25 million limit of liability subject to a \$500,000 self-insured retention for OPPI, and a \$250,000 self-insured retention for CPL. Additionally, the policy provides an ERP of up to 8 years to report claims, commencing on the earlier of project substantial completion or the policy expiration date of December 31, 2020. This policy was extended to expire June 30, 2025 to allow for all projects in the Authority's current portfolio to reach substantial completion.

## **11. Employee Benefits**

### **(a.1) Public Employees' Retirement System of New Jersey**

*Plan description and benefits provided.* All active, full-time employees of the Authority are required as a condition of employment to participate in the Public Employees' Retirement System of New Jersey ("PERS" or "Plan"), a cost-sharing, and multiple-employer defined benefit plan administered by the State. The contribution policy is established by N.J.S.A. 43:15A and requires contributions by active members and contributing employers. Currently as of July 1, 2020, employees are required to contribute 7.50% of their annual compensation to the Plan. All Plan participants are categorized within membership Tiers in accordance with their enrollment date in the PERS, as follows: Tier 1 includes those members enrolled in the PERS prior to July 1, 2007; Tier 2 includes those members enrolled in the PERS on or after July 1, 2007 and prior to November 2, 2008; Tier 3 includes those members enrolled in the PERS on or after November 2, 2008 and on or before May 22, 2010; Tier 4 includes those members enrolled in the PERS after May 22, 2010 and prior to June 28, 2011; and Tier 5 includes those members enrolled in the PERS on or after June 28, 2011. Depending on the Tier, other factors including minimum base salary amounts and/or minimum hours worked, among other things, may impact an employee's eligibility in the PERS. As discussed below, members enrolled in the PERS on or after July 1, 2007, and who earn an annual salary in excess of established limits, are eligible to participate in a Defined Contribution Retirement Program ("DCRP") administered by Prudential Financial on behalf of the State.

The general formula for annual retirement benefits for Tier 1, Tier 2, and Tier 3 members is the final 3-year average salary divided by 55, times the employee's years of service. The

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formula for Tier 4 and Tier 5 members is the final 5-year average salary divided by 60, times the employee's years of service. Pension benefits for all members fully vest upon reaching 10 years of credited service. Tier 1 and Tier 2 members are eligible for normal retirement at age 60, while Tier 3 and Tier 4 members are eligible for normal retirement at age 62. Tier 5 members are eligible for normal retirement at age 65. No minimum years of service is required once an employee reaches the applicable retirement age.

Tier 1 members who have 25 years or more of credited service may elect early retirement without penalty at or after age 55, and receive full retirement benefits; however, the retirement allowance is reduced by 3% per year (1/4 of 1% per month) for each year the member is under age 55. For Tier 2 members with 25 years or more of credited service the retirement allowance is reduced by 1% per year (1/12 of 1% per month) for each year the member is under age 60 (until age 55) and 3% per year (1/4 of 1% per month) for each year the member is under age 55. For Tier 3 and Tier 4 members the retirement allowance is reduced by 1% per year (1/12 of 1% per month) for each year the member is under age 62 (until age 55) and 3% per year (1/4 of 1% per month) for each year the member is under age 55. Lastly, for Tier 5 members the retirement allowance is reduced by 3% per year (1/4 of 1% per month) for each year the member is under age 65.

The PERS also provides death and disability benefits. The State of New Jersey, as established by N.J.S.A. 43:15A, has the authority to establish and/or amend any of the benefit provisions and contribution requirements.

**(a.2) Pension Liabilities, Pension Expense, Deferred Outflows of Resources and Deferred Inflows of Resources**

In accordance with GASB 68, the Authority recognized a net pension liability for the difference between the present value of the projected benefits for past service known as the Total Pension Liability ("TPL") and the restricted resources held in trust for the payment of pension benefits, known as the Fiduciary Net Position ("FNP").

At December 31, 2020, the Authority reported a liability of \$44.0 million in the statement of net position for its proportionate share of the net pension liability for the PERS. The net pension liability was measured as of June 30, 2020, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of July 1, 2019. The actuarial valuation was rolled forward to June 30, 2020 using update procedures. The Authority's proportion of the net pension liability was based on a projection of the Authority's long-term share of contributions to the Plan relative to the projected contributions of all participating State agencies, actuarially determined. At June 30, 2020, the Authority's proportionate share was estimated to be 0.24445%. The change in proportion since the prior measurement date was a decrease of 0.01366%.

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Notes to Financial Statements (Continued)

In accordance with GASB 68, for the year ended December 31, 2020, the Authority recognized pension expense of \$2,377,735, of which \$2,377,735 (the amount of the Authority's 2020 contractually required pension contribution to the PERS) was recorded in the General Fund Revenues, Expenditures and Changes in Fund Balance. The amount of the Authority's pension contribution due on April 1, 2020 is \$2,846,617. Pension expense is reported in the Authority's financial statements as a component of administrative and general expenses.

The Authority's contractually required contribution to the PERS for the year ended December 31, 2020 was \$2,377,735, which is 13.2% of annual covered payroll. Based on the recommendation of the State of New Jersey Department of the Treasury, the investment rate of return used to calculate the actuarially determined contribution effective with the July 1, 2020 valuation was 7.30% per annum. The Department of the Treasury recommendation also calls for the rate to be reduced further to 7.00% per annum effective with the July 1, 2021 valuation. The actuarially determined employer contribution amount, when combined with employee contributions, is expected to finance the costs of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability.

At December 31, 2020, the Authority's reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	<b>Deferred Outflows of Resources</b>	<b>Deferred Inflows of Resources</b>
Net difference between projected and actual earnings on pension plan investments	\$ -	\$ 695,273
Differences between expected and actual experience	790,557	194,573
Changes in assumptions or other inputs	4,398,093	15,288,011
Changes in proportion	1,460,448	3,245,240
Contributions subsequent to the measurement date	2,377,735	-
Total deferred outflows and inflows of resources	\$ 9,026,833	\$ 19,423,097

Deferred outflows of resources of \$2,846,617 resulting from contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the year ended December 31, 2020. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized in pension expense as follows:

Year 1 (2021)	\$ (1,828,705)
Year 2 (2022)	(4,319,397)
Year 3 (2023)	(4,151,342)
Year 4 (2024)	(2,220,251)
Year 5 (2025)	(254,304)
Total	\$ (12,773,999)



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Notes to Financial Statements (Continued)

***Actuarial methods and assumptions***

The collective total pension liability in the June 30, 2020 measurement date was determined by an actuarial valuation as of July 1, 2019, which was rolled forward to June 30, 2020. The key actuarial assumptions are summarized as follows:

Rate of inflation		
Price		2.75%
Wage		3.25%
Salary increase:		
Through 2026	2.00% - 6.00%	(based on years of service)
Thereafter	3.00% - 7.00%	(based on years of service)
Investment rate of return		7.00%
Cost of living adjustment		None assumed

Mortality rates were based on the SOA's Scale MP-2020 mortality improvement scale.

***Discount rate***

The discount rate used to measure the total pension liability was 6.28% as of June 30, 2020. This single blended discount rate was based on the long-term expected rate of return on pension plan investments of 7.00% and a municipal bond rate of 3.50% as of June 30, 2020, based on the Bond Buyer Go 20-Bond Municipal Bond Index which includes tax-exempt general obligation municipal bonds with an average rating of AA/Aa or higher. The contribution percentage is the average percentage of the annual actual contribution paid over the annual actuarially determined contribution during the most recent five-year period. Based on those assumptions, the Plan's fiduciary net position was projected to be available to make projected future benefit payments of current Plan members through 2057. Accordingly, the long-term expected rate on Plan investments was applied to projected benefit payments through 2057 and the municipal bond rate was applied to projected benefit payments after that date in determining the total pension liability.

***Expected rate of return on investments***

The long-term expected rate of return on Plan investments was determined using a building block method in which best estimate ranges of expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target asset allocation percentage and by adding expected inflation.

The target asset allocation and best estimate of arithmetic real rates of return for each major asset class are summarized in the following table:

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Notes to Financial Statements (Continued)

<b>Asset Class</b>	<b>Target Allocation</b>	<b>Long-Term Expected Real Rate of Return</b>
Risk mitigation strategies	3.00%	4.67%
Cash equivalents	5.00%	2.00%
U.S. Treasuries	5.00%	2.68%
Investment grade credit	10.00%	4.25%
High yield	2.00%	5.37%
Private credit	6.00%	7.92%
Real assets	2.50%	9.31%
Real estate	7.50%	8.33%
U.S. equity	28.00%	8.26%
Non-U.S. developed markets equity	12.50%	9.00%
Emerging markets equity	6.50%	11.37%
Private equity	12.00%	10.85%

***Sensitivity of the Authority's proportionate share of the net pension liability to changes in the discount rate***

The following presents the Authority's proportionate share of the net pension liability calculated using the discount rate of 6.28% as well as the proportionate share of the net pension liability using a 1.00% increase or decrease from the current discount rate:

	<b>1% Point Decrease</b>	<b>Discount Rate Assumption</b>	<b>1% Point Increase</b>
PERS (5.28%, 6.28%, 7.28%)	\$56,023,514	\$44,045,377	\$34,516,704

***Pension plan fiduciary net position***

Detailed information about the Plan's fiduciary net position is available in a separately issued financial report. The State of New Jersey, Department of the Treasury, Division of Pension and Benefits, issues publicly available financial reports that include the financial statements and required supplementary information for the PERS. Information on the total Plan funding status and progress, required contributions and trend information is available on the State's web site at [www.state.nj.us/treasury/pensions/annrprts.shtml](http://www.state.nj.us/treasury/pensions/annrprts.shtml) in the Comprehensive Annual Financial Report of the State of New Jersey, Division of Pensions and Benefits.

**(b) Defined Contribution Retirement Program and Early Retirement Changes for Employees Enrolled in the PERS on or after July 1, 2007**

The DCRP was established on July 1, 2007 under the provisions of P.L.2007, c.92 and P.L.2007, c.103. The DCRP provides eligible members with a tax-sheltered, defined contribution retirement benefit, along with death and disability benefits. A PERS member who becomes eligible and is enrolled in the DCRP is immediately vested in the DCRP. To be

New Jersey Schools Development Authority  
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Notes to Financial Statements (Continued)

eligible for the DCRP, an employee is required to have enrolled in the PERS on or after July 1, 2007 (Tiers 2 through 5), and they must earn an annual salary in excess of established “maximum compensation” limits. The maximum compensation is based on the annual maximum wage for Social Security and is subject to change at the start of each calendar year. A PERS member who is eligible for the DCRP may voluntarily choose to waive participation in the DCRP for a reduced retirement benefit from the State. If a member waives DCRP participation and later wishes to participate, the member may apply for DCRP enrollment, with membership to be effective January 1 of the following calendar year. PERS members who participate in the DCRP continue to receive service credit and are eligible to retire under the rules of the PERS, with their final salary at retirement limited to the maximum compensation amounts in effect when the salary was earned. The participating member would also be entitled to a supplementary benefit at retirement based on both the employee (above the maximum compensation limit) and employer contributions to the DCRP. For the direct benefit of those participating in the DCRP, the Authority would be required to contribute 3% to the DCRP (“employer matching”) based on the member’s annual compensation (base salary) in excess of the maximum compensation limit.

For the year ending December 31, 2020, the Authority had 4 active employees enrolled in the DCRP and made matching contributions totaling \$3,876. Employer matching contributions relating to 2019, 2018 and 2017 totaled \$3,896, \$5,837, and \$9,705, respectively.

**(c) Deferred Compensation**

The Authority has established an Employees Deferred Compensation Plan under section 457 of the Internal Revenue Code. All active, full-time employees are eligible to participate in the plan, which permits participants to defer a portion of their pay in accordance with the contribution limits established in section 457(b) of the Internal Revenue Code. The Authority does not make any contributions to the plan.

**(d) Other Postemployment Benefits**

*Plan description and benefits provided.* The Authority provides postemployment healthcare benefits (including Medicare Part B reimbursement) and prescription drug coverage through participation in the New Jersey State Health Benefits Program, as sponsored and administered by the State of New Jersey, to eligible retirees having either: (1) 25 years or more of service in the PERS if hired on or prior to June 28, 2011, or; (2) 30 years or more of service in the PERS if hired after June 28, 2011, or (3) to those individuals approved for disability retirement. These postemployment benefits also extend to the retirees’ covered dependents. Health benefits and prescription benefits provided by the plan are at no cost to eligible retirees who had accumulated at least 20 years of service credit as of June 30, 2010; all other eligible retirees must contribute a portion of the premium costs based on the applicable percentage of premium as determined by the annual retirement allowance. A minimum contribution of 1.5% of the monthly retirement allowance is

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Notes to Financial Statements (Continued)

required. Upon turning 65 years of age, a retiree must opt for Medicare as their primary coverage, with State benefits providing supplemental coverage. In addition, life insurance is provided at no cost to the Authority and the retiree in an amount equal to 3/16 of their average salary during the final 12 months of active employment. The State pays the cost of this benefit. The State has the authority to establish and amend the benefit provisions offered and contribution requirements. The plan is considered a single employer defined benefit plan for financial reporting purposes. The Authority has elected to fund postretirement health benefits on a pay-as-you-go basis since it is not authorized to pre-fund an OPEB trust from the proceeds of tax-exempt bonds (nor from the income earned on the investment of those proceeds) from which it presently derives essentially all of its revenue. Therefore, no plan assets exist in a trust that meets the specified criteria in paragraph 4 of GASB 75.

***Retirees and employees covered by OPEB Plan***

At December 31, 2020, the following employees were covered by the benefit terms:

Retired employees and/or beneficiaries currently receiving benefit payments	26
Active employees	174
Total	200

***Total OPEB liability***

The Authority's total OPEB liability of \$27,307,940 was measured as of December 31, 2019, and was based upon an actuarial valuation as of January 1, 2019, which was rolled forward to December 31, 2020. The Authority has fully recognized this liability in the statement of net position as of December 31, 2020 in accordance with GASB 75.

***Actuarial methods and assumptions***

The total OPEB liability in the January 1, 2020 actuarial valuation was determined using the following actuarial assumptions and other inputs, applied to all periods included in the measurement, unless otherwise specified:

Rate of inflation		4.50%
Annual salary increases		3.00%
Discount rate		2.92%
Retirees' share of benefit related premium costs	None for retirees with at least 20 years of service credit as of June 30, 2010. All other retirees to contribute based on the applicable percentage of premium as determined by the annual retirement allowance. A minimum contribution of 1.5% of the retirement allowance is required.	

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Notes to Financial Statements (Continued)

The entry age - level percent-of-pay actuarial cost method was used. No investment return was assumed in the current valuation since there are no OPEB plan assets. The discount rate was based on the average of the Bond Buyer 20 Bond GO, S&P Municipal Bond 20 Year High Grade and Fidelity GA AA-20 Year published yields.

The mortality tables used for this valuation is based on the Society of Actuaries Pub-2010 Public Retirement Plans Healthy Male and Female Total Dataset Headcount-Weighted Mortality tables using Employee and Healthy Annuitant Tables for both pre and post retirement projected with mortality improvements using the most current Society of Actuaries Mortality Improvement Scale MP-2020.

The annual healthcare cost inflation (trend) rate for all retiree health benefits is 7% beginning in 2021 for both pre-65 retirees (pre-Medicare) and post-65 retirees (integrated with Medicare). The trend increase assumption will decrease by 0.25% per year until an ultimate annual trend rate increase assumption of 4.5% in 2031 and later.

This valuation excludes the Cadillac tax in its entirety based on legislation signed into law on December 20, 2019, HR 1865 "Further Consolidated Appropriations Act, 2020" repealing the "Cadillac Tax".

The decrement assumptions (i.e., retirement, turnover and disability) and age-based costs for the Authority were estimated using information from the New Jersey Public Employees Retirement System ("PERS"). Decrement tables are based on the July 1, 2018 Annual Report of the Actuary for PERS.

As required for any actuarial valuation with a measurement date on or after March 31, 2015, Actuarial Standard of Practice No. 6, *Measuring Retiree Group Benefits Obligations and Determining Retiree Group Benefits Program Periodic Costs or Actuarially Determined Contributions*, was used in performing the Authority's actuarial valuation for OPEB.

***Changes in total OPEB liability***

Service cost	\$ 409,654
Interest cost	813,459
Changes in assumptions	4,844,872
Benefit payments	<u>(221,345)</u>
Net change in total OPEB liability	5,846,640
Total OPEB liability – beginning of year	<u>21,461,300</u>
Total OPEB liability – end of year	<u><u>\$ 27,307,940</u></u>

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Notes to Financial Statements (Continued)

The schedule of changes in the Authority's total OPEB liability and related ratios are presented for multiple years as required supplementary information following the notes to financial statements.

***Sensitivity of the total OPEB liability to changes in the discount rate***

The following presents the total OPEB liability of the Authority, as well as what the Authority's total OPEB liability would be if it were calculated using a discount rate that is 1-percentage-point lower or 1-percentage-point higher than the discount rate assumed for the current valuation:

	1% Decrease (1.92%)	Discount Rate (2.92%)	1% Increase (3.92%)
Total OPEB liability	\$34,926,332	\$27,307,940	\$21,738,766

***Sensitivity of the total OPEB liability to changes in the healthcare cost trend rates***

The following presents the total OPEB liability of the Authority, as well as what the Authority's total OPEB liability would be if it were calculated using healthcare cost trend rates that are 1-percentage-point lower or 1-percentage-point higher than assumed for the current valuation:

	1% Decrease (6% decreasing to 3%)	Healthcare Cost Trend Rates (7% decreasing to 4%)	1% Increase (8% decreasing to 5%)
Total OPEB liability	\$21,428,851	\$27,307,940	\$35,196,545

***OPEB expense and deferred outflows of resources and deferred inflows of resources***

For the year ended December 31, 2020, the Authority recognized OPEB expense of \$947,734, of which \$200,737 (the amount of contributions for retiree health insurance in 2020) was recorded in the General Fund Revenues, Expenditures and Changes in Fund Balance. The accumulated amount of deferred outflows of resources and deferred inflows of resources are as follows:

New Jersey Schools Development Authority  
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Notes to Financial Statements (Continued)

	<b>Deferred Outflows of Resources</b>	<b>Deferred Inflows of Resources</b>
Differences between expected and actual experience	\$ 115,470	\$ -
Changes in assumptions	4,472,190	6,911,992
Total deferred outflows and inflows of resources	\$ 4,587,660	\$ 6,911,992

Deferred inflows and outflows of resources related to OPEB will be recognized in OPEB expense as follows:

Year 1 (2021)	\$ (254,770)
Year 2 (2022)	(254,770)
Year 3 (2023)	(254,770)
Year 4 (2024)	(254,770)
Year 5 (2025)	(254,770)
Year 6 (2026) and thereafter	(1,050,482)
Total	\$ (2,324,332)

## 12. Compensated Absences

In accordance with GASB Statement No. 16, *Accounting for Compensated Absences*, the Authority has recorded a liability in the amount of \$1,427,037 as of December 31, 2020 in the statement of net position. The liability is the value of employee accrued vacation time as of the statement of net position date and vested sick leave benefits that are probable of payment to employees upon retirement. The vested sick leave benefit to future retirees for unused accumulated sick leave is calculated at the lesser of ½ the value of earned time or \$15,000. The payment of sick leave benefits, prior to retirement, is dependent on the occurrence of sickness as defined by the Authority's policy; therefore, such unvested benefits are not accrued.

## 13. Long-Term Liabilities

During the year, the following changes in long-term liabilities are reflected in the statement of net position:

New Jersey Schools Development Authority  
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Notes to Financial Statements (Continued)

	Beginning Balance	Additions	Deductions	Ending Balance
Accrued school facilities project costs	\$ 3,809,730	\$ 214,356	\$ (2,208,993)	\$ 1,815,093
Net pension liability	44,045,377	-	-	44,045,377
Total other postemployment benefits liability	21,461,300	5,846,640	-	27,307,940
Accrued pension payable	2,377,735	2,846,617	(2,377,735)	2,846,617
Compensated absences	1,220,073	206,964	-	1,427,037
Total long-term liabilities	<u>\$ 72,914,215</u>	<u>\$ 9,114,577</u>	<u>\$ (4,586,728)</u>	<u>\$ 77,442,064</u>

For further information, see Notes 11 and 12.

#### 14. Net Position

The Authority's net position is categorized as either invested in capital assets or restricted for schools construction. At December 31, 2020, the Authority's net position is \$130.8 million. Net investment in capital assets includes leasehold improvements, automobiles, furniture and fixtures, equipment and computer software used in the Authority's operations, net of accumulated depreciation.

The changes in net position during 2019 and 2020 are as follows:

	Net Investment in Capital Assets	Restricted for Schools Construction	Totals
Net position, January 1, 2019	\$ 634,982	\$ 397,381,418	\$ 398,016,400
(Loss)/excess before receipt of EFCFA funding and transfers	(180,014)	(6,531,003)	(6,711,017)
Capital expenditures	627,916	(627,916)	-
EFCFA funding received from State	-	350,000,000	350,000,000
School facilities project costs	-	(306,966,710)	(306,966,710)
Net position, December 31, 2019	1,082,884	433,255,789	434,338,673
(Loss)/excess before receipt of EFCFA funding and transfers	(162,032)	(12,083,995)	(12,246,027)
Capital expenditures	576,861	(576,861)	-
School facilities project costs	-	(291,278,897)	(291,278,897)
Net position, December 31, 2020	<u>\$ 1,497,713</u>	<u>\$ 129,316,036</u>	<u>\$ 130,813,749</u>

#### 15. Subsequent Events

The Authority has joined in productive discussions with the State of New Jersey, the New Jersey Department of Community Affairs ("DCA") and the landlord for SDA's Newark, NJ office regarding the potential assignment of this office lease by SDA to the State, on behalf of DCA. On December 14, 2020, the Joint State Leasing and Space Utilization



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Notes to Financial Statements (Continued)

Committee approved the assignment of the Newark office lease, thus, clearing the way for necessary office renovations to proceed. The Authority currently anticipates the assignment of the Newark office lease to the State to be completed during the third quarter of 2021.

On January 14, 2021, EFCFA funding of \$350 million was received from the State related to the issuance of the 2021 Series QQQ Bonds.

On February 23, 2021, the New Jersey Governor, Phil Murphy, presented his proposed Fiscal Year 2022 annual budget recommendation which includes a \$200 million General Fund appropriation in support of the school construction program. It is anticipated that this appropriation would go toward current projects, therefore, potentially allowing the State to delay the issuance of a portion of the remaining authorized school construction bonds for one year beyond what was planned.

The proposed Fiscal Year 2022 budget also directs \$75 million into the Authority's capital maintenance and emergent needs grants program, with preference being given to projects that would mitigate COVID-related health and safety issues in the SDA Districts and Regular Operating Districts.

The Governor and the New Jersey Legislature have until July 1, 2021 to reach an agreement on the Fiscal Year 2022 annual budget.

As the Coronavirus pandemic continues into the new year, forecasts imply both good and bad news are upon the horizon. The economic downturn is projected to continue well into the second quarter of fiscal year 2020. As infection rates continue to rise to record levels, the threat of government restrictions on some economic activities remains a risk to economic recovery. However, as vaccines become more readily available, there is hope that the widespread disruption in the economy could subside towards the summer of 2021. The recent passage of another Coronavirus relief bill from the U.S. Federal Government, is expected to alleviate some of the current hardship. Due to the fluid nature of the current landscape management will continue to evaluate economic indicators and the potential outcomes it may have on the Authority's financial position.

**STATE OF NEW JERSEY**  
**SCHOOLS DEVELOPMENT AUTHORITY**  
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**REQUIRED SUPPLEMENTARY INFORMATION**

New Jersey Schools Development Authority  
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Schedule of Authority's Proportionate  
Share of the Net Pension Liability

	2020 *	2019	2018	2017	2016
Authority's proportion of the net pension liability	0.24445%	0.24445%	0.25282%	0.25811%	0.24459%
Authority's proportionate share of the net pension liability	\$ 44,045,377	\$ 44,045,377	\$ 49,778,974	\$ 60,083,669	\$ 72,439,355
Authority's covered payroll	\$ 16,333,372	\$ 19,098,021	\$ 17,849,263	\$ 18,573,489	\$ 18,574,888
Authority's proportionate share of the net pension liability as a percentage of covered payroll	269.7%	230.6%	278.9%	323.5%	390.0%
Plan fiduciary net position as a percentage of the total pension liability	42.0%	42.0%	40.4%	36.8%	31.2%
	<b>2015</b>				
Authority's proportion of the net pension liability	0.26024%				
Authority's proportionate share of the net pension liability	\$ 58,417,776				
Authority's covered payroll	\$ 18,072,739				
Authority's proportionate share of the net pension liability as a percentage of covered payroll	323.2%				
Plan fiduciary net position as a percentage of the total pension liability	38.2%				

**Notes to Schedule:**

\* The amounts presented in the table above were determined as of June 30, 2020.

This schedule is intended to show information for 10 years. Additional years will be displayed as they become available.



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Schedule of Authority's Contributions  
to the Public Employees' Retirement System (Continued)

Mortality

Pre-retirement mortality rates were based on the Pub-2010 General Below-Median Income Employee mortality table with an 82.2% adjustment for males and 101.4% adjustment for females, and with future improvement from the base year of 2010 on a generational basis.

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Schedule of Changes in the Total Postemployment Benefits  
Other Than Pensions (OPEB) Liability and Related Ratios

	2020	2019	2018	2017	2016
Service cost	\$ 409,654	\$ 449,157	\$ 1,606,120	\$ 1,634,702	\$ 1,578,355
Interest cost	813,459	762,995	1,004,490	927,740	849,309
Differences between actual and expected experience	-	-	146,961	-	-
Changes in assumptions	4,844,872	(3,257,030)	(3,947,479)	(1,476,238)	-
Benefit payments	(221,345)	(231,938)	(362,050)	(297,093)	(277,001)
Net change in total OPEB liability	5,846,640	(2,276,816)	(1,551,958)	789,111	2,150,663
Total OPEB liability – beginning of year	21,461,300	23,738,116	25,290,074	24,500,963	22,350,300
Total OPEB liability – end of year	<u>\$ 27,307,940</u>	<u>\$ 21,461,300</u>	<u>\$ 23,738,116</u>	<u>\$ 25,290,074</u>	<u>\$ 24,500,963</u>
Covered payroll	\$ 15,948,280	\$ 15,838,600	\$ 18,487,788	\$ 18,451,700	\$ 17,954,600
Total OPEB liability as a percentage of covered payroll	171.23%	135.50%	128.40%	137.06%	136.64%

This schedule is intended to show information for 10 years. Additional years will be displayed as they become available.

**Notes to Schedule:**

No assets are accumulated in a trust that meets the criteria in paragraph 4 of GASB 75 to pay related benefits.

Benefit changes – none.

Changes in assumptions:

Changes in assumptions reflect the effects of changes in the discount rate each period. The following are the discount rates used in each period:

2020	2.92%
2019	3.81%
2018	3.23%
2017	3.76%
2016	3.57%

***Resolution—5a.***

**Resolution Approving the 2020 SDA Audited Financial Statements**

**WHEREAS**, the New Jersey Schools Development Authority (SDA or the Authority) was established by law pursuant to P.L.2007, C.137 (N.J.S.A. 52:18A-235 et. seq.) as an entity “in but not of” the New Jersey State Department of the Treasury; and

**WHEREAS**, pursuant to law, the Authority is authorized to “adopt bylaws for the regulation of its affairs and the conduct of its business”, which bylaws were adopted by the Authority on August 15, 2007; and

**WHEREAS**, consistent with N.J.S.A 52:18A-237(1), the Authority’s bylaws, at Article VIII, Section 8.2, provide that “the Authority shall provide for an annual audit of the financial statements of the Authority by a certified public accountant, and cause a copy thereof to be filed with the Secretary of State, the Director of the Division of Budget and Accounting in the Department of Treasury, and the State Auditor”; and

**WHEREAS**, in accordance with Executive Order No. 122 (2004) as amended by Executive Order No. 37 (2006) and consistent with Article VIII, Section 8.3 of the Authority’s bylaws, the Authority shall prepare a comprehensive report regarding its operations and, following approval of same by the Members of the Authority, submit the report to the Governor’s Authorities Unit and the State Treasurer and post it on the Authority’s website; and

**WHEREAS**, the comprehensive report shall, among other things, include “authority financial statements”; and

**WHEREAS**, the independent accounting firm of Ernst & Young LLP (EY) has substantially and in all material respects, except as described below, completed an audit of the Authority’s financial statements for 2020; and

**WHEREAS**, EY has expressed its intent to issue an “unmodified” opinion on the financial statements, the highest level of assurance that an audit firm can provide for a financial statements audit; and

**WHEREAS**, pursuant to Article IX, Section 9.5 of the Authority’s bylaws and Article VI of the SDA Audit Committee Charter, the Audit Committee met on May 17, 2021 to review and discuss the integrity and quality of the Authority’s 2020 financial statements and EY’s audit of aforesaid financial statements; and

**WHEREAS**, following presentation of the 2020 financial statements to the Committee by executive management and EY and following the Committee’s discussions with executive management and EY, and following its deliberations, the Committee recommends approval of same by the Authority’s Board of Directors; and

**WHEREAS**, management has advised the Members of the Authority that the 2020 SDA Financial Statements, as presented to the Board by executive management and EY and as recommended by the SDA Audit Committee on this date, will require further revisions following receipt of the GASB Statement No. 68 pension information from the State of New Jersey, which information is currently anticipated to be available in June 2021; and

**WHEREAS**, management has further advised the Members of the Authority that unrelated to the GASB Statement No. 68 entries and related note disclosures, there may be additional changes to the 2020 SDA financial statements required prior to finalization of the financial audit by EY; and

**WHEREAS**, management has further advised the Members of the Authority that the GASB Statement No. 68 pension information and related note disclosures, and any unrelated additional material changes to the 2020 SDA financial statements will be reported to the SDA Audit Committee prior to finalization of the financial audit; and

**WHEREAS**, management has further advised the Members of the Authority that should there be no material change to the SDA Financial Statements as presented to the Board on this date, management shall so advise the SDA Audit Committee when the audit is completed, including the date of the auditor's report.

**NOW, THEREFORE, BE IT RESOLVED**, that the Members of the Authority hereby approve the Authority's 2020 financial statements as presented by executive management and the accounting firm of Ernst & Young LLP and as recommended by the SDA Audit Committee, consistent with the memorandum presented to the Board on this date.

**BE IT FURTHER RESOLVED**, that the Members of the Authority recognize and acknowledge that the 2020 SDA Financial Statements, as presented to the Board by executive management and the accounting firm of Ernst & Young LLP and as recommended by the SDA Audit Committee on this date, will require further revisions following receipt of the GASB Statement No. 68 pension information from the State of New Jersey, which information is currently anticipated to be available in June 2021.

**BE IT FURTHER RESOLVED**, that prior to finalization of the financial audit by Ernst & Young LLP, management shall advise the Authority's Audit Committee of any material change to the SDA 2020 Financial Statements as presented to the Board on this date that may arise and that is unrelated to the recording of the forthcoming GASB Statement No. 68 entries and related note disclosures.

**BE IT FURTHER RESOLVED**, that, should there be no material change to the SDA Financial Statements as presented to the Board on this date, management shall so advise the SDA Audit Committee when the audit is completed, including the date of the auditor's report.



**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum 2020 Audited Financial Statements, dated June 2, 2021

Dated: June 2, 2021

**REPORT AND RECOMMENDATIONS OF THE SCHOOL REVIEW COMMITTEE  
(CHAIRMAN'S REPORT)**

**Release of Funds from Program Reserve, Award of Task Order, and Approval of the  
Final Project Charter - Newark Public Schools District – Technology High School -  
Boiler Room Vault and Façade Repair Emergent Project**



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**MEMORANDUM**

TO: Members of the Authority

FROM: Sean Murphy  
Director, Procurement

Bob Ryan  
Program Director, Construction Operations

RE: District: Newark Public Schools  
Schools: Technology High School Boiler Room Vault and Façade Repair  
Package No.: EP-0112-C03  
Award: \$1,999,336.00  
CM: NJSDA Self-Managed

DATE: June 2, 2021

SUBJECT: Release of Funds from Program Reserve, Award of Task Order, and Approval of the Final Project Charter  
Newark Public Schools District – Technology High School Boiler Room Vault and Façade Repair Emergent Project

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**INTRODUCTION**

We are writing to recommend approval by the Members of the Authority for three related actions to address emergent conditions at the Technology High School in the Newark Public Schools District:

1. The release of funds from the NJSDA Program Reserve maintained for emergent projects;
2. The award of a task order to Hall Building Corporation in the Not-To-Exceed (N.T.E.) amount of \$1,999,336.00; and
3. The Final Charter (copy attached) representing the project budget inclusive of the N.T.E. dollar values for the award of the task order, appropriate contingency, allowances, NJSDA staff costs and other costs.

As discussed below, the recommended actions represent N.T.E values to support development and implementation of the most appropriate, efficient and timely action to address the emergent conditions.

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended on March 7, 2012, Board approval is required for the release of monies from the Program Reserve for emergent projects or emergency situations exceeding \$500,000. Further, the Operating Authority requires Board approval of the award of construction contracts greater than \$500,000 as well as approval of a Final Project Charter. Both the construction award and the release of funds from the reserve exceed \$500,000.

At the July 2008 Board meeting, the Members approved the 2008 New Funding Allocation and Capital Plan which allocated \$97 million to fund emergent projects in the 31 NJSDA Districts.

Additionally, at the March 2, 2011 Board meeting, the Members approved the 2011 Capital Program which allocated an additional \$100 Million to fund emergent projects creating a total reserve of \$197 million to address emergent projects throughout the NJSDA Districts. Most recently, at the July 1, 2020 Board meeting, the Members approved a reallocation of funds from the Unforeseen Events Reserve to the Emergent Projects Reserve, providing an additional \$55.6 million to support the advancement of emergent projects. Funding for the projects is available within the established reserves for emergent projects.

NJSDA staff shall provide Construction Management oversight for the project.

### BACKGROUND

The Technology High School (Technology HS), built in 1912, is an approximately 169,000 square foot facility in the Newark Public Schools District educating approximately 610 students in grades 9 through 12. The facility also includes a 1971 addition.

Upon confirmation of the existence of emergent Boiler Room Vault conditions at the school, as well as the need to repair and/or replace a limited portion of the distressed and displaced brick veneer on the South façade of the 1971 addition, the NJSDA engaged STV Architects, Inc. (STV), on October 3, 2018, for the performance of Pre-Design Services limited to the Boiler Room Vault conditions.

At the conclusion of those Pre-Design Phase services, the NJSDA determined to advance the project through the engagement of a General Contractor utilizing the NJSDA's General Construction Services Task Order Contract, and to require the General Contractor to engage the services of a Design Consultant to complete needed Design Services. After several unsuccessful attempts to identify, negotiate with, and engage a General Contractor, the NJSDA determined to unify into a single engagement the scope to address both the Boiler Room Vault conditions and the needed work to remedy the brick veneer conditions.

### PROCUREMENT PROCESS

The construction task order assignment recommended for this project results from utilization of the NJSDA's General Construction Services Task Order ("GC Task Order") Contract.

At the September 4, 2019 Board Meeting, the Members of the Authority approved the use of the GC Task Order Contract. The GC Task Order Contract has been structured so that the Authority has a pool of contractors to perform certain work. Overall, no individual task order can exceed \$3 million and no individual firm can receive more than \$5 million of work per region during the duration of the Contract. Bidders were required to select a region (North, South, or both) for job order assignments and accept the defined cost multiplier of 1.15, as decided by the Authority, for use in establishing compensation for those task order assignments to be performed on a time and materials basis. GC Task Order Contract work may also be assigned on a lump sum basis after competitive bidding among Task Order Contractors.

NJSDA determined to advance the Technology HS Project utilizing a rotational task order assignment.

On March 4, 2021, Procurement staff contacted APS Contracting, Inc., the next firm on the contractor rotational list, and on March 9, 2021, the firm declined interest in the project.

On March 9, 2021, Procurement staff contacted Grafas Painting Contractors, Inc. T/A GPC, Inc., the next firm on the contractor rotational list, and on March 12, 2021, the firm declined interest in the project.

On March 12, 2021, Procurement staff contacted Hall Building Corporation (HBC), the next firm on the contractor rotational list, and on March 15, 2021 HBC confirmed acceptance of the Task Order assignment.

This package will be awarded on a Time and Material (T&M) basis for a Not-to-Exceed (N.T.E.) value representing the most extensive scope of work pursuant to the NJSDA's existing GCTO Contract.

### SCOPE OF WORK

A site visit was held with HBC on March 22, 2021, at Technology HS to review and assess the condition of the Boiler Room vault and façade corrective work. On March 31, 2021, NJSDA and HBC held a second site visit that also included HBC's Design Consultant team to support the development of a proposal, cost estimate and schedule that recognizes an approach to implementing appropriate action(s) to address the emergent condition(s).

The scope of work for this engagement includes:

1. Design Services:
  - Performance of field investigative activities necessary to confirm the conditions and the appropriate course of action for:
    - Repair and/or Replacement of Boiler Room Vault roof slab;
    - Removal and replacement of Plaza deck waterproofing and Plaza deck;
    - Repair of Boiler Room Vault Areaway;
    - Performance of foundation wall waterproofing;
    - Replacement of light fixtures; and
    - Repair and/or Replacement of a limited portion of the South façade brick veneer.
  - Preparation of necessary plans, specifications and construction documents representing construction activities, inclusive of modifications to the existing structures;
  - Preparation of documents to secure construction permits; and
  - Preparation of record set drawings and plans at completion of the project.
2. Construction Services:
  - Repair and/or Replacement of the Boiler Room Vault roof slab;
  - Removal and replacement of Plaza deck waterproofing and Plaza deck;
  - Repair of Boiler Room Vault Areaway;
  - Performance of foundation wall waterproofing;
  - Replacement of light fixtures; and
  - Repair and/or Replacement of a limited portion of the South façade brick veneer.
3. Performance of hazardous materials abatement activities as necessary to implement the above described scope of work; and
4. Performance of any code or regulatory improvements which are necessitated by implementation of the above-described scope of work.

An allowance of \$265,000 has been established for impacted and unsuitable soils; hazardous materials and related activities; additional investigative and design activities including special inspections; and temporary utilities disconnection/connection.

On May 24, 2021, HBC provided the NJSDA with a cost estimate to complete the entirety of the work, inclusive of the assessment, design services and implementation of the most extensive scope of work to remedy the emergent conditions. The recommended award for work to be performed on a Time and Material (T&M) basis, at the Not-to-Exceed (N.T.E.) amount of \$1,999,336.00 represents HBC's cost proposal for the most extensive solution for most of the scope elements including:

- Repair of the Boiler Room Vault Plaza roof slab;
- Removal and replacement of the Plaza deck waterproofing;
- Repair of the Boiler Room Vault Areaway;
- Performance of foundation wall waterproofing;
- Replacement of light fixtures;
- Replacement of a limited portion of the South façade brick veneer; and
- Any anticipated code improvements necessary to implement the above scope.

Field investigative activities will determine if replacement rather than repair of the Boiler Room Vault Plaza roof slab is required. Until completion of field investigative activities, HBC cannot present a reasonable and well-considered price proposal for replacement of the roof slab and therefore the N.T.E. value for the engagement is based upon its repair.

Upon completion of design, the NJSDA shall review and validate the final projected cost and schedule for the scope of work. This review shall result in a determination to either advance the construction work on a Time and Material (T&M) basis, for the Not-to-Exceed (N.T.E.) amount, or to establish a fixed cost for the scope of work defined in the construction documents.

Financial Operations and Construction Operations reviewed HBC's cost proposal in the amount of \$1,999,336.00 and determined it was reasonable for the elements included in the Scope of Work. The Construction Operations Director and the Financial Operations Director recommend the award of a task order to HBC.

#### PROJECT BUDGET

HBC's cost estimate for the most extensive scope of work to address the emergent project is \$1,999,336.00. The total funding, including design costs, construction costs, contingencies, allowances, and NJSDA staff costs is estimated at a value in the amount of \$2,867,680.00. The funding for the total project costs are available within the NJSDA Program Reserve maintained for emergent projects.

Budget Summary

▪ GCTO Design & Construction Costs	\$ 1,734,336
▪ Construction Allowances	\$ 265,000
▪ Construction Contingency (15%)	\$ 300,000
▪ Pre-Design Costs	\$ 78,344
▪ Project Management (NJSDA staff)	\$ 390,000
▪ Other Costs (5%)	<u>\$ 100,000</u>
Total	\$ 2,867,680

RECOMMENDATION

The Members of the Authority are requested to approve:

1. The release of \$2,667,335.00 from the Program Reserve maintained for emergent projects;
2. The award of a task order to Hall Building Corporation in the N.T.E. amount of \$1,999,336.00; and
3. The Final Project Charter (copy attached) representing all expended and projected funds necessary for completion of the emergent project at the Technology High School in the Newark Public Schools District.

/s/ Sean Murphy

Sean Murphy, Director, Procurement

/s/ Bob Ryan

Bob Ryan, Program Director, Construction Operations

Reviewed and Recommended by: Andrew Yosha, Vice President, Program Operations and Strategic Planning

Reviewed and Recommended by: Donald Guarriello, Vice President and Chief Financial Officer

Reviewed and Recommended by: Gregory Voronov, Managing Director, Planning and Program Operations



## New Jersey Schools Development Authority Emergent Project Charter - Summary

<b>Charter Date</b>
06/02/21

**Region:** Northern  
**District:** Newark  
**School Name:** Technology High School  
**Project Type:** Emergent  
**DOE # / Project #:** 3570-056-17-0AEW  
**Project Location:** 223 Broadway Newark, NJ 07102

<b>Supersedes Charter Dated</b>
N/A

**Project Budget:** \$ 2,867,680  
**Anticipated Construction NTP Date** December-21  
**Anticipated Final Completion Date** May-22  
**Project Initiation Date:** November-18

<b>Funding Source</b>
2011 Emergent Reserve

Charter Version and Date	Project Summary
<input checked="" type="checkbox"/> Final      06/02/21	The scope of services is for the engagement of a Task Order General Contractor w/ Design Services to address the following scope of work: <b>Boiler Room Vault Structural Repairs</b> - Repair and/or replacement of the boiler room vault roof slab; removal and replacement of plaza deck waterproofing and plaza deck; repair boiler room vault areaway; replacement of light fixtures; and foundation wall waterproofing. <b>Facade Repairs</b> - Repair and/or replacement of a limited portion of the south façade brick veneer on the "T" Wing addition.
<b>Revision # and Date</b> <input type="checkbox"/> One	
<input type="checkbox"/> Two	
<input type="checkbox"/> Three	
<b>Purpose for Advancement of Emergent Charter</b>	
To establish the final budget for the project inclusive of dollar values for the award for construction, appropriate contingency, allowances, NJSDA staff costs, and estimated other costs.	

### Recommendation

/s/ Robert Ryan	6/2/2021	/s/ Gregory Voronov	6/2/2021
Program Director - Project	Date	Managing Director - Program Operations	Date
Robert Ryan		Gregory Voronov	
		/s/ Andrew Yosha	
		VP - Program Ops and Strategic Planning	
		Andrew Yosha	

### Approval

(If Project Budget is greater than \$500,000 Attach Board Memo and Minutes indicating authorization of funding)

/s/ Manuel Da Silva	6/2/2021
Chief Executive Officer	Date
Manuel Da Silva	

**New Jersey Schools Development Authority  
Emergent Project Charter  
Project Budget**

<b>District / Project Name:</b>	Newark/Technology High School
<b>DOE # / Project #:</b>	3570-056-17-0AEW
<b>Charter Date:</b>	06/02/21

**Special Considerations:**

The project budget is based upon the award value of the Contract for General Construction Services. Other Costs for projects range from 2% to 5% of Building Costs, with such costs for Emergent Projects budgeted at 5%. These costs are inclusive of projected DCA fees for permits and anticipated inspections. 4 allowances totaling \$265,000 have been established - 1. Hazardous Materials and Related Activities \$125,000, 2. Impacted and Unsuitable Soils \$50,000, 3. Temporary Utilities Disconnection/Connection \$15,000, 5. Additional Investigative and Design Activities \$75,000.

**Project Budget:**

<b>GC Task Order with Design Costs</b>	
Design & Construction Costs	\$1,734,336
Allowances	\$265,000
Construction Contingency	\$300,000
<b>Total Construction Costs</b>	<b>\$2,299,336</b>
<b>Other Costs:</b>	
Pre-Design Services	\$78,344
Project Management (SDA Staff)	\$390,000
Other Costs	\$100,000
<b>Total Other Costs</b>	<b>\$568,344</b>
<b>PreDevelopment &amp; Environmental Costs:</b>	
PreDevelopment	\$0
Environmental/Remediation	\$0
<b>Total PreDevelopment &amp; Environmental Costs</b>	<b>\$0</b>
<b>Total Project Budget</b>	<b>\$2,867,680</b>
<b>2011 Emergent Reserve Impact</b>	
Prior Funding Approved	\$200,345
Current Funding Requested	\$2,667,335

**Resolution—6a.**

Release of Funds from Program Reserve, Award of Task Order Contract, Approval of Final Project Charter Technology High School, EP-0112-C03, Emergent Project – Boiler Room Vault and Façade Repair

District:	Newark Public Schools
School:	Technology High School
Description:	Emergent Project Boiler Room Vault and Façade Repair
Package No.:	EP-0112-C03
Award:	\$1,999,336
CM:	SDA Managed

**Resolution**

**WHEREAS**, the Operating Authority of the New Jersey Schools Development Authority (SDA or the Authority) requires that the Members of the Authority authorize and approve the release of funds from the Program Reserve for emergent projects or emergency situations exceeding \$500,000; and

**WHEREAS**, the Operating Authority further requires Board approval of the award of construction contracts greater than \$500,000 as well as final project charters; and

**WHEREAS**, in 2008 and 2011, the SDA Board approved a total of \$197 million to fund emergent project work in SDA Districts and in July 2020, provided an additional \$55.6 million to support the advancement of emergent projects by authorizing the reallocation of funds from the SDA’s Unforeseen Events Reserve to the Emergent Projects Reserve; and

**WHEREAS**, built in 1912 and with an addition built in 1971, the Technology High School (School) in the Newark Public Schools District (District) is an approximately 169,000 square foot facility educating approximately 610 students in grades 9 through 12; and

**WHEREAS**, upon confirmation of the existence of emergent boiler room vault conditions at the School, as well as the need to repair and/or replace a limited portion of the distressed and displaced brick veneer on the South façade of the 1971 addition, the SDA engaged STV Architects, Inc. (STV) in October 2018 for the performance of pre-design services limited to the boiler room vault conditions; and

**WHEREAS**, at the conclusion of those pre-design phase services, the SDA determined to advance the project through the engagement of a general contractor (GC) utilizing the General Construction Services Task Order Contract (GCTO), and to require the GC to engage the services of a Design Consultant to complete needed design services; and

**WHEREAS**, after several unsuccessful attempts to identify, negotiate with, and engage a GC, the SDA determined to unify into a single engagement the scope to address both the boiler room vault conditions and the needed work to remedy the brick veneer conditions (Project); and

**WHEREAS**, on March 15, 2021 Hall Building Corporation (HBC) confirmed acceptance of the GCTO assignment; and

**WHEREAS**, the recommended award for work to be performed on a time and material (T&M) basis, at the not-to-exceed (NTE) amount of \$1,999,336, represents HBC's cost proposal for the most extensive solution for most of the scope elements; and

**WHEREAS**, upon completion of field investigative activities it will be determined if replacement rather than repair of the Boiler Room Vault Plaza roof slab is required and until completion of such field investigative activities, HBC cannot present a reasonable and well-considered price proposal for replacement of the roof slab such that the N.T.E. value for the engagement is based upon its repair; and

**WHEREAS**, upon completion of design, the SDA shall review and validate the final projected cost and schedule for the scope of work; and

**WHEREAS**, this review shall result in a determination to either advance the construction work on a T&M basis for the NTE amount, or to establish a fixed cost for the scope of work defined in the construction documents; and

**WHEREAS**, financial operations and construction operations reviewed HBC's cost proposal in the NTE amount of \$1,999,336, inclusive of SDA established allowance totaling \$265,000, and determined it to be reasonable for the elements included in the scope of work and, accordingly, management and staff recommend the award of a task order to HBC; and

**WHEREAS**, following review, management determined that HBC has included all Project scope work in its bid and has confirmed that its price proposal is inclusive of all scope elements contained in the contract documents; and

**WHEREAS**, management further recommends that the Members of the Authority approve the Project's final charter and the release of \$2,667,335 from the Program Reserve for the Project; and

**WHEREAS**, funding for the project is available within the established reserves for emergent projects; and

**WHEREAS**, as both the construction award and the release of funds from the Program Reserve for the Project exceed \$500,000, both require Board approval; and

**WHEREAS**, the memorandum presented for Board review on this date and incorporated herein sets forth in detail the Project's scope of work and project budget, along with the Project's final charter and a description of the procurement process utilized by management; and

**WHEREAS**, SDA staff shall provide construction management oversight for the project.

**NOW, THEREFORE, BE IT RESOLVED**, that the Members of the Authority hereby authorize and approve the release of \$2,667,335 from the SDA Emergent Program Reserve to address the Emergent Project at the Technology High School in the Newark Public Schools District.

**BE IT FURTHER RESOLVED**, that the Members of the Authority approve the award of a task order to Hall Building Corporation in the not-to-exceed amount of \$1,999,336 for Contract No. EP-0112-C03.

**BE IT FURTHER RESOLVED**, that the Members of the Authority approve the Project's Final Charter as presented, representing all expended and projected funds necessary for completion of the emergent project at the Technology High School in the Newark Public Schools District.

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

**Attached:** Memorandum, Release of Funds from Program Reserve, Award of Task order Contract and Approval Final Project Charter, Technology High School, Newark Public Schools District, Emergent Project, dated, June 2, 2021  
**Dated:** June 2, 2021

**REPORT AND RECOMMENDATIONS OF THE REAL ESTATE COMMITTEE  
(CHAIRMAN'S REPORT)**

**Proposed New Rules for Disposition of Surplus Real and Personal Property of the New  
Jersey Schools Development Authority, N.J.A.C. 19:35**



STATE OF NEW JERSEY

# SCHOOLS DEVELOPMENT AUTHORITY

## MEMORANDUM

**TO:** Members of the Authority

**FROM:** Jane Kelly, Vice President, Corporate Governance and Legal Affairs  
Cecelia Haney, Deputy Chief Counsel and Administrative Practice Officer

**DATE:** June 2, 2021

**RE:** Proposed New Rules for Disposition of Surplus Real and Personal Property of the New Jersey Schools Development Authority, N.J.A.C. 19:35

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Management of the New Jersey Schools Development Authority (“Authority” or “SDA”) is seeking the approval of the Board for the publication of a Notice of Proposal for Disposition of Surplus Real and Personal Property of The New Jersey Schools Development Authority, N.J.A.C. 19:35.

### **Background:**

The Rules establish requirements and procedures for the disposition of real property and personal property owned by the SDA if such property is deemed surplus as no longer needed for school facility projects or SDA operations. These new rules are intended to replace the SDA’s prior surplus property disposition rules that expired in 2014, while improving and expanding upon the previous rules. The proposed new rules provide various methodologies for disposition of surplus property, including a sealed bid process, internet auction, an offer to purchase process and, in certain limited circumstances, direct negotiated sale at fair market value. The rules provide that property shall be disposed of at fair market value, except in limited circumstances upon the approval of the SDA Board. The rules also provide requirements and guidelines for the temporary use of SDA property not currently needed for school construction (whether deemed surplus or not) to allow such property to be used for various public or charitable purposes. This allows SDA to lease such property to governmental and non-governmental entities to defray the carrying costs of property not currently needed for school construction, or to permit uses of such property that serve public or charitable purposes.

The new draft Surplus Property Regulations differ from SDA’s prior regulations in various ways, the most significant of which are as follows:

1. The regulations now separately address real property versus personal property, with separate procedures for each.



2. The definition of fair market value (FMV) is expanded beyond the typical appraiser analysis of the property; the definition explicitly incorporates the SDA analysis of additional factors (e.g. environmental factors).
3. Under the old regulations, the SDA Chief Executive Officer, or his/her designee, was responsible for all declarations of surplus property, whether personal or real property. Under the new regulations, the SDA Board must approve all surplus declarations of real property, and any surplus declarations of personal property with an estimated market value in excess of \$500,000.
4. For dispositions of real property, the sealed-bid process has been supplemented with an offer-to-purchase process. The offer-to-purchase process allows for post-offer negotiation as to terms, and verification of a purchaser's finances, as well as greater outreach to potential purchasers to increase competition.
5. Unadvertised, non-bid dispositions of real and personal property are permitted under certain limited circumstances.

### **Summary of Proposed New Rules**

Subchapter 1 of the proposed new rules provides definitions of terms used in the rules, including a definition of fair market value that incorporates information regarding the environmental condition of real property.

Under Subchapter 1 of the proposed rules, proposed dispositions of surplus property will be evaluated in terms of the transaction's effect on the tax exempt status of the New Jersey Economic Development Authority bonds that financed SDA's original acquisition of said property, and a proposed disposition of surplus property will not be authorized or enforceable if the disposition would result in the loss of the tax exempt status of the interest paid on such bonds.

Subchapter 2 provides the standards and procedures for declaring real property and personal property surplus to the needs of the school construction program and SDA operations.

Subchapter 3 enumerates the various methods permitted by these rules for disposition of surplus property: through a sealed bid process, an offer to purchase process or an internet auction, as well as through unadvertised direct negotiation in certain circumstances when a waiver of advertisement is appropriate.

This subchapter provides that the SDA shall choose the method of disposition to maximize the return realized by the disposition, and provides further that where the determination of surplus is required to be made by the SDA Board, the Board shall also approve the method of disposition. The subchapter also identifies the circumstances in which a waiver of advertising is permitted for personal property, such as when the value of the property does not exceed the state bid threshold, or when the property is to be sold to a governmental entity for a valid public purpose at a price equivalent to the estimated market price or as otherwise approved by the SDA Board.

Similarly, this subchapter identifies the circumstances in which a waiver of advertising is permitted for the disposition of real property, such as when the value of the real property is less than \$100,000; the cost of remediation activities required to render the property marketable are equal to or greater than the appraised value; the property is an undersized lot being sold to an adjacent landowner who has no connection to SDA or its employees; the property is being sold for fair market value to be used for an educational purpose; the disposition is to a public property for a valid public purpose that does not impair the tax-exempt status of the bonds referenced in Subchapter 1, and the transaction is for fair market value or a sale price less than fair market value if approved by the SDA Board after considering additional analysis and valuations affecting fair market value; or the disposition is in response to an unsolicited offer to purchase property for not less than fair market value as evidenced by an independent appraisal, and SDA has determined that it would not benefit from a subsequent advertisement or public bidding.

Subchapter 4 of the proposed new rules provides the requirements and procedures for a disposition of personal property under the sealed bid, and internet auction methods, including advertisement requirements, and procedures for submission of bids and required deposits, and cancellation or award procedures. The Subchapter further provides that if personal property is not successfully disposed of after being advertised for either of those disposition methods, it may be disposed of through direct negotiated sale for the highest possible price, upon such terms and conditions as are approved by the SDA Board.

Subchapter 5 provides the requirements and procedures for a disposition of real property under the offers to purchase, sealed bid and internet auction methods, including advertisement requirements, procedures for submission of bids and required deposits, evaluation of offers and negotiation with offerors and cancellation or award procedures. The Subchapter further provides that if a parcel of real property is not successfully disposed of after being advertised for either of those disposition methods, it may be disposed of through direct negotiated sale for the highest possible price, upon such terms and conditions as are approved by the SDA Board.

Subchapter 6 provides the requirements and procedures for temporary use of SDA-owned real property when such property is not currently needed for a school facilities project or for use in SDA operations. The Subchapter provides that such temporary use must be memorialized in a written lease, license or use and occupancy agreement, subject to insurance obligations, duration limitations and termination rights, and standard use terms for preventing damage to or diminution of the value of the property. The Subchapter provides that use agreements entered into with non-governmental or non-public entities require the payment of fair market rent, and shall be subject to review by SDA's bond counsel, except where the use agreement is entered into with an owner or tenant of property that SDA is seeking to acquire, to all allow continued occupancy of the property during the property acquisition process. The Rules do not require fair market consideration in the case of lease or use agreements with public entities or non-profit entities proposing use of the property for valid public or charitable purposes, but they require clear identification and official entity approval of the public purpose intended to be served by the entity's proposed use of the SDA-owned property. Finally, Subchapter 6 requires that SDA prepare a

semiannual report to the Board identifying all temporary use agreements, and any extensions or renewals of such agreements.

**Requested Board Action**

The Members of the Authority are requested to approve the promulgation and publication of the proposed New Rules, as well as the issuance of the attached Notice of Proposal, and the filing of the Notice with the Office of Administrative Law.

/s/Jane F. Kelly

Jane F. Kelly, Vice President  
Corporate Governance & Legal Affairs

Prepared by Cecelia Haney, Deputy Chief Counsel and Administrative Practice Officer

JFK/ceh

## OTHER AGENCIES

### NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

#### **Disposition of Surplus Real And Personal Property of The New Jersey Schools**

#### **Development Authority**

#### **Proposed New Rules: N.J.A.C. 19:35 1.1 through 6.1.**

Authorized By: New Jersey Schools Development Authority, Manuel M. Da Silva, Chief Executive Officer.

Authority: P.L. 2007, c.137, § 4k (N.J.S.A. 52:18A-238k) (rulemaking authority); P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.); P.L. 2007, c.137, (N.J.S.A. 52:18A-235 et seq.) (enabling statutes).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2021-

Submit written comments by \_\_\_\_\_ 2021 to:

Cecelia Haney, Administrative Practice Officer

New Jersey Schools Development Authority

PO Box 991

Trenton, NJ 08625-0991

chaney@njsda.gov

The agency proposal follows:

## **Summary**

The New Jersey Schools Development Authority, (“SDA” or “Authority”) an independent State authority charged with the construction and funding of school facilities projects pursuant to a school construction program authorized by the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c. 72, N.J.S.A. 18A:7G-1 et seq., as amended by P.L. 2007, c. 137, N.J.S.A. 52:18A-235 et seq.), proposes to adopt new rules governing the process for determining when real property or personal property owned by the Authority is deemed surplus, and providing standards and procedures for disposition of such surplus property. These new rules are intended to replace former surplus property disposition rules that expired in 2014. The new rules are proposed at N.J.A.C. 19:35.

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Subchapter 1, General Provisions**

#### **N.J.A.C. 19:35-1.1 Applicability**

Proposed new N.J.A.C. 19:35-1.1 sets forth the applicability of the rules to any real or personal property owned by the SDA that may be considered surplus property, and further provides that a proposed disposition of surplus property will not be authorized or enforceable if the disposition would result in the loss of the tax exempt status of the interest paid on bonds sold to finance the SDA’s original acquisition of such property.

#### **N.J.A.C. 19:35-1.2 Purpose and Scope**

Proposed new N.J.A.C. 19:35-1.2 sets forth the purpose of the rules, which is to establish

and prescribe uniform rules and procedures for the disposition of surplus real and personal property, and indicates that proceeds from the disposition of surplus real and personal property shall be used to fund school facilities projects generally, with the exception that the proceeds from disposition of surplus real property acquired under circumstances described in N.J.S.A. 18A:7G-45 will be used to fund school facilities in the same school district where the surplus real property is located.

### **N.J.A.C. 19:35-1.3 Definitions**

This section sets forth the meaning of certain words and phrases used throughout these rules.

## **SUBCHAPTER 2 IDENTIFICATION OF SURPLUS PROPERTY**

### **N.J.A.C. 19:35-2.1 Determination of Property as Surplus Property**

This section establishes that whenever property of the SDA is determined to be surplus, any temporary use, sale or other disposition of such property must be performed consistent with this chapter. This section also provides that SDA can permit a temporary use of surplus property without Board approval.

### **N.J.A.C. 19:35-2.2 Personal Property as Surplus Property**

This section provides standards for determining whether personal property is surplus.

### **N.J.A.C. 19:35-2.3 Real Property as Surplus Property**

This section provides standards for determining whether real property is surplus.

### **N.J.A.C. 19:35-2.4 Requirements for Designating Property as Surplus Property**

This section provides standards and procedures for making, memorializing and securing Chief Executive Officer or Board approval of determinations that real or personal property is surplus property.

## **SUBCHAPTER 3 DISPOSITION OF SURPLUS PROPERTY; DISPOSITIONS EXEMPT FROM ADVERTISING REQUIREMENTS**

### **N.J.A.C. 19:35-3.1 Manner and Requirements of Surplus Property Disposition**

This section provides that surplus property may be disposed through a publicly-advertised competitive sale through a solicitation of sealed bids, a solicitation of offers to purchase, or an internet auction, or may be disposed of through direct negotiated sale as defined in N.J.A.C. 19:35-1.2 without public advertisement when the conditions set forth in N.J.A.C. 19:35-3.2 or 3.3 are met. This section specifies that all surplus property shall be sold in “as is, where is, with all faults” condition. Finally, this section provides that the method of disposal shall be selected by the SDA to maximize the return realized by the disposition, and if the determination of surplus is required to be approved by the Board, then the selection of the method to dispose of the surplus property is also subject to Board approval.

### **N.J.A.C. 19:35-3.2 Waiver of Public Advertisement for Sale of Surplus Personal Property**

This section provides for the waiver of public advertisement and disposition of surplus personal property for its estimated market value under certain defined circumstances: the property in question has an estimated market value less than the State bid advertising threshold amount referenced in N.J.S.A. 52:34-7(b); or the disposition constitutes an

unusual transaction that would not benefit from public bidding, such as a disposition in response to an unsolicited offer to purchase, provided that the purchase price to be paid is not less than the estimated market value established by book value or other appropriate valuation and SDA determines that it would not benefit from a subsequent advertisement of public bidding; or the advertising and bidding would impair or be detrimental to the disposition; or the disposition is to a governmental entity for a valid public purpose and is for the estimated market value of a sale price approved by the SDA Board taking into account such estimated market value; or the disposition is for a temporary classroom unit, and the SDA has determined, based on a feasibility analysis, that disposition is more advantageous than relocation and reuse of the temporary classroom unit.

**N.J.A.C. 19:35-3.3 Waiver of Public Advertisement for Sale of Surplus Real Property**

This section provides for the waiver of public advertisement and disposition of surplus personal property for its estimated market value under certain defined circumstances: the disposition is for real property or any interest therein having a value less than \$100,000; or the property is unique and the disposition requires an unusual contract or represents an unusual transaction that would not benefit from public advertising or public bidding; or the costs of environmental remediation activities or other activities required by governing authorities to render the property marketable are greater than or equal to the appraised value of the subject property; or the property is an undersized lot and is being offered to an adjacent owner for fair market value, provided the adjacent landowner has no connection to or affiliation with the SDA or any of its employees; or the disposition of the surplus property or interest therein is to a public party or non-public party for fair market value, provided that such surplus property is used for an educational purpose; or the disposition



of such surplus property is to a public party for a valid public purpose that does not result in the loss of the tax-exempt status of interest earned on the bonds referenced in N.J.A.C. 19:35-1.1, and is for fair market value or a sale price that is less than fair market value if approved by the SDA Board after taking into consideration additional analyses and valuations that affect fair market value; or the disposition is to a public or non-public party submitting an unsolicited offer to purchase, provided such offer is for not less than fair market value as evidenced by an independent appraisal prepared by a professional licensed appraiser and SDA has determined that it would not benefit from subsequent advertising or public bidding.

#### SUBCHAPTER 4 DISPOSITION OF SURPLUS PERSONAL PROPERTY SUBJECT TO ADVERTISING REQUIREMENTS

##### **N.J.A.C. 19:35-4.1 Methods of Disposition of Surplus Personal Property**

This section provides that surplus personal property may be disposed of through a publicly-advertised competitive sale through a solicitation of sealed bids, or an internet auction, and further provides that surplus personal property may also be disposed of under N.J.A.C. 19:35-4.16 through direct negotiated sale, as defined in N.J.A.C. 19:35-1.2, without public advertisement, if certain required conditions are met. This section further provides that if no bids are submitted in response to a solicitation for sealed bids, or in response to an advertised internet auction, or in the event personal property cannot be disposed of through direct negotiation, then the surplus personal property may be disposed of through the Department of Treasury, Surplus Property Unit or in the most economically feasible manner. Finally, this section provides that nothing in this chapter shall prohibit or prevent

the SDA from using or availing itself of any disposition method as may be otherwise permitted by law or rule.

**N.J.A.C. 19:35-4.2 Sealed bid process for surplus personal property; advertisement requirements**

This section provides the advertisement requirements for disposition of surplus personal property by sealed bid method.

**N.J.A.C. 19:35-4.3 Sealed bid process for surplus personal property; outreach in addition to advertisement**

This section provides that SDA may, in addition to advertisement of a Notice of Solicitation of Sealed Bids, conduct other outreach efforts to identify and contact potential bidders to increase the number of sealed bids submitted.

**N.J.A.C. 19:35-4.4 Sealed bid process for surplus personal property; amendments to a Notice of Solicitation of Sealed Bids**

This section provides that notice of any changes to pertinent information in a Notice of Solicitation of Sealed bids must be advertised on the SDA website at least seven days in advance of the opening of bids, unless an alternate notice procedure is established in the Notice of Solicitation of Sealed Bids.

**N.J.A.C. 19:35-4.5 Sealed bid process for surplus personal property; submission of bids**

This section provides the procedures for the submission of sealed bids for surplus personal property, including time limitations and prohibitions on submissions of bids by telephone, facsimile or other electronic means.

**N.J.A.C. 19:35-4.6 Sealed bid process for surplus personal property; withdrawal of bids**

This section provides procedures for the withdrawal of sealed bids before the time of bid opening.

**N.J.A.C. 19:35-4.7 Sealed bid process for surplus personal property; opening and validity of sealed bids**

This section provides the procedure for the opening of sealed bids, and specifies that bid amounts shall remain valid for a period of 120 days, unless otherwise indicated in the Notice of Solicitation of Sealed Bids.

**N.J.A.C. 19:35-4.8 Sealed bid process for surplus personal property: award to highest responsible bidder**

This section provides that absent cancellation of the solicitation, the award of a disposition of surplus personal property shall go to the highest bidder meeting all of the terms and conditions of the Notice of Solicitation.

**N.J.A.C. 19:35-4.9 Sealed bid process for surplus personal property: cancellation**

This section provides the justifications and procedures for cancellation of a solicitation for sealed bids, and the options for subsequent disposition of the property.

**N.J.A.C. 19:35-4.10 Sealed bid process for surplus personal property: withdrawal of items**

This section provides the justifications and procedures for withdrawal of one or more items from a solicitation for sealed bids, the options for subsequent disposition of the withdrawn items, and the treatment of remaining items not withdrawn from the solicitation.

**N.J.A.C. 19:35-4.11 Sealed bid process for surplus personal property: bid deposit**

This section provides for a bid deposit requirement, and defines the various forms that may be specified for a bid deposit.

**N.J.A.C. 19:35-4.12 Sealed bid process for surplus personal property: Notice of Award**

This section provides that a Notice of Award shall be issued to the successful bidder, and shall be in writing and given in the manner and within the time specified in the RFP. This section further specifies that the Notice of Award shall specify the time and manner for payment of the balance of the bid price and for taking possession of the surplus personal property, and shall be deemed to result in a binding contract without any further action. Finally this section provides that all unsuccessful bidders will receive a copy of the Notice of Award as addressed to the winning bidder.

**19:35-4.13 Sealed bid process for surplus personal property: payment of balance of bid price**

This section provides that the winning bidder must pay the balance of the bid price, and then must take possession of the surplus real property in the manner and time set forth in the Notice of Award. This section further specifies various methods of payment that are acceptable if the manner of payment is not specified.

**19:35-4.14 Sealed bid process for surplus personal property: failure to pay balance of bid price**

This section provides that a failure by the successful bidder to pay the balance of the bid price within the time set forth in the Notice of Award shall result in a forfeiture of the bid

deposit to the SDA. This section also provides that surplus personal property shall be considered abandoned if paid for, but not picked up or taken possession of in the manner and within the time specified in the Notice of Award. This section further provides that in the event that property is abandoned, the SDA shall retain all payments made, and ownership of the property shall default to the SDA. SDA may then accept the bid of the next highest qualified bidder or may again offer the surplus personal property for disposition.

#### **19:35-4.15 Internet auction process for surplus personal property**

This section provides that the disposition of surplus personal property may be conducted through an internet auction, which shall be preceded by a published advertisement containing: a clear statement that the disposition will take place over the internet; the internet address of the website where the auction can be found; the date and time for the internet auction; a description of the surplus personal property to be sold; and a clear statement of all terms and conditions material to the disposition. This section provides that the website identified in the advertisement shall set forth all requirements for bidding, the terms and conditions of the disposition and the procedures for the transfer of the surplus personal property to be sold. This section further provides that surplus personal property that is the subject of an internet auction shall be awarded to the highest bidder meeting the terms and conditions material to the disposition.

This section also provides optional procedures in the event that SDA determines there is insufficient participation in an internet auction of surplus personal property, including a right to remove the property from the internet auction and terminate the disposition with

respect thereto, and the right to determine whether any items of property withdrawn from an internet auction shall be re-offered for disposition, or otherwise disposed of in a manner that is consistent with this subchapter. Further, this section provides that the withdrawal of any item or items from the disposition by internet auction shall not affect the disposition of the remaining items to be sold.

**19:35-4.16 Negotiated sale of surplus personal property**

This section provides that surplus personal property that, after being the subject of a Solicitation for Sealed Bids in accordance with N.J.A.C. 19:35-4.2 through 19:35-4.14, or an internet auction in accordance with N.J.A.C. 19:35-4.15, does not result in a consummated disposition, may be disposed of through a direct negotiated sale, as defined in N.J.A.C. 19:35-1.2, to a public or a non-public party, for the highest possible price, upon terms and conditions acceptable to the SDA.

**19:35-4.17 Transfer of ownership of surplus personal property**

This section provides that transfer of ownership and title of surplus personal property offered for disposition is effective upon payment of the full purchase price, and delivery of the item(s) to the purchaser.

**SUBCHAPTER 5. DISPOSITION OF REAL PROPERTY SUBJECT TO ADVERTISING REQUIREMENTS**

**N.J.A.C. 19:35-5.1 Methods of Disposition of Surplus Real Property**

This section provides that surplus real property may be disposed of through a publicly-advertised competitive sale through a solicitation of offers to purchase, a solicitation of

sealed bids, or an internet auction, and further provides that surplus real property may also be disposed of through direct negotiated sale, as defined in N.J.A.C. 19:35-1.2, without public advertisement, if certain required conditions are met pursuant to N.J.A.C. 19:35-5.33. This section further provides that nothing in this chapter shall prohibit or prevent the SDA from using or availing itself of any disposition method as may be otherwise permitted by law or rule.

**N.J.A.C. 19:35-5.2 Offers to purchase process for surplus real property; advertisement requirements**

This section provides the advertisement requirements for disposition of surplus real property by the offer to purchase method.

**N.J.A.C. 19:35-5.3 Offer to purchase process for surplus real property: outreach in addition to advertisement**

This section provides that SDA may, in addition to advertisement of a Notice of Solicitation of Offers to Purchase, conduct other outreach efforts to identify and contact potential bidders to increase the number of offers to purchase submitted.

**N.J.A.C. 19:35-5.4 Offer to purchase process for surplus real property: amendment of solicitation of offers to purchase**

This section provides that notice of any changes to pertinent information in a Notice of Solicitation of Offers to Purchase must be advertised on the SDA website at least seven days in advance of the scheduled date for receipt of offers to purchase, unless an alternate notice procedure is established in the Notice of Solicitation of Offers to Purchase.

**N.J.A.C. 19:35-5.5 Offers to purchase process for surplus real property; submission of offers to purchase; untimely submissions**

This section provides the procedures for the submission of offers to purchase for surplus real property, including time limitations and prohibitions on submissions of offers by telephone, facsimile or other electronic means. The section also provides for the rejection of offers to purchase received after the deadline for submission of offers to purchase.

**N.J.A.C. 19:35-5.6 Offers to purchase process for surplus real property; required deposit**

This section provides that offers to purchase must be accompanied by a deposit in an amount specified by the SDA, and in the form set forth in the Notice of Solicitation of Offers to Purchase, or by certified check, bank or cashier's check, or executed money order made payable to the SDA.

**N.J.A.C. 19:35-5.7 Offers to purchase process for surplus real property; withdrawal of offers to purchase**

This section permits the withdrawal of offers to purchase prior to the expiration of the period for submission of offers to purchase.

**N.J.A.C. 19:35-5.8 Offer to purchase process for surplus real property: review and verification of offers to purchase**

This section provides for the review and verification of offers to purchase in accordance with the best interests of the school construction program, price and other factors considered. This section also permits SDA to seek additional information to supplement an offer of purchase in order to verify the accuracy, validity and responsiveness of the offer.



The section cautions that such additional information may only be used to clarify, not modify, the offer to purchase.

**19:35-5.9 Offer to purchase process for surplus real property: evaluation of offers to purchase**

This section provides that SDA shall evaluate each offer to purchase and shall identify the offer or offers determined to be responsive to all material elements set forth in the Notice of Solicitation of Offers to Purchase, and shall select from the responsive offers a winning offer based on an evaluation of price and “other factors.” This section further provides an illustrative list of potential “other factors” to be considered in addition to price, including but not limited to: the amount and kind of proposed consideration; the purchase terms, including any due diligence period and payment for such due diligence period; the terms subject to negotiation; the proofs of the offeror’s financial capacity to meet the terms of purchase; and/or any other factors identified in the Notice of Solicitation of Offers to Purchase. Finally, this section provides that if more than one parcel of surplus real property is included in the Notice of Solicitation of Offers to Purchase, the SDA may require separate offers for each tract or parcel advertised, may evaluate each offer separately and may accept a separate offer to purchase for each tract or parcel advertised.

**19:35-5.10 Offer to purchase process for surplus real property: negotiation with offeror(s)**

This section provides that SDA staff may negotiate the terms of the disposition of surplus property with one or more offerors that have submitted advantageous offers that are in the best interest of the school construction program, price and other factors considered. This section further provides that SDA may negotiate with one or more offerors, and that

negotiation with one offeror will not preclude SDA from negotiating with other offerors unless the SDA has entered into an exclusive negotiation period with an offeror in accordance with N.J.A.C. 19:35-5.11, below.

**19:35-5.11 Offer to purchase process for surplus real property: exclusive negotiating period within the offer to purchase process**

This section provides that SDA may, in its sole discretion, enter into an “Exclusive Negotiation Agreement,” upon the request of an offeror, pursuant to which the SDA and the chosen offeror each agree to negotiate the terms of the disposition of surplus real property exclusively with the other, and refrain from negotiating with any other parties for the duration of the exclusive negotiation period. The SDA’s ability to enter into such an agreement is subject to certain enumerated conditions, including requiring the offeror to make an additional deposit for such period and imposing a thirty-day limit on the exclusive negotiation period. The SDA may extend the exclusive negotiation period for one additional period of up to 30 days, if determined to be in the best interests of the school construction program. At the conclusion of exclusive negotiations, SDA staff shall submit a recommendation to the Board as to whether to accept any resulting negotiated offer to purchase, which shall detail the basis for the recommendation and shall identify the material terms of other offers received that would be rejected by virtue of the acceptance of the exclusively negotiated offer.

**19:35-5.12 Offer to purchase process for surplus real property: review, recommendation, and acceptance by SDA of an offer to purchase**

This section provides that in the absence of acceptance of an exclusively negotiated offer, the SDA shall evaluate the offers received in accordance with the best interests of the school construction program, price and Other Factors considered, in accordance with N.J.A.C. 19:35-5.9.

**19:35-5.13 Offer to purchase process for surplus real property: withdrawal of tracts or parcels**

This section provides that one or more tracts or parcels of land may be withdrawn from the solicitation of offers to purchase, if deemed by SDA to be in the best interests of the school construction program. The section further provides that upon withdrawal of one or more tracts or parcels, the SDA shall determine whether to re-offer or otherwise dispose of such parcels in a manner consistent with this Chapter.

**19:35-5.14 Offer to purchase process for surplus real property: cancellation of solicitation and disposition; withdrawal of tracts or parcels**

This section provides the justifications and procedures for cancellation of a solicitation for offers to purchase, and the options for subsequent disposition of the property.

**19:35-5.15 Offer to purchase process for surplus real property: Notice of Award and Purchase Agreement**

This section provides the process for issuance of a Notice of Award accepting the offer of the successful offeror, and the delivery of a purchase agreement for execution by the successful offeror, memorializing the negotiated agreement for purchase of the surplus real

property. The section further provides that the Notice of Award shall be simultaneously provided to all unsuccessful offerors.

**19:35-5.16 Offer to purchase process for surplus real property: application of deposits**

This section provides that deposits furnished by the successful offer shall be applied to the purchase price of the surplus property at issue, while deposits submitted by unsuccessful offerors shall be returned promptly.

**19:35-5.17 Offer to purchase process for surplus real property: transfer of title and balance of purchase price**

This section provides procedures for the transfer of title and payment of the balance of the purchase price. The section further provides SDA with the ability to cancel the transaction and retain any monies on deposit in the event the successful offeror fails to pay the balance of the purchase price, or fails to abide by any other material term of the purchase agreement.

**19:35-5.18 Offer to purchase process for surplus real property: cancellation of purchase agreement**

This section provides that, in the event of cancellation of the purchase agreement, the SDA may, with the approval of the SDA Chief Executive Officer, or his or her designee, accept the offer of the next highest qualified offeror, or re-advertise the surplus real property for disposition in accordance with any of the methods set forth under Section 5.1 of these rules.

**19:35-5.19 Sealed bid process for surplus real property: advertisement**

This section provides that disposition of surplus property through a sealed bid process shall be initiated by the issuance of a Notice of Sealed Bids, and this section further provides the advertising requirements for disposition of property through the sealed bid method.

**19:35-5.20 Sealed bid process for surplus real property: outreach in addition to advertisement**

This section provides that in addition to advertising activities, the SDA may conduct outreach efforts to identify and directly contact potential bidders for purposes of increasing the number of sealed bids received in response to an advertised “Notice of Solicitation of Sealed Bids.”

**19:35-5.21 Sealed bid process for surplus real property: amendments to a Notice of Solicitation of Sealed Bids**

This section provides the procedures for amendment to a Notice of Solicitation of Sealed Bids, including the requirement that any material modification be advertised on the SDA website at least seven days prior to the time for the opening of bids, unless an alternative procedure is established in the Solicitation of Sealed Bids.

**19:35-5.22 Sealed bids process for surplus real property: submission of bids; close of bidding and untimely bids**

This section provides the procedures for the submission of sealed bids for surplus real property, including time limitations and prohibitions on submissions of bids by telephone,

facsimile or other electronic means. The section also provides for the rejection of bids received after the deadline for submission of bids.

**19:35-5.23 Sealed bids process for surplus real property: withdrawal of bids**

This section provides procedures for the withdrawal of sealed bids before the time of bid opening.

**19:35-5.24 Sealed bid process for surplus real property: opening of sealed bids**

This section provides the procedure for the opening of sealed bids.

**19:35-5.25 Sealed bid process for surplus real property: validity of sealed bids**

This section specifies that bid amounts shall remain valid for a period of 120 days, unless otherwise indicated in the Notice of Solicitation of Sealed Bids.

**19:35-5.26 Sealed bid process for surplus real property: award to highest responsible bidder**

This section provides that absent cancellation of the solicitation, the award of a disposition of surplus real property shall go to the highest bidder meeting all of the terms and conditions of the Notice of Solicitation.

**19:35-5.27 Sealed bid process for surplus real property: cancellation of solicitation and disposition; rejection of bids**

This section provides the justifications and procedures for cancellation of a solicitation for sealed bids, and the options for subsequent disposition of the property.

**19:35-5.28 Sealed bid process for surplus real property: withdrawal of items from solicitation and disposition**

This section provides the justifications and procedures for withdrawal of one or more items from a solicitation for sealed bids, the options for subsequent disposition of the withdrawn items, and the treatment of remaining items not withdrawn from the solicitation.

**19:35-5.29 Sealed bid process for surplus real property: bid deposit**

This section provides for a bid deposit requirement, and defines the various forms that may be specified for a bid deposit.

**19:35-5.30 Sealed bid process for surplus real property: Notice of Award**

This section provides that a Notice of Award shall be issued to the successful bidder, and shall be in writing and given in the manner and within the time specified in the RFP. This section further specifies that the Notice of Award shall specify the time and manner for payment of the balance of the bid price and for taking possession of the surplus personal property, and shall be deemed to result in a binding contract without any further action. Finally this section provides that all unsuccessful bidders will receive a copy of the Notice of Award as addressed to the winning bidder.

**19:35-5.31 Sealed bid process for surplus real property: payment of balance of bid price**

This section provides that the winning bidder must pay the balance of the bid price at closing of title. This section further specifies various methods of payment that are

acceptable if the manner of payment is not specified. Finally, this section provides for forfeiture of the bid deposit, and provides options for alternate disposal of the property if the bidder fails to pay the balance of the bid price, or to return an executed purchase agreement; or to close title, or any other failure to comply with the requirements in the Notice of Award.

**19:35-5.32 Disposition of surplus real property by internet auction**

This section provides the procedures for disposition of surplus real property by the internet auction method. The section includes advertisement requirements, provides an option to accept separate bids for each tract or parcel when multiple tracts or parcels are included in an internet auction, provides that property subject to internet auction shall be awarded to the highest bidder meeting the terms and conditions of the disposition, and provides that in the event of insufficient interest in a particular tract or parcel of property up for internet auction, the SDA may determine to withdraw the tract or parcel from auction, and may thereafter determine whether to re-advertise the property for disposition, or otherwise dispose of the property in accordance with this subchapter.

**19:35-5.33 Disposition of surplus real property through direct negotiated sale**

This section provides that surplus real property that is not exempt from an advertised disposition may be disposed of for its fair market value through a direct negotiated sale or a brokered sale if the advertisement of the property for offer, bid or auction did not elicit any viable offers or bids after being the subject of a solicitation of offers to purchase; a solicitation of sealed bids; or a disposition through internet auction.



#### **19:35-5.34 Disposition for Less than Fair Market Value**

This section provides that if real property has been advertised as the subject of solicitation of offers to purchase, a solicitation of sealed bids, an internet auction, or a negotiated direct sale for fair market value, and despite such advertised disposition process SDA is unable to consummate or reach agreement with respect to the disposition of such property, then SDA may dispose of the surplus property in any lawful manner for less than the originally estimated fair market value, provided that any proposed consideration below the originally estimated fair market value must be approved by the SDA Board based on the written analysis and recommendation of appropriate SDA staff.

#### **19:35-5.35 Effective Date of Disposition**

This section provides that, unless expressly otherwise provided, the transfer of title to surplus real property is effective following the payment of the full amount of the proposed consideration to the SDA and the delivery of a deed from the SDA to the Purchaser.

### **SUBCHAPTER 6. TEMPORARY USE AND/OR OCCUPANCY OF SDA OWNED REAL PROPERTY**

#### **19:35-6.1 Temporary Use and/or Occupancy of SDA Owned Real Property**

This section provides procedures and conditions for the SDA to authorize the temporary use or occupancy of SDA property that is not currently needed for a school facility project or otherwise needed in the business operations of the SDA. Subsection (a) provides authority for entering into temporary use and occupancy arrangements. Subsection (b) provides that such arrangements must be memorialized in a written agreement such as a

lease or occupancy agreement, and specifies certain provisions that must be included in such an agreement, including a limitation on the duration of the agreement to not more than three years, if approved by the SDA CEO, with longer durations requiring SDA Board approval, a right of termination by SDA upon notice, a prohibition against damage to the property or environmental harm, a prohibition on improvements to the property without written approval of SDA, and a right to demand holdover charges in the event a user or occupant does not surrender the property on the date specified for termination of the lease or use agreement.

Subsection (c) provides that if the proposed user is a private party or non-public entity, the use agreement shall: require that the proposed use or occupancy of SDA-owned property must be cleared and approved by SDA's bond counsel, except for a post-closing lease or use and occupancy agreement to a seller or a seller's tenants in connection with an acquisition of real property by the SDA; provide for compensation equivalent to the fair market rental value of the property; prohibit the user from subletting the property or assigning its use rights to another without express written consent from SDA; require the user to pay all costs associated with use of the property, provide indemnification to SDA for all injury, losses and damages relating to the use of the property; insure the property during the use period, and provide a security deposit in an amount determined by SDA.

Subsection (d) provides that if the user is a public entity or non-public non-profit party, and the proposed use will serve a valid charitable purpose or public purpose, then fair market rental consideration is not a requirement but the use agreement shall document and provide official approval of the proposed charitable purpose or public purpose or governmental function or program that is supported by the proposed use, provide for

consideration that recognizes the value of the public benefit of the proposed use as a component of consideration, pay all costs associated with the use of the property, prohibit assignment or subletting of use rights; insure the property, and provide indemnification to SDA from all injury, losses and damages relating to the use of the property.

Subsection (e) provides for the SDA Board to receive semiannual reports regarding all current temporary use and occupancy authorizations, allowing for the Board's oversight of SDA's temporary use of properties, whether or not such uses are subject to Board authorization.

### **Social Impact**

The proposed new rules provide procedures for SDA to declare its personal property and real property as surplus, and provide methodologies for SDA to dispose of its surplus property in a manner that best serves the needs of the school construction program. The proposed new rules will have a positive social impact by establishing a procedure for SDA to dispose of its surplus property, so that proceeds from the disposition of the property can be reinvested in the schools construction program, ultimately benefiting the school children and families of New Jersey.

### **Economic Impact**

The proposed new rules will permit the SDA to liquidate property that is no longer necessary for school facility construction or the operational needs of the SDA, with the proceeds of the disposition of surplus property to be returned to the school construction program for use in other school facility projects. Accordingly, the proposed rules will

ultimately provide a social and economic benefit to the children, families and school personnel in SDA Districts by increasing available funding for SDA projects. Further, the disposition of SDA's surplus property in SDA Districts, which are generally located in municipalities with New Jersey Opportunity Zones, will make such property available for use and development, providing an opportunity for long-term capital investment in these low-income communities and an economic benefit to the residents of these areas.

### **Federal Standards Statement**

A Federal standards analysis is not required because the rules provide the procedures for the SDA to dispose of surplus property, and there are no Federal standards or requirements applicable to the SDA's disposition of surplus property.

### **Jobs Impact**

The proposed new rules will facilitate the transfer of SDA-owned property that will not be utilized for school construction from the SDA to parties that will likely develop the properties for commercial, residential or other purposes. Accordingly, the transfers of property facilitated by these rules are very likely to create opportunities for new construction in SDA Districts, which are generally located in municipalities with New Jersey Opportunity Zones. These development opportunities will potentially lead to an increase in jobs in the construction trades and construction-related fields in those municipalities. The number of jobs that would be created as the result of implementation of these rules is currently unknown.

### **Agriculture Industry Impact**

The proposed new rules will have no impact on the agriculture industry as the processes for disposition of surplus real and personal property of the SDA will not require the acquisition of real property.

### **Regulatory Flexibility Analysis**

The proposed new rules do not impose reporting or recordkeeping requirements on small businesses, as such the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. To the extent that a small business seeks to acquire the SDA's surplus property, pursuant to a sealed bid, internet auction, offer to purchase process or other disposition methodology, small businesses will be subject to the same requirements and obligations as other bidders or potential offerors, in order to ensure fairness in the disposition process.

### **Housing Affordability Impact Analysis**

The proposed new rules permit the SDA to declare real or personal property as surplus to the SDA's needs for school facilities projects or other operational activities, and further provide various methodologies for disposition of such surplus property. Thus, the proposed new rules will not evoke a change in the average costs of housing in the State of New Jersey and have nothing to do with the affordability of housing.

### **Smart Growth Development Impact Analysis**

The proposed new rules provide procedures for the SDA to dispose of surplus real property that SDA had previously acquired, but which is no longer needed for school facilities projects. The proposed new rules do not address residential housing, and do not govern

the availability of affordable housing. The proposed new rules will facilitate the transfer of property from the SDA to parties that will likely develop the properties for commercial, residential or other purposes. Accordingly, because SDA's surplus property would be located in SDA Districts, which generally are located in municipalities within New Jersey Opportunity Zones, Planning Areas 1 or 2, or designated centers under the State Development and Redevelopment Plan, the transfers of property facilitated by these rules are very likely to create opportunities for new construction in those areas.

### **Racial and Ethnic Community Criminal and Public Safety Impact**

As the proposed new rules govern the process by which SDA can dispose of surplus real and personal property, the proposed new rules will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the new rules follows:

## CHAPTER 35

### DISPOSITION OF SURPLUS REAL AND PERSONAL PROPERTY OF THE NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### **19:35-1.1 Applicability**

This chapter applies to any real or personal property owned by the New Jersey Schools Development Authority (SDA) that may be considered for determination as surplus property. Upon determination that such property is surplus, this chapter governs the SDA's sale, lease, grant of easement, license or other use or disposition of such surplus property. A proposed disposition of surplus property in accordance with this chapter will not be authorized or enforceable if the disposition would result in the loss of the tax-exempt status, pursuant to the United States Internal Revenue Code of 1986, 26 U.S.C. §§ 1 et. seq., as amended from time to time, and all Federal Department of the Treasury regulations, revenue procedures and revenue rulings issued pursuant thereto, of the bonds issued by the New Jersey Economic Development Authority pursuant to section 25 of P.L. 2007, c. 137 (N.J.S.A. 18A:7G-14), the proceeds of which financed SDA's original acquisition of said property.

##### **19:35-1.2 Purpose and scope**

The purpose of this chapter is to establish and prescribe uniform rules and procedures for the disposition of surplus real or personal property. Proceeds from the disposition of surplus real or personal property shall be used to fund school facilities projects, except that proceeds from the disposition of surplus real property acquired under circumstances

described in N.J.S.A. 18A:7G-45 will be used to fund school facilities projects in the school district in which the disposed surplus real property is located. No surplus real or personal property disposition shall be made by the SDA except in accordance with this chapter.

### **19:35-1.3 Definitions**

The following words and items, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72, N.J.S.A. 18A:7G-1 et seq., as amended by P.L. 2007, c. 137, N.J.S.A. 52:18A-235 et seq., which mandates a program for establishing efficiency standards for educational facilities at the elementary, middle, and secondary school levels and which further mandates that the State fund the cost to repair and renovate existing school facilities and to construct new school facilities determined to be necessary in order to meet the established school facilities efficiency standards in school districts determined to be SDA Districts under the program.

“Bidder” means a party submitting a bid for the purchase of surplus real or personal property in response to an advertised “Notice of Solicitation for Sealed Bids.”

“Bidding Period” means the time set forth in the advertisement of a “Notice of Solicitation for Sealed Bids” for the disposition of surplus personal or real property during which a prospective bidder may submit a bid.



“Board” or “SDA Board” means the governing body of the SDA, consisting of the appointed members of the SDA as set forth in N.J.S.A. 52:18A-237.

“Charitable purpose” means an effort designed to benefit, ameliorate, or uplift mankind mentally, morally, or physically, and includes the relief of the poor, the distressed, or the underprivileged, the advancement of education or science, the promotion of health, lessening neighborhood tensions, combating community deterioration or any other purpose the achievement of which is beneficial to the community.

“Chief Executive Officer” or “CEO” means the executive director employed by the SDA Board as set forth in N.J.S.A. 52:18A-237.

“Compensation” means consideration that may take the form of money, exchanged property, contractual commitments, acts of forbearance and/or such other conditions as are deemed by the SDA to be of value to the school construction program.

“Contract” means the entire and integrated agreement between a public or non-public party and the SDA, in such form as is required by the transaction for the disposition of the surplus real or personal property.

“Department” means the New Jersey Department of Education.

“Direct negotiated sale” means an arms-length transaction between the SDA and a person or entity with no connection to or affiliation with the SDA or any of its employees, for the sale and transfer of real property for fair market value, or personal property for estimated market value, without competitive bidding or advertisement, except that a direct negotiated sale may include the sale and transfer of real property that is advertised or marketed through a broker engaged by SDA.

“Disposition” means the sale, lease, grant of easement, license or other transfer of the SDA’s legal rights in and/or to any real or personal property.

“Estimated market value” means the value of personal property established by its book value or other valuation methodology appropriate to the type of personal property being valued.

“Fair market value” means that amount of compensation a disposition of SDA real property would command in a competitive market between a willing seller and buyer under the same terms and conditions of the transaction, as determined by one or more independent appraisals prepared by a professional licensed appraiser(s), and any additional SDA analyses or valuations that take into account relevant factors such as existing environmental conditions or concerns.

“Firm” means any association, company, contractor, corporation, joint stock company, limited liability company, partnership, sole proprietorship, or other business entity, including its successors, assignees, lessees, receivers or trustees.

“Lease” means a contract granting the right to use or occupy SDA owned real property during a specified period in exchange for a specified consideration.

“Non-public party” means a private individual, corporation or other legal entity that is not a public entity, and that is eligible to enter into an agreement or otherwise contract with the SDA in connection with its disposition of or real or personal property.

“Notice of Solicitation of Offers to Purchase” means the document comprising the notice to the public of a potential disposition of surplus property through an offer to purchase process.

“Offer to purchase” means a written document that memorializes the terms and conditions that a party agrees to, notably the amount of compensation that such party is willing to pay, in order to acquire specific property. An offer to purchase may be submitted in response to a Notice of Solicitation of Offers to Purchase, or may be submitted by a willing offeror independent of any solicitation.

“Offer to purchase process” means a method of property disposition that advertises particular property as available for sale through the solicitation of competitive offers and

any potential subsequent negotiation with one or more responding offerors during a negotiating period that remains open until a date specified in the advertisement.

“Offeror” means a party submitting either an offer to purchase in response to a Notice of Solicitation of Offers to Purchase, or an unsolicited offer to purchase.

“Operating Authority” means the SDA’s policy, approved by the Board, and found on the SDA’s website at [www.njsda.gov](http://www.njsda.gov), which designates individuals holding designated titles within the SDA as being authorized, either generally or in specific transactions, to approve contracts and/or to execute documents legally binding on the SDA, and/or to sign checks and disbursements on behalf of the SDA, at varying levels of authority based upon the value of such transactions.

“Personal property” means furnishings, equipment, computers, automobiles, movable machines and equipment and any other tangible or intangible property owned by the SDA, with the exception of real property.

“Property” means real property and personal property, either individually or in combination, as the context indicates.

“Public party” means the State, or any political subdivision of the State, or any agency or subsidiary thereof, or any entity charged with the exercise of governmental functions.

“Public purpose” means an endeavor that is related to a function of government, and is consistent with the constraints of the bonds referenced in N.J.A.C. 19:35-1.1.

“Purchase Agreement” means the entire and integrated agreement between a purchasing party and the SDA, in such form as is required by the transaction for the disposition of surplus real property.

“Real property” means any land in which title is held by the SDA, or in which the SDA has a legal interest, whether improved or unimproved, and includes structures, fixtures, appurtenances and other permanent improvements, excluding moveable machinery and equipment.

“SDA” means the New Jersey Schools Development Authority, an entity formed pursuant to P.L. 2007, c. 137, N.J.S.A. 52:18A-235 et seq., as successor to the New Jersey Schools Construction Corporation. The SDA is statutorily charged with undertaking and funding school facilities projects for the school construction program, pursuant to the Act.

“School construction program” means the program for the construction of school facilities projects (as defined herein) and related activities mandated by the Act and undertaken by the SDA.

“School facilities project” means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction or capital maintenance

of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and if applicable, temporary facilities procured or constructed to facilitate construction of a permanent school facility. A school facilities project shall also include, but is not limited to, site acquisition, site development, the services of design professionals such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project.

“Sealed bid process” means a method of property disposition that advertises particular property as available for sale pursuant to the solicitation of competitive sealed bids received by a specified bid due date, and opened on a specified opening date.

“Surplus personal property” means personal property that, pursuant to N.J.A.C. 19:35-2.2, has been determined not to be necessary, on a temporary or permanent basis, for the undertaking or management of a school facilities project and not used or useful in the business operations of the SDA.

“Surplus real property” means real property that, pursuant to N.J.A.C. 19:35-2.3, has been determined not to be necessary, on a temporary or permanent basis, for the undertaking or management of a school facilities project and not used or useful in the administrative operations of the SDA.

“Use and/or occupancy agreement” means an agreement between the SDA and a public or non-public party that provides for the short term use and/or occupancy of all or any part of surplus real property, but that does not serve to transfer ownership from the SDA to such party.

## **SUBCHAPTER 2. IDENTIFICATION OF SURPLUS PROPERTY**

### **19:35-2.1 Determination of Property as Surplus Property**

Whenever, in accordance with N.J.A.C. 19:35-2.2 or N.J.A.C.19:35-2.3 below, the SDA determines that any SDA-owned real or personal property is surplus property in accordance with this subchapter, any temporary use, sale or other disposition of such real or personal property shall be performed consistent with this Chapter and implemented in accordance with processes and procedures established by the SDA from time to time. The SDA can, without Board approval, permit temporary use of SDA property without a determination that the property is surplus.

### **19:35-2.2 Personal Property as Surplus Property**

In the case of personal property, a determination that an item or items of personal property is surplus shall be based upon the following considerations:

- (a) Whether such personal property is necessary for the undertaking or management of a school facilities project; and/or
- (b) Whether such personal property is used or useful in the administrative operations of the SDA.

### **19:35-2.3 Real Property as Surplus Property**

In the case of real property, the determination that a tract or parcel of SDA-owned real property is surplus shall be based upon the following considerations:

- (a) Whether such real property has been determined not to be necessary for the undertaking or management of a school facilities project; and
- (b) Whether such real property is used or useful in the administrative operations of the SDA.

### **19:35-2.4 Requirements for Declaring Property as Surplus Property**

- (a) All declarations that real or personal property is surplus property shall be based upon a written recommendation prepared by appropriate SDA staff, which shall set forth the factual information that supports a determination under N.J.A.C. 19:35-2.2 or N.J.A.C. 19:35-2.3, as applicable.
- (b) All recommendations that real property be declared surplus shall be submitted to the Board for approval of the declaration.
- (c) Recommendations that personal property be declared surplus shall be submitted to the Chief Executive Officer, or his or her designee, for approval of the declaration, when the estimated value of the personal property does not exceed \$500,000.
- (d) Recommendations that personal property be declared surplus shall be submitted to the Board for approval of the declaration, when the estimated value of the personal property exceeds \$500,000.



### **SUBCHAPTER 3. DISPOSITION OF SURPLUS PROPERTY; DISPOSITIONS EXEMPT FROM ADVERTISING REQUIREMENTS**

#### **19:35-3.1 Manner and Requirements of Surplus Property Disposition**

- (a) Whenever, consistent with these regulations, it is determined that disposition of surplus personal or real property would be advantageous to the school construction program, the SDA may dispose of such surplus real and/or personal property via competitive sale to the public through public advertisement upon the terms and conditions established in this chapter, in any one of the following manners:
1. Through the solicitation of sealed bids;
  2. Through the solicitation of offers for purchase; or
  3. Through internet auction.
- (b) The SDA may dispose of surplus real and/or personal property by direct negotiated sale as defined in N.J.A.C. 19:35-1.2, without public advertisement, under the conditions permitting waiver of public advertisement as set forth in N.J.A.C. 19:35-3.2 and 19:35-3.3 of this subchapter.
- (c) All surplus real and/or personal property shall be disposed of in “as is, where is, with all faults” condition.
- (d) The method used to dispose of surplus real and/or personal property shall be selected by the SDA, , to maximize the return realized by the disposition, in accordance with the best interests of the school construction program.

- (e) If the declaration of the property as surplus was subject to Board approval, the method selected to dispose of the surplus property must also be approved by the Board.

**19:35-3.2. Waiver of Public Advertisement for Sale of Surplus Personal Property**

In disposing of surplus personal property, the SDA, in its sole discretion, may waive the advertising requirements referenced in N.J.A.C. 19:35-3.1 and more particularly described in N.J.A.C. 19:35-4.1 and may dispose of surplus personal property for its estimated market value through a direct negotiated sale as defined in N.J.A.C. 19:35-1.2, if a determination is made that any of the following circumstances exist:

- (a) The surplus personal property to be sold has an estimated market value less than the State bid advertising threshold then in effect pursuant to N.J.S.A. 52:34-7(b); or
- (b) The proposed disposition of surplus personal property constitutes an unusual transaction that would not benefit from public advertising or public bidding, such as a disposition in response to an unsolicited offer to purchase, provided that the purchase price to be paid is not less than the estimated market value thereof as established by its book value or other appropriate valuation methodology and the SDA, in its determination, would not benefit from a subsequent advertising or public bidding; or
- (c) The disposition of such surplus personal property is to a governmental entity for a valid public purpose and is for the estimated market value or the sale price

approved by the SDA Board taking into consideration such estimated market value.

- (d) The disposition is of a temporary classroom unit or units acquired by SDA to provide temporary facilities pending the completion of a school facilities project, and SDA has determined, based on a feasibility analysis, that disposition of the unit(s) is more advantageous to SDA than the relocation and reuse thereof.

### **19:35-3.3 Waiver of Public Advertisement for Sale of Surplus Real Property**

In connection with the disposition of surplus real property, the SDA, in its sole discretion, may waive the advertising requirement set forth in N.J.A.C. 19:35-3.1 and more particularly described in N.J.A.C. 19:35-4.1, and may dispose of surplus real property for fair market value through a direct negotiated sale as defined in N.J.A.C. 19:35-1.2, if a determination is made that any of the following circumstances exist:

- (a) The disposition is of surplus real property, or any interest therein, having a fair market value not in excess of \$100,000; or
- (b) The subject surplus real property is unique and the disposition thereof requires an unusual contract or represents an unusual transaction that would not benefit from public advertising or public bidding; or
- (c) The costs of environmental remediation activities or other activities required by governing authorities to effectively remediate the surplus real property, or

activities required to render the surplus real property marketable are greater than or equal to the appraised value of the surplus real property; or

- (d) The surplus real property to be sold is an undersized lot and is being offered to an adjacent owner for fair market value, provided that the adjacent landowner has no connection to or affiliation with the SDA or any of its employees; or
- (e) The disposition of the surplus real property, or any interest therein, is to a public party or non-public party, for fair market value, provided that such surplus real property is used for an educational purpose; or
- (f) The disposition of such surplus real property is to a public party for a valid public purpose that does not result in the loss of the tax exempt status of the bonds referenced in N.J.A.C. 19:35-1.1, and is for fair market value or is for a sale price that is less than fair market value if approved by the SDA Board after taking into consideration additional analyses and valuations that affect fair market value; or
- (g) The disposition of such surplus real property is to a public or non-public party having no connection to or affiliation with the SDA or its employees, that has submitted an unsolicited offer to purchase, provided such offer is for not less than fair market value as evidenced by an independent appraisal prepared by a professional licensed appraiser and SDA has determined that it would not benefit from a subsequent advertising or public bidding.

#### **SUBCHAPTER 4. DISPOSITION OF SURPLUS PERSONAL PROPERTY SUBJECT TO ADVERTISING REQUIREMENTS**

##### **19:35-4.1 Methods of Disposition of Surplus Personal Property**

- (a) Whenever, consistent with these regulations, it is determined that the disposition of items of personal property that have been determined to be surplus personal property in accordance with N.J.A.C 19:35-2.2 is in the best interests of the school construction program and such surplus personal property does not qualify as exempt from the advertising requirements under N.J.A.C. 19:35-3.2, the SDA may sell such surplus personal property via a competitive sale to the public after public advertisement through one of the following methods:
1. The solicitation of sealed bids process described in N.J.A.C. 19:35-4.2 through 19:35-4.14 , or
  2. The internet auction process described in N.J.A.C. 19:35-4.15.
- (b) Surplus personal property may also be disposed of under the direct negotiated sale process described in N.J.A.C. 19:35-4.16, if the conditions for such direct negotiated sale have been met.
- (c) The disposition of surplus personal property shall be in accordance with the terms and conditions established in this Chapter.
- (d) If no bids are submitted in response to a Solicitation for Sealed Bids, under N.J.A.C. 19:35-4.2 through 19:35-4.14, or in response to an advertised internet auction pursuant to N.J.A.C. 19:35-4.15, or in the event the surplus personal property cannot be disposed of through direct negotiation pursuant to N.J.A.C. 19:35-4.16, then the surplus personal property may be disposed of through the Department of Treasury, Surplus Property Unit, or in the most economically feasible manner.

- (e) Nothing in this Chapter shall prohibit or prevent the SDA from using or availing itself of any disposition method as may be otherwise permitted by law or rule.

**19:35-4.2 Sealed bid process for surplus personal property: advertisement requirements**

The disposition of surplus personal property may be conducted through a sealed bid process initiated by issuance of a Notice of Solicitation of Sealed Bids.

- (a) Disposition by sealed bid process shall require publication of an advertisement of the issuance of a “Notice of Solicitation of Sealed Bids” in each of the following outlets:
  - 1. on the SDA website;
  - 2. on the New Jersey State business portal;
  - 3. in the “Public/Legal Notice” section of a daily newspaper with statewide circulation; and
  - 4. in the “Public/Legal Notice” section of a daily newspaper published or circulated in the county in which such personal property is located.
- (b) Advertisements on the SDA website and on the New Jersey State business portal shall be maintained through the date for submission of sealed bids. The required newspaper advertisements shall be published at least twice, one week apart.
- (c) The advertisement for the Notice of Solicitation of Sealed Bids shall contain, at a minimum, the following information:
  - 1. A description of the surplus personal property, including sufficient information to identify the property adequately. If more than one item of

surplus personal property is included in a Notice of Solicitation of Sealed Bids, each item shall be separately identified;

2. The place(s) where the item(s) of surplus personal property is located;
3. A time frame during which the surplus personal property may be inspected, if applicable;
4. Notice of the physical and/or online address where bidders may obtain relevant forms and applicable terms and conditions of transfer;
5. Notice of the material terms of the sale. Notice shall be sufficient if set forth directly or contained in related sample documents; made available for review; or set forth on the SDA website;
6. A statement, if applicable, advising prospective bidders as to SDA's reservation of a right to seek best and final sealed bids from one or more bidders that timely submitted a responsive bid for the surplus personal property that is the subject of the solicitation;
7. A statement that the SDA may cancel the solicitation and/or reject any or all bids at any time before or after the opening of the bids;
8. A statement of the place and final date and time for submitting sealed bids, which shall not be less than 10 days after publication of the second advertisement;
9. A statement of the date, time and place of the opening of the bids; and
10. A statement that the surplus personal property shall be sold in an "as is, where is, with all faults" condition.

**19:35-4.3 Sealed bid process for surplus personal property: outreach in addition to advertisement**

At any time prior to the end of the bidding period, the SDA may conduct other outreach efforts to identify potential bidders, and may contact potential bidders directly for purposes of increasing the number of sealed bids received in response to an advertised “Notice of Solicitation of Sealed Bids.”

**19:35-4.4 Sealed bid process for surplus personal property: amendments to a Notice of Solicitation of Sealed Bids**

In the event that the amendment of any pertinent information supplied to prospective bidders in connection with a Notice of Solicitation of Sealed Bids becomes necessary, including a postponement of the time for receipt or the opening of bids, notice of the change(s) shall be advertised on the SDA website, at least seven days prior to the scheduled opening of the bids, unless an alternate procedure is established in the Notice of Solicitation of Sealed Bids.

**19:35-4.5 Sealed bid process for surplus personal property: submission of bids**

- (a) Bids in response to a Notice of Solicitation of Sealed Bids shall be submitted during the time and at the place specified in the Notice of Solicitation of Sealed Bids, as the same may be amended.
- (b) If more than one item of surplus personal property is included in the Notice of Solicitation of Sealed Bids, the requirements for submitting a bid for one, some, or all items shall be set forth in the Notice of Solicitation of Sealed Bids.



- (c) The bidding period shall close at the time and date specified in the advertisement for the Notice of Solicitation of Sealed Bids. Any bids received after the bidding period has ended shall be rejected.
- (d) Unless otherwise specified in the advertisement or the Notice of Solicitation of Sealed Bids, bids shall not be submitted by telephone, facsimile, or other electronic means.

**19:35-4.6 Sealed bid process for surplus personal property: withdrawal of bids**

- (a) Bidders may withdraw bids, or withdraw and resubmit bids, at any time prior to the closing of the bidding period.
- (b) Bids may be withdrawn only on written request received prior to the time and date for submission of bids and signed by the bidder or a duly authorized representative of the bidder upon presentation of appropriate identification.

**19:35-4.7 Sealed bid process for surplus personal property: opening and validity of sealed bids**

- (a) An SDA representative shall publicly open and publicly read the bids on the date specified in the Notice of Solicitation of Sealed Bids.
- (b) Unless the Notice of Solicitation of Sealed Bids states otherwise, amounts included in a sealed bid shall remain valid and binding for a period of one hundred twenty (120) days.

**19:35-4.8 Sealed bid process for surplus personal property: award to highest responsible bidder**

Absent cancellation of the solicitation of sealed bids in accordance with N.J.A.C. 19:35-4.9, the award of a disposition of surplus personal property publicly bid shall go to the highest bidder meeting all of the terms and conditions set forth in the advertised Notice of Solicitation of Sealed Bids.

**19:35-4.9 Sealed bid process for surplus personal property: cancellation**

- (a) In the event that no bids are received, or only one bid is received on item(s) of surplus personal property offered for disposition, or if the SDA determines that insufficient competition results from the advertised Notice of Solicitation of Sealed Bids and any outreach efforts, or for any other reason in the best interests of the school construction program, the SDA reserves the right to determine, on a case by case basis, whether:
  - 1. the disposition should be nevertheless be consummated; or
  - 2. the disposition should be cancelled, with rejection of all bids.
- (b) If the disposition is cancelled, the SDA reserves the right to determine, on a case by case basis, whether:
  - 1. the surplus personal property should be re-offered for disposition; or
  - 2. otherwise disposed of in a manner that is consistent with this chapter.

**19:35-4.10 Sealed bid process for surplus personal property: withdrawal of items**

- (a) With respect to a solicitation of sealed bids pertaining to more than one item of surplus personal property, when the SDA deems it to be in the best interests of the school construction program, at any time prior to the disposition thereof, one or more items of surplus personal property may be withdrawn from the solicitation of sealed bids.
- (b) When one or more items of surplus personal property are withdrawn from a solicitation of sealed bids, the SDA shall determine whether such items of surplus personal property shall be re-offered for disposition or otherwise disposed of in a manner that is consistent with this subchapter.
- (c) The withdrawal of any item or items of surplus personal property from a Notice of Solicitation of Sealed Bids under subsection N.J.A.C. 19:35-4.10(a) shall not affect the disposition of the remaining items of surplus personal property included within the Notice of Solicitation of Sealed Bids.

**19:35-4.11 Sealed bid process for surplus personal property: bid deposit**

- (a) Sealed bids submitted in response to a Notice of Solicitation of Sealed Bids shall be accompanied by a bid deposit if required under the terms of the Notice of Solicitation of Sealed Bids.
- (b) When a bid deposit is required, it shall be submitted in the form set forth in the Notice of Solicitation of Sealed Bids, or, if not specified therein, by certified check, bank or cashier's check, or executed money order payable to the "New Jersey Schools Development Authority" or any successor entity.

- (c) Failure to comply with a bid deposit requirement shall result in rejection of the bid.

**19:35-4.12 Sealed bid process for surplus personal property: Notice of Award**

- (a) The successful bidder shall be given a “Notice of Award” advising of SDA’s acceptance of its bid with respect to the purchase of the surplus personal property.
- (b) The Notice of Award shall be given in the manner and within the time for acceptance of the bid as may be specified in the terms and conditions detailed in the Notice of Solicitation of Sealed Bids.
- (c) The Notice of Award shall be in writing and shall specify the time and manner for payment of the balance of the bid price and for taking possession of the surplus personal property.
- (d) A written Notice of Award shall be deemed to result in a binding contract without any further action by either party.
- (e) A copy of the Notice of Award addressed to the winning bidder shall be provided to all unsuccessful bidders.

**19:35-4.13 Sealed bid process for surplus personal property: payment of balance of bid price**

- (a) Following the issuance of a Notice of Award, the successful bidder shall:
  - 1. pay the balance of the bid price in the manner and within the time set forth in the Notice of Award; and

2. take possession of the surplus personal property within the time and in the manner as set forth in the Notice of Award.
- (b) If the manner of payment is not specified, payment shall be by certified check, bank check, cashier's check, or money order made payable to the "New Jersey Schools Development Authority" or any successor entity.

**19:35-4.14 Sealed bid process for surplus personal property: failure to pay balance of bid price**

Failure by the successful bidder to pay the balance of the bid price within the time set forth in the Notice of Award shall result in a forfeiture of the bid deposit to the SDA. Surplus personal property paid for, but not picked up or taken possession of in the manner and within the time specified in the Notice of Award, shall be considered abandoned, in which event:

1. SDA shall retain all payments made; and
2. ownership of the property shall remain with the SDA; and
3. SDA may then accept the bid of the next highest qualified bidder; or
4. SDA may again offer the surplus personal property for disposition.

**19:35-4.15 Internet auction process for surplus personal property**

The disposition of surplus personal property may be conducted through an internet auction.

- (a) Disposition by internet auction shall require the publication of an advertisement in the "Public/Legal Notice" section of a daily newspaper with statewide circulation, which advertisement must contain:

1. A clear statement that the disposition will take place over the internet;
  2. The internet address of the website where the auction can be found;
  3. The date and time for the internet auction;
  4. A description of the surplus personal property to be sold; and
  5. A clear statement of all terms and conditions material to the disposition.
- (b) The website identified in the advertisement shall set forth all requirements for bidding, the terms and conditions of the disposition and the procedures for the transfer of the surplus personal property to be sold.
- (c) Surplus personal property that is the subject of an internet auction shall be awarded to the highest bidder meeting the terms and conditions material to the disposition.
- (d) In the event SDA determines there is insufficient participation in the internet auction with respect to any item or items of surplus personal property being offered for disposition, at any time prior to the disposition of such item or items, SDA reserves the right to remove the same from the internet auction and terminate the disposition with respect thereto.
- (e) SDA shall determine whether any item or items of surplus personal property so withdrawn from the internet auction shall be re-offered for disposition, or otherwise disposed of in a manner that is consistent with this subchapter.
- (f) Where more than one item of surplus personal property is the subject of an internet auction, the withdrawal of any item or items from the disposition by internet auction shall not affect the disposition of the remaining items to be sold.

#### **19:35-4.16 Direct negotiated sale of surplus personal property**

Surplus personal property that does not otherwise qualify as exempt from the advertising requirements under N.J.A.C. 19:35-3.2, and which does not result in a consummated disposition after being the subject of a Solicitation for Sealed Bids in accordance with N.J.A.C. 19:35-4.2 through 19:35-4.14, or an internet auction in accordance with N.J.A.C. 19:35-4.15, may be disposed of through a direct negotiated sale as defined in N.J.A.C. 19:35-1.2 to a public or a non-public party, for the highest possible price, upon terms and conditions acceptable to the SDA.

#### **19:35-4.17 Transfer of ownership of surplus personal property**

Transfer of ownership/title to SDA surplus personal property is effective upon delivery of the item(s) of surplus personal property to the purchaser and payment by the purchaser of the full amount of the purchase price to SDA.

### **SUBCHAPTER 5. DISPOSITION OF SURPLUS REAL PROPERTY SUBJECT TO ADVERTISING REQUIREMENTS**

#### **19:35-5.1 Methods of Disposition of Surplus Real Property**

- (a) Whenever, consistent with these regulations, it is determined that the disposition of tract(s) or parcel(s) of real property which have been determined to be surplus real property under N.J.A.C. 19:35-2.3, and which do not qualify as exempt from the advertising requirements under N.J.A.C. 19:35-3.3, would be advantageous to the e school construction program, the Board shall set an approved minimum disposition price for such surplus property. The

determination of an approved minimum disposition price may occur at the time of declaration of such real property as surplus pursuant to N.J.A.C. 19:35-2.3, or thereafter at the time SDA initiates the disposition. SDA may sell such surplus real property after public advertisement through one of the following methods:

1. Through the process of solicitation of offers to purchase as described in N.J.A.C. 19:35-5.2 through N.J.A.C. 19:35-5.18;
  2. Through the process of solicitation of sealed bids described in N.J.A.C. 19:35-5.19 through N.J.A.C. 19:35-5.31; or
  3. Through the internet auction process described in N.J.A.C. 19:35-5.32.
- (b) Surplus real property may also be disposed of through the disposition by direct negotiated sale process described in N.J.A.C. 19:35-5.33, if the conditions for such direct negotiated sale have been met.
- (c) The disposition of surplus real property shall be in accordance with the terms and conditions established in this subchapter.
- (d) Nothing in this chapter shall prohibit or prevent the SDA from using or availing itself of any method to dispose of surplus real property as may be otherwise permitted by law or rule.

**19:35-5.2 Offer to purchase process for surplus real property: advertisement requirements**

- (a) The disposition of surplus real property through the solicitation of offers to purchase shall be conducted by placing an advertisement of a “Notice of



Solicitation of Offers to Purchase” for the sale of surplus real property in or on the following:

1. on the SDA website; and
2. on the New Jersey State business portal; and
3. in the “Public/Legal Notice” section of a daily newspaper with statewide circulation, and
4. in the “Public/Legal Notice” section of a daily newspaper published or circulated in the county in which the surplus real property is located.

(b) Advertisements on the SDA website and on the New Jersey State business portal shall be maintained until the period for submission of offers to purchase has ended. Required newspaper advertisements shall be published at least twice, one week apart.

(c) The advertisement for a Notice of Solicitation of Offers to Purchase shall, at a minimum, contain the following information:

1. A description of the surplus real property, including the county and municipality in which the same is located, the street address, the municipal tax block and lot numbers assigned, a metes and bounds description (if available), and a general description of any improvements constructed thereon.
2. Where more than one tract or parcel of surplus real property is included in a Notice of Solicitation of Offers to Purchase, each tract or parcel shall be separately identified and, for purposes of this chapter, such

Notice of Solicitation of Offers to Purchase shall apply separately for each tract or parcel;

3. A date or time frame in which the surplus real property may be inspected;
4. Notice of the physical and/or online address where an offeror may obtain relevant forms and applicable terms and conditions of the sale;
5. Notice of the material terms of the sale. Such notice shall identify those material terms of the sale that are to be proposed by offerors, and shall also identify the material terms of sale that are not subject to offer or negotiation. Notice shall be sufficient if set forth directly or contained in related sample documents, made available for review or set forth on the SDA website;
6. A statement that the SDA may cancel the solicitation and/or reject any or all offers to purchase;
7. A statement of the place and final date for submitting offers to purchase, which shall not be less than 30 days after publication of the second advertisement;
8. A statement that the surplus real property shall be conveyed in “as is/where is, with all faults” condition and that a prospective offeror shall be responsible for conducting its own due diligence in connection with the submission of an offer to purchase;
9. A statement, if applicable, advising prospective offerors as to SDA’s reservation of a right to seek “best and final” offers from one or more

offerors who timely submitted a responsive offer for the surplus real property that is the subject of the Solicitation;

10. A notice that the SDA reserves the right to negotiate with one, all or fewer than all, of the offerors that have submitted offers to purchase advantageous to the SDA.

**19:35-5.3 Offer to purchase process for surplus real property: outreach in addition to advertisement**

At any time prior to the end of the period for submission of an offer to purchase, the SDA may conduct other outreach efforts to identify potential offerors, and may contact potential offerors directly for purposes of increasing the number of offers received in response to an advertised Notice of Solicitation of Offers to Purchase.

**19:35-5.4 Offer to purchase process for surplus real property: amendment of solicitation of offers to purchase**

In the event that amendment becomes necessary with respect to any pertinent information supplied to prospective offerors in connection with a solicitation of offers to purchase, including a postponement of the time for submitting an offer to purchase, notice of the change(s) shall be advertised on the SDA website, at least seven days prior to the scheduled date for receipt of offers, unless an alternate procedure is established in the Notice of Solicitation of Offers to Purchase.

**19:35-5.5 Offer to purchase process for surplus real property: submission of offers to purchase; untimely submissions**

- (a) Any offers to purchase in response to a Notice of Solicitation of Offers to Purchase shall be submitted during the time and at the place specified in the Notice of Solicitation of Offers to Purchase, as the same may be amended.
- (b) If more than one tract or parcel of surplus real property is included in the Notice of Solicitation of Offers to Purchase, the requirements for submitting an offer to purchase for one, some, or all parcels shall be set forth in the Notice of Solicitation.
- (c) Unless otherwise specified in the advertisement or the Notice of Solicitation of Offers to Purchase, an offer to purchase shall not be submitted by telephone, facsimile, or other electronic means.
- (d) An offer to purchase received after the close of the period for submitting an offer as specified in the Notice of Solicitation of Offers to Purchase shall be rejected, except in extraordinary circumstances, such as weather emergencies that prevent travel and/or result in the closure of state offices.

**19:35-5.6 Offer to purchase process for surplus real property: required deposit**

- (a) Offers to purchase shall be accompanied by a deposit in the amount determined by the SDA in its sole discretion and set forth in the Notice of Solicitation of Offers to Purchase.
- (b) The deposit shall be submitted in the form set forth in the Notice of Solicitation of Offers to Purchase, or, if not specified therein, by certified check, bank or

cashier's check, or executed money order made payable to the "New Jersey Schools Development Authority" or any successor entity.

- (c) Failure to comply with the deposit requirement shall result in the rejection of the offer as unresponsive.

**19:35-5.7 Offer to purchase process for surplus real property: withdrawal of offers to purchase**

- (a) An Offeror may withdraw a submitted offer to purchase, or withdraw and resubmit an offer to purchase, at any time during the period that an offer to purchase may be submitted.
- (b) Offers may be withdrawn only upon a written request, received prior to the expiration of the period within which offers are accepted, provided such request is signed by the offeror, or a duly authorized representative of the offeror upon presentation of appropriate identification.

**19:35-5.8 Offer to purchase process for surplus real property: review and verification of offers to purchase**

- (a) Following the close of the offer period, the SDA shall review each submitted offer to purchase received in response to a solicitation of offers to purchase in accordance with the best interests of the school construction program, price and "Other Factors," as described in N.J.A.C. 35:19- 5.9(b), considered.
- (b) The SDA, in its sole discretion, may seek additional information to supplement an offer to purchase for purposes of verifying the accuracy and responsiveness

of the offer to purchase, and to determine whether the offeror and/or the proposed offer is bona fide.

1. The SDA may request such information directly from the offeror, obtain the same from the public records, or obtain the same from others familiar with the offeror.
2. Such information may clarify, but not modify, an offer to purchase.
3. Such investigation may include, but shall not be limited to, contacting the offeror's surety companies, financial institutions, and review of business or personal financial records, reports or statements.

**19:35-5.9 Offer to purchase process for surplus real property: evaluation of offers to purchase**

- (a) SDA shall evaluate each offer to purchase received in accordance with this subchapter and shall identify the offer(s) determined to be responsive to all material elements set forth in the advertised Notice of Solicitation of Offers to Purchase. SDA shall select the winning offer based on an evaluation of price and "Other Factors."
- (b) "Other Factors" that may be considered in connection with such an evaluation may include, but are not limited to:
  1. The proposed consideration (inclusive of both monetary and non-monetary components, if applicable) for identified surplus real property. If the proposed consideration varies from the fair market value of the surplus real property established by an independent, professional licensed appraiser, SDA may, but shall not be obligated to, evaluate the proposed consideration

taking into account supported adjustments made for any valuation considerations identified by the SDA, including environmental concerns, which are not captured in the appraisal valuation.

2. The purchase terms, including any required due diligence period and payment for such period.
3. The material terms of the purchase proposed by the offeror with respect to terms and conditions that are subject to negotiation.
4. The proofs made available that demonstrate the offeror's financial capacity to meet the proposed terms of purchase.
5. Any other factors identified by the SDA in the Notice of Solicitation of Offers to Purchase.

(c) If more than one tract or parcel of surplus real property is included in the Notice of Solicitation of Offers to Purchase, the SDA may require separate offers for each individual tract or parcel, may evaluate the offers received for each tract or parcel separately and may accept a separate offer to purchase for each tract or parcel.

**19:35-5.10 Offer to purchase process for surplus real property: negotiation with offeror(s)**

(a) SDA staff may negotiate terms of the disposition of surplus real property with one or more offerors that have submitted advantageous offers that are in the best interest of the school construction program, price and Other Factors considered, in accordance with the evaluation criteria referenced in N.J.A.C. 19:35-5.9(b).

- (b) SDA staff shall have the right to engage in exclusive negotiations with one offeror, or to negotiate with all offerors, or to negotiate with some, but not all, offerors responding to the solicitation for offers to purchase.
- (c) Negotiating with one offeror will not preclude the SDA from negotiating with other offerors, unless the SDA has entered into an exclusive negotiating period with an offeror in accordance with N.J.A.C. 19:35-5.11.

**19:35-5.11 Offer to purchase process for surplus real property: exclusive negotiating period within the offer to purchase process**

- (a) Upon the request of an offeror, the SDA staff may, in its sole discretion, agree not to negotiate with any other offeror with respect to the surplus real property that is the subject of the solicitation of offers to purchase, and enter into an “Exclusive Negotiation Agreement.”
- (b) Under an Exclusive Negotiation Agreement, the SDA and such offeror each agree to negotiate the terms of the disposition of the surplus real property exclusively with the other.
- (c) The right of SDA to enter into an Exclusive Negotiation Agreement is subject to the following conditions:
  1. The time for submitting offers to purchase has expired;
  2. Notice of such election to enter into an exclusive negotiation period with an offeror must be given to all parties submitting an offer;
  3. The SDA has made a determination that there is a reasonable likelihood that the exclusive negotiating period will lead to an offer to purchase that will



be acceptable to the SDA and in the best interests of the school construction program;

4. Subject to extensions as indicated in subsection (d) below, a duration is set for the exclusive negotiating period that shall not exceed 30 days;
5. The offeror shall make an additional non-refundable deposit in an amount determined by the SDA; and
6. The offeror agrees in writing to negotiate exclusively with the SDA during the exclusive negotiating period and to terminate negotiations and discussions with other parties that seek to sell or lease competing property.

(d) The SDA may extend an exclusive negotiating period for one additional period of up to thirty (30) days upon such terms and conditions as it determines to be in the best interest of the school construction program, price and other factors considered.

(e) Upon conclusion of negotiations under an Exclusive Negotiation Agreement SDA staff shall submit a recommendation to the Board, as to whether or not to accept the resultant negotiated offer to purchase. Such recommendation shall detail the basis upon which the recommendation was determined to be in the best interest of the SDA and the school construction program and shall identify the material terms of the competing offers that will be rejected by the issuance of a Notice of Award.

**19:35-5.12 Offer to purchase process for surplus real property: review, recommendation, and acceptance by SDA of an offer to purchase**

Absent an acceptance of an offer under an Exclusive Negotiation Agreement under N.J.A.C. 19:35-5.2(j), the SDA shall evaluate the offers received in response to a solicitation of offers to purchase in accordance with the best interests of the school construction program, price and Other Factors considered, in accordance with N.J.A.C. 19:35-5.9.

**19:35-5.13 Offer to purchase process for surplus real property: withdrawal of tracts or parcels**

- (a) If the SDA deems it to be in the best interests of the school construction program, one or more tracts or parcels of surplus real property may be withdrawn from the solicitation of offers to purchase.
- (b) When one or more tracts or parcels of surplus real property are withdrawn from a solicitation of offers to purchase the SDA shall determine whether to re-offer or otherwise dispose of the same in a manner that is consistent with this Chapter.

**19:35-5.14 Offer to purchase process for surplus real property: cancellation of solicitation and disposition; withdrawal of tracts or parcels**

- (a) SDA may, on a case-by-case basis, cancel a solicitation and reject all offers received upon the occurrence of any of the following grounds for cancellation:
  - 1. no offers to purchase are received or only one offer to purchase is received in response to a Notice of Solicitation of Offers to Purchase; or
  - 2. the offer prices submitted are unfavorable in the current market; or

3. the SDA determines that insufficient competition results from the advertisement and any outreach efforts; or
  4. for any other reason in the best interests of the school construction program.
- (b) In the event of the occurrence of such grounds for cancellation, the SDA reserves the right to determine, on a case by case basis, whether:
1. the disposition shall nevertheless be consummated; or
  2. the disposition should be terminated, with rejection of all offers submitted.
- (c) if the disposition is terminated, the SDA reserves the right to determine, on a case by case basis, whether:
3. the surplus real property should be re-offered for disposition; or
  4. otherwise disposed of in a manner that is consistent with this subchapter.

**19:35-5.15 Offer to purchase process for surplus real property: Notice of Award and Purchase Agreement**

- (a) The successful offeror shall be given a “Notice of Award” advising of SDA’s acceptance of its offer and award of a purchase agreement with respect to the purchase of the surplus real property.
- (b) Such Notice of Award shall be given in the manner and within any time for acceptance of the offer as may be specified in and in accordance with the terms and conditions detailed in the solicitation of offers to purchase.
- (c) The Notice of Award shall be delivered together with the form of Purchase Agreement, setting forth the negotiated agreement between the parties, for execution by the offeror.

- (d) In the event a signed Purchase Agreement was delivered together with the submitted offer, and the SDA does not object to any of the terms of the signed Purchase Agreement, the Notice of Award shall be delivered together with a fully executed counterpart of the Purchase Agreement.
- (e) A copy of the Notice of Award shall be simultaneously provided to all unsuccessful offerors.

**19:35-5.16 Offer to purchase process for surplus real property: application of deposits**

- (a) The deposits furnished by the successful offeror shall be retained and applied toward the purchase price at closing of title.
- (b) All deposits of unsuccessful offerors shall be returned promptly.

**19:35-5.17 Offer to purchase process for surplus real property: transfer of title and balance of purchase price**

- (a) Title to the surplus real property shall be transferred at the time and place and in the manner set forth in the executed purchase agreement for closing of title.
- (b) At closing of title the successful offeror shall pay the balance of the purchase price. Such payment shall be made in the manner specified in the purchase agreement or, if not specified therein, by certified check, bank or cashier's check, executed money order made payable to the "New Jersey Schools Development Authority" or any successor entity.
- (c) Failure of the successful offeror to pay the balance of the proposed consideration or to take title to the surplus real property, or the failure to abide

by any other material term or condition of the purchase agreement shall entitle SDA to cancel the sale and retain all money on deposit in addition to the right to exercise any other remedy available to SDA under the purchase agreement.

**19:35-5.18 Offer to purchase process for surplus real property: cancellation of purchase agreement**

Upon any cancellation of the purchase agreement, with the approval of the SDA Chief Executive Officer, or his or her designee, the SDA may, in its discretion, accept the offer of the next highest qualified offeror, or re-advertise the surplus real property for disposition in accordance with any of the methods set forth under N.J.A.C. 19:35-5.1.

**19:35-5.19 Sealed bid process for surplus real property: advertisement**

- (a) The disposition of surplus real property may be conducted through a sealed bid process initiated by issuance of a Notice of Solicitation of Sealed Bids.
- (b) The disposition of surplus real property through a solicitation of sealed bids shall be conducted by placing an advertisement of a “Notice of Solicitation of Sealed Bids” in the following outlets:
  - 1. on the SDA website;
  - 2. on the New Jersey State business portal;
  - 3. in the “Public/Legal Notice” section of a daily newspaper with statewide circulation; and
  - 4. in the “Public/Legal Notice” section of a daily newspaper published or circulated in the county in which the surplus real property is located.

- (c) Advertisements on the SDA website and on the New Jersey State business portal shall be maintained through the date for submission of sealed bids.
- (d) Required newspaper advertisements shall be published at least twice, one week apart.
- (e) The advertisement for the solicitation of sealed bids shall contain the following information:
  - 1. A description of the surplus real property, including its location (listing street address, if any, municipality and county, or any other descriptors sufficient to define the location of the surplus real property), a description of any improvements thereon, a metes and bounds description, if available, and the municipal tax block and lot designations of the parcels comprising the surplus real property being disposed of;
  - 2. The time frame during which the surplus real property may be inspected;
  - 3. Notice of the physical and/or online address where bidders may obtain relevant forms and applicable terms and conditions of transfer;
  - 4. Notice of the material terms of the sale.. Notice shall be sufficient if set forth directly in the advertisement, or on the SDA website, or contained in identified documents made available for review on the SDA website;
  - 5. A statement, if applicable, advising prospective bidders as to SDA's reservation of a right to seek best and final sealed bids from one or more bidders that timely submitted a responsive bid for the surplus real property that is the subject of the Solicitation;

6. A statement that the SDA may cancel the solicitation and/or reject any or all bids at any time before or after the opening of the bids;
7. A statement of the place and final date and time for submitting sealed bids, which shall not be less than 10 days after publication of the second advertisement;
8. A statement of the date, time and place of the opening of the bids; and
9. A statement that the surplus real property shall be conveyed in “as is/where is, with all faults” condition and that a prospective bidder shall be responsible for conducting its own due diligence in connection with the submission of a bid.

**19:35-5.20 Sealed bid process for surplus real property: outreach in addition to advertisement**

At any time prior to the end of the bidding period, the SDA may conduct other outreach efforts to identify potential bidders, and may contact potential bidders directly for purposes of increasing the number of sealed bids received in response to an advertised “Notice of Solicitation of Sealed Bids.”

**19:35-5.21 Sealed bids process for surplus real property: amendments to a Notice of Solicitation of Sealed Bids**

In the event that the amendment of any pertinent information supplied to prospective bidders in connection with a solicitation of sealed bids becomes necessary, including a postponement of the time for receipt or the opening of bids, notice of the change(s) shall

be advertised on the SDA website at least seven days prior to the scheduled opening of the bids unless an alternative procedure is established in the solicitation of sealed bids.

**19:35-5.22 Sealed bids process for surplus real property: submission of bids; close of bidding and untimely bids**

- (a) Bids in response to a Notice of Solicitation of Sealed Bids, as the same may be amended, shall be submitted during the time and at the place specified in the Notice of Solicitation of Sealed Bids.
- (b) If more than item of surplus real property is included in the Notice of Solicitation of Sealed Bids, the requirements for submitting a bid for one, some or all items shall be set forth in the Notice of Solicitation of Sealed Bids.
- (c) The bidding period shall close at the time and date specified in the advertisement for the Notice of Solicitation of Sealed Bids, as the same may be amended. Any bids received after the bidding period has ended shall be rejected.
- (d) Unless otherwise specified in the advertisement or the Notice of Solicitation of Sealed Bids, bids shall not be submitted by telephone, facsimile, or other electronic means.

**19:35-5.23 Sealed bid process for surplus real property: withdrawal of bids**

Bidders may withdraw bids, or withdraw and resubmit bids, at any time prior to the closing of the bidding period. Bids may be withdrawn only upon a written request, received prior to the time and date for submission of bids, provided such request is signed by the bidder,



or a duly authorized representative of the bidder upon presentation of appropriate identification.

**19:35-5.24 Sealed bid process for surplus real property: opening of sealed bids**

An SDA representative shall publicly open and publicly read the bids on the date specified in the Notice of Solicitation of Sealed Bids, as the same may be amended.

**19:35-5.25 Sealed bid process for surplus real property: validity of sealed bids**

Unless the Notice of Solicitation of Sealed Bids states otherwise, amounts included in a sealed bid shall remain valid and binding for a period of one hundred twenty (120) days.

**19:35-5.26 Sealed bid process for surplus real property: award to highest responsible bidder**

Absent a cancellation of a solicitation of sealed bids, or a rejection of all bids in accordance with N.J.A.C. 19:35-5.27, the award of a disposition of surplus real property shall go to the highest bidder meeting all of the terms and conditions set forth in the advertised Notice of Solicitation of Sealed Bids.

**19:35-5.27 Sealed bid process for surplus real property: cancellation of solicitation and disposition; rejection of bids**

- (a) In the event that no bids or only one bid is received in response to a solicitation of sealed bids with respect to surplus real property offered for disposition, or if the SDA determines that insufficient competition results from the advertised Notice of Solicitation of Sealed Bids and any outreach efforts, or for any other

reason in the best interests of the school construction program, the SDA reserves the right to determine, on a case by case basis, whether:

1. the disposition should nevertheless be consummated; or
  2. the disposition should be terminated, with rejection of all bids submitted;
- and

(b) if the disposition is terminated, the SDA reserves the right to determine, on a case by case basis, whether:

1. the surplus real property should be re-offered for disposition, or
2. otherwise disposed of in a manner that is consistent with this chapter.

**19:35-5.28 Sealed Bids Process for surplus real property: withdrawal of items from solicitation and disposition**

(a) With respect to a solicitation of sealed bids pertaining to more than one tract or parcel of surplus real property, when the SDA deems it to be in the best interests of the school construction program, at any time prior to the conveyance thereof one or more tracts or parcels of surplus real property may be withdrawn from the solicitation of sealed Bids.

(b) When one or more tracts or parcels of surplus real property are withdrawn from a solicitation of sealed bids, the SDA shall determine whether such parcels or tracts of surplus real property shall be re-offered for disposition, or otherwise disposed of in a manner that is consistent with this subchapter.

(c) The withdrawal of a parcel or tract of surplus real property from a Notice of Solicitation of Sealed Bids under N.J.A.C. 19:35-5.28(a) shall not affect the

disposition of the remaining parcels or tracts of surplus real property included within the Notice of Solicitation of Sealed Bids.

**19:35-5.29 Sealed bid process for surplus real property: bid deposit**

- (a) Sealed bids submitted in response to a Notice of Solicitation of Sealed Bids shall be accompanied by a bid deposit if required under the terms of the Notice of Solicitation of Sealed Bids.
- (b) When required, such bid deposit shall be submitted in the form set forth in the Notice of Solicitation of Sealed Bids, or, if not specified therein, by certified check, bank or cashier's check, or executed money order payable to the "New Jersey Schools Development Authority" or any successor entity.
- (c) Failure to comply with bid deposit requirements shall result in rejection of the bid.

**19:35-5.30 Sealed bid process for surplus real property: Notice of Award**

- (a) No later than the time for acceptance of a sealed bid as may be specified in the Notice of Solicitation of Sealed Bids, the successful bidder shall be issued a Notice of Award.
- (b) The Notice of Award shall be in writing and shall be delivered together with a purchase agreement to be signed and returned to SDA in accordance with the terms of the Notice of Award, or, in the event a signed purchase agreement was submitted with the required bid submission documents, a fully executed purchase agreement will be delivered with the Notice of Award.

**19:35-5.31 Sealed bid process for surplus real property: payment of balance of bid price**

- (a) Following the issuance of a Notice of Award and delivery of a fully executed Purchase Agreement, the successful bidder shall pay the balance of the bid price at closing of title in accordance with the terms and conditions set forth in the purchase agreement.
- (b) If the manner of payment is not specified in the purchase agreement, payment shall be by certified check, bank check, cashier's check, or executed money order made payable to the "New Jersey Schools Development Authority" or any successor entity.
- (c) Failure by the successful bidder to pay the balance of the bid price, return an executed purchase agreement, close title in accordance with the terms and conditions contained in the purchase agreement or to otherwise fail to comply with requirements contained in the Notice of Award shall result in a forfeiture of the bid deposit to the SDA.
- (d) In the event of a failure to close title, with the approval of the SDA Chief Executive Officer, or his or her designee, the SDA may, in its discretion, accept the bid of the next highest qualified bidder or again offer the surplus real property for disposition.

**19:35-5.32 Disposition of surplus real property by internet auction**

- (a) The disposition of surplus real property may be conducted through an internet auction.

- (b) Disposition by internet auction shall require the publication of an advertisement in the “Public/ Legal Notice” section of a daily newspaper with statewide circulation, and in a daily newspaper published or circulated in the county in which the property is located.
- (c) Required newspaper advertisements shall be published at least twice, one week apart.
- (d) The advertisement, at a minimum, must contain:
1. a clear statement that the disposition will take place over the internet;
  2. the internet address of the website where the auction can be found
  3. the date and time for the internet auction;
  4. a description of the surplus real property, including the county and municipality in which the same is located, the street address, the municipal tax block and lot numbers assigned, a metes and bounds description (if available), and a general description of any improvements constructed thereon; and
  5. a clear statement of all terms and conditions material to the disposition.
- (e) The website at the internet address provided in the advertisement shall set forth all requirements for bidding, the terms and conditions of the disposition and the procedures for the transfer of the surplus real property to be sold.
- (f) Where more than one tract or parcel of surplus real property is the subject of an internet auction, the SDA may require separate bids for each individual tract or parcel, may evaluate the bids received for each tract or parcel separately and may accept a separate bid for each tract or parcel.

(g) Surplus real property that is the subject of an internet auction shall be awarded to the highest bidder meeting the terms and conditions material to the disposition.

(h) In the event SDA determines that there is insufficient participation with respect to all or any tract or parcel of surplus real property that is the subject of disposition by internet auction under this subchapter, SDA reserves the right to remove such tract or parcel from the auction and terminate the disposition with respect thereto.

1. SDA shall determine whether any item or items of surplus real property so withdrawn from the internet auction shall be re-offered for disposition, or otherwise disposed of in a manner that is consistent with this subchapter.
2. Where more than one item of surplus real property is the subject of an internet auction, the withdrawal of any item or items from the disposition by internet auction shall not affect the disposition of the remaining tract(s) or parcel(s) to be sold.

**19:35-5.33 Disposition of surplus real property through direct negotiated sale**

Surplus real property which does not otherwise qualify as exempt from the advertising requirements under N.J.A.C. 19:35-5.2 may be disposed of for its fair market value through a direct negotiated sale, as defined in N.J.A.C. 19:35-1.2, if the advertisement of the property for offer, bid or auction did not elicit any viable offers or bids after being the subject of any of the following:

- (a) a solicitation of offers to purchase pursuant to N.J.A.C. 19:35-5.2;

- (b) a solicitation of sealed bids pursuant to N.J.A.C. 19:35-5.19; or
- (c) a disposition through internet auction pursuant to N.J.A.C. 19:35-5.32.

**19:35-5.34 Disposition for Less than Fair Market Value**

- (a) If SDA shall fail to reach agreement with respect to the disposition of surplus real property, despite advertising a disposition through:
  - 1. a solicitation of offers to purchase pursuant to N.J.A.C. 19:35-5.2;
  - 2. a solicitation of sealed bids pursuant to N.J.A.C. 19:35-5.19;
  - 3. a disposition through internet auction pursuant to N.J.A.C. 19:35-5.32; or
  - 4. through a direct negotiated sale for fair market value pursuant to N.J.A.C. 19:35-5.33, then SDA may dispose of the surplus property in any lawful manner for less than the originally estimated fair market value, provided that any proposed consideration below the originally estimated fair market value must be approved by the SDA Board based on the written analysis and recommendation of appropriate SDA staff.

**19:35-5.35 Effective Date of Disposition**

Unless expressly otherwise provided, in every instance, transfer of title to surplus real property is effective following the delivery of the full amount of the proposed consideration to the SDA and the delivery of a deed from the SDA to the Purchaser.

## **SUBCHAPTER 6. TEMPORARY USE AND/OR OCCUPANCY OF SDA OWNED REAL PROPERTY**

### **19:35- 6.1 Temporary Use and/or Occupancy of SDA Owned Real Property**

- (a) The SDA may, in its sole and absolute discretion, authorize the temporary use and/or occupancy of all or any part of SDA-owned real property, whether or not the same is deemed to be surplus real property, for the period of time during which such real property will not be needed for a school facilities project or is not used or otherwise useful in the business operations of the SDA.
- (b) Such authorization shall be memorialized in a written agreement, including but not limited to a lease, license and/or use and occupancy agreement, executed by the SDA's Chief Executive Officer, or his or her designee, which incorporates the terms and conditions of the proposed use as determined by the SDA, and which, in every instance, shall contain the following general conditions:
  - 1. The duration shall not extend beyond the point in time when the real property will become necessary for the implementation of a school facilities project(s) or otherwise necessary for the SDA's execution of its responsibilities under the Act.
  - 2. The duration shall not exceed a total term of three (3) years, inclusive of the initial term and any optional extension(s), unless approved by the SDA Board. Any extension or renewal of a temporary lease, license or use and occupancy agreement originally authorized by the SDA's Chief Executive



Officer must be approved by the SDA Board if the resulting renewal or extension will result in a total term exceeding three years;

3. Any agreement for a duration of more than thirty (30) days, with the exception of a post-closing lease or use and occupancy agreement to a seller or a seller's tenants in connection with an acquisition of real property by the SDA, shall specify that the SDA has the unilateral and absolute right to terminate the agreement for any reason upon such notice as SDA deems appropriate.
4. The user(s) shall not alter the real property in any manner that, in the sole judgment of the SDA, might negatively impact the amount of proceeds realized by SDA in any subsequent disposition of the real property and/or result in additional costs to SDA (including, without limitation, additional demolition costs and/or trash disposal costs) with respect to the property's fitness or suitability for subsequent use of the real property for school facilities purposes.
5. The use or user shall not impact environmental conditions at the property.
6. The user must accept the real property in "as is, where is, with all faults" condition. No alterations or improvements of any kind are permitted, unless upon the prior written consent of SDA in each instance.
7. Holdover charges, in an amount to be determined by SDA, shall be due and payable in the event the user fails to surrender the real property on the date that the right of such temporary use of the property expires.

(c) If the use agreement is with a non-public and/or private party, and is for a use that is not a public purpose or a charitable purpose, as defined in N.J.A.C. 19:35-1.2, in addition to the general condition requirements of N.J.A.C. 19:35-6.1(a), the agreement shall, at a minimum:

1. Require that the proposed use or occupancy of SDA-owned property must be cleared and approved by SDA's bond counsel, engaged to provide legal advice to SDA regarding the bonds authorized under Section 25 of P.L. 2007, c. 137 (N.J.S.A. 18A:7G-14) to fund the activities of the SDA, and the tax treatment of the interest on such bonds, to ensure that the proposed use or occupancy will not have an adverse effect upon the tax-exempt status of the bonds, as detailed in N.J.A.C. 19:35-1.1, with the exception of a post-closing lease or use and occupancy agreement to a seller or a seller's tenants in connection with an acquisition of real property by the SDA, which shall not require prior bond counsel approval if the lease or use and occupancy term is for less than six months.
2. Require payment of consideration in an amount that is not less than the fair market rental value of such use, as determined by the SDA pursuant to an independent appraisal or in-house valuation based upon relevant information, as appropriate;
3. Prohibit the user from assigning its rights to such use or subletting or otherwise allowing another person or entity to use and/or occupy the subject real property without the express written consent of the SDA;

4. Require any such user to pay all costs associated with its use and/or occupancy of the real property, including but not limited to, the costs of operating and maintaining the same, payment of any taxes (real estate and otherwise) relating to the same, the cost of providing security services to such real property, and all amounts payable with respect to utilities and services furnished to such real property;
  5. Require such user to provide insurance coverages during the term of its use of the real property in amounts to be determined by SDA;
  6. Require such user to indemnify, defend and hold the SDA harmless against any personal injury, losses and/or damages that result, either directly or indirectly, from such use and/or occupancy; and
  7. Require such user to maintain a security deposit with SDA in amounts determined by SDA.
- (d) If the use agreement is with a public party, or a non-public,-non-profit party, and the proposed use will serve either a valid charitable purpose or public purpose (as defined in N.J.A.C. 19:35-1.2) and will not result in the generation of income or profit, the agreement is not required to include consideration at fair market value, but, in addition to the general condition requirements set forth in N.J.A.C. 19:35-6.1(b), the agreement shall, at a minimum:
1. Identify the proposed use, and define the charitable purpose or public purpose or governmental function or program, that is supported by the proposed use;

2. Require documentary proof that the proposed use has been approved through official action (e.g. corporate resolution, board action or minutes, memorandum of agreement or other documented official action) of the public party or nonprofit entity;
  3. Provide for consideration that recognizes the value of the public benefit of the proposed use as a component of the consideration;
  4. Require the public party or non-public, non-profit party seeking to use the property for a charitable purpose or public purpose to pay all costs associated with its use and/or occupancy thereof, including but not limited to, operation, security, taxes, utilities and maintenance, which must include landscaping and snow removal.
  5. Prohibit the user from assigning its rights to such use or subletting or otherwise allowing another person or entity to use and/or occupy the subject real property without the express written consent of the SDA;
  6. Require the user to provide insurance coverages during the term of its use of the real property in amounts to be determined by SDA; and
  7. Require the user to indemnify, defend and hold the SDA harmless against any personal injury, losses and/or damages that result, either directly or indirectly, from such use and/or occupancy.
- (e) SDA shall prepare a semi-annual informational report, to be submitted to the SDA Board, listing all current temporary use and occupancy authorizations, whether memorialized in leases, licenses or use and occupancy agreements, and indicating any extensions or renewals thereof.

***Resolution—7a.***

Proposed New Rules for Disposition of Surplus Property – Notice of Proposal for N.J.A.C. 19:35 –  
Disposition of Surplus Real and Personal Property of the New Jersey Schools Development Authority

**Resolution**

**WHEREAS**, P.L. 2007, 137 (N.J.S.A. 52:18A-238(k)) requires that the Members of the New Jersey Schools Development Authority (SDA or the Authority) adopt, amend and repeal rules and regulations to carry out the provisions of P.L. 2000, c. 72 (C. 18A:7G-13e) and P.L. 2007, c. 137 (C. 52:18A-238k); and

**WHEREAS**, management is seeking the approval of the Members of the Authority for the publication of a Notice of Proposal of rules governing Disposition of the Authority’s Surplus Real and Personal Property, N.J.A.C. 19:35 (Rules); and

**WHEREAS**, the Rules establish requirements and procedures for the disposition of property owned by the SDA if such property is deemed surplus as it is no longer needed for school facility projects or SDA operations; and

**WHEREAS**, the proposed new Rules are intended to replace the SDA’s expired surplus property disposition rules while improving and expanding upon the previous rules; and

**WHEREAS**, the memorandum presented to the Board on this date describes in comprehensive detail the provisions of the proposed regulations, highlighting how the proposed Rules differ from the prior SDA regulations governing SDA property disposition; and

**WHEREAS**, the Members of the Authority were provided with the proposed new Rules and the Notice of Proposal for review and consideration in advance of the meeting; and

**WHEREAS**, SDA management recommends Board approval of the proposed new Rules governing the Disposition of SDA’s Surplus Real and Personal Property, N.J.A.C. 19:35 so that management can proceed with their promulgation and publication, and with the issuance of the Notice of Proposal, and the filing of the same with the Office of Administrative Law.

**NOW, THEREFORE, BE IT RESOLVED**, that the Members of the Authority hereby authorize and approve the promulgation and publication of the proposed new rules governing the Disposition of Surplus Real and Personal Property as well as the issuance of the Notice of Proposal for N.J.A.C. 19:35, and the filing of the Notice with the Office of Administrative Law.

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve the same, in which case such action shall become effective upon such approval.

Attached: Memorandum, Proposed New Rules for Disposition of Surplus Property – Notice of Proposal  
for N.J.A.C. 19:35 – dated June 2, 2021

Dated: June 2, 2021

**MONTHLY REPORTS**  
**(For Informational Purposes)**

## **ACTIVE PROJECTS STATUS REPORT**



STATE OF NEW JERSEY

# SCHOOLS DEVELOPMENT AUTHORITY

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## MEMORANDUM

TO: Members of the Authority

FROM: Gregory Voronov  
Managing Director

DATE: June 2, 2021

SUBJECT: Active Project Status Report  
(For Informational Purposes Only)

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The 1<sup>st</sup> section of the report includes an Activities Summary of projects identified for advancement in the Authority's Capital Plans.

The 2<sup>nd</sup> part of the report displays project completion milestones for all other active major capital projects and emergent projects for which a contract for construction has been awarded.



**2011 & 2012 Portfolio Projects Activities Summary**

as of 5/19/21

**2011 Portfolio Projects - sorted by District**

**1**

District	Project	Grade Alignment	FES Capacity	Max. Capacity	Total Estimated Cost (millions)	Design Status	Advancement Status	Projected Construction Advertisement Date*
Bridgeton	Buckshutem ES	K-8	581	645	\$23.3	Kit of Parts/ Design-Build	School occupied Sep. 2016. (Bock)	5/31/13
Bridgeton	Quarter Mile Lane ES	PK-8	731	795	\$39.0	Kit of Parts/ Design-Build	School occupied Sep. 2017. (Bock)	5/31/13
Elizabeth	Frank J. Cicarell Academy (Academic HS)	9-12	1,091	1,284	\$64.1	Existing Design	School occupied Sep. 2016. (Patock)	12/8/11 7/11/12
Jersey City	Patricia M. Noonan ES (ES 3)	PK-5	778	848	\$54.0	Kit of Parts/ Design-Build	School occupied Sep. 2017. (Dobco, Inc.)	6/25/12 2/25/13
Jersey City	Dr. Maya Angelou PS #20	K-5	628	698	\$49.3	Existing Design	School occupied Sep. 2016. (Dobco, Inc.)	4/17/12 3/6/13
Long Branch	Catrambone ES	PK-5	794	867	\$40.0	Existing Design	School occupied Sep. 2014. (Terminal Construction)	12/20/11
New Brunswick	Redshaw ES	PK-5	906	990	\$51.2	Kit of Parts/ Design-Build	School occupied Jan. 2015. (Hall Construction)	5/29/12
Newark	Oliver St. ES	PK-8	848	932	\$73.6	Kit of Parts/ Design-Build	School occupied May 2016. (Epic Management)	6/27/12 11/29/12
Paterson	Dr. Hani Awadallah ES (Marshall St. ES)	K-8	650	722	\$55.2	Existing Design	School occupied Sep. 2016. (Dobco, Inc.)	6/13/12 2/12/13
Paterson	PS 16	PK-8	641	705	\$62.4	Kit of Parts/ Design-Build	School occupied Sep. 2016. (Hall Construction)	3/27/12 8/28/13
West New York	Harry L. Bain PS 6	PK-6	736	814	\$16.8	Design-Bid-Build	School occupied Sep. 2017. (Paul Otto)	2/27/12 12/29/15

**\*PLEASE NOTE** - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.

**NOTE # 1** - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions. Recommendations of DOE/SDA/District Working Groups may impact this information in the future.

**2011 & 2012 Portfolio Projects Activities Summary**

as of 5/19/21

**2012 Portfolio Projects - sorted by District**

1

District	Project	Grade Alignment	FES Capacity	Max. Capacity	Total Estimated Cost (millions)	Design Status	Advancement Status	Projected Construction Advertisement Date*
Gloucester City	Elementary/Middle School	4-8	687	763	\$65.3	Kit of Parts/ Design-Build	School occupied Sep. 2017. (Terminal)	3/4/14
Keansburg	Caruso ES	K-4	758	842	\$50.9	Kit of Parts/ Design-Build	School occupied Sep. 2016. (Hall Construction)	10/20/11 6/27/13
Keansburg	Port Monmouth Road School	PK	318	318	\$28.4	Design-Bid-Build	Award for D-B approved Nov. 2019 Board. (Niram)	6/24/19
New Brunswick	Robeson ES	PK-5	823	893	\$48.5	Kit of Parts/ Design-Build	School occupied Sep. 2018. (Hall Construction)	4/22/15
Newark	Elliot Street ES	PK-8	848	932	\$46.7	Kit of Parts/ Design-Build	School occupied Jan. 2016. (Hall Construction)	12/27/12
Newark	South Street ES	PK-8	597	657	\$69.9	Kit of Parts/ Design-Build	School occupied Sep. 2018. (Bock)	6/28/13 6/29/15
Passaic	Dayton Ave. Campus	PK-8	2,760	3,020	\$240.9	Kit of Parts/ Design-Build	Award for D-B approved Nov. 2017 Board. (Terminal)	6/13/17
Phillipsburg	High School	9-12	1,846	2,172	\$127.5	Existing Design	School occupied Sep. 2016. (Epic Management)	9/27/12
West New York	Memorial HS	9-12	1,859	2,194	\$16.0	Alternative Delivery (acquisition) & Renovation	Acquisition of Existing St. Joseph's HS complete. Renovation work delegated to District via Grant.	n/a

**\*PLEASE NOTE** - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.  
**NOTE # 1** - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions.  
 Recommendations of DOE/SDA/District Working Groups may impact this information in the future.

**2011 & 2012 Portfolio Projects Activities Summary**

as of 5/19/21

**2012 Portfolio Projects (Educational Priority that require further conversations with District & 2013 Amended Projects) - sorted by District**

1								
District	Project	Grade Alignment	FES Capacity	Max. Capacity	Total Estimated Cost (millions)	Design Status	Advancement Status	Projected Construction Advertisement Date*
East Orange	Sheila Y. Oliver Academy (GW Carver ES)	PK-5	470	512	\$41.2	Kit of Parts/ Design-Build	School delivered Sep. 2020 (Dobco)	4/26/16 1/20/17
Elizabeth	New ES @ Halloran PS #22 ES Site	2-8	860	956	\$55.3	Kit of Parts/ Design-Build	School occupied Sep. 2017. (Torcon)	6/9/14
Garfield	James Madison ES	K-5	275	305	\$29.7	Existing Design	School occupied Sep. 2018. (Brockwell & Carrington)	2/19/14 6/30/15
Harrison	New ES	PK - 1	392	432	\$36.1	Kit of Parts/ Design-Build	School delivered Nov. 2020 (Dobco)	11/10/15 7/13/16
Irvington	Madison Avenue ES	PK-5	463	504	\$38.6	Kit of Parts/ Design-Build	School occupied Sep. 2019. (Bock)	11/19/15 8/16/16
Millville	Senior HS Addition/Renovation	HS	2,026	2,384	\$137.5	Design-Build	Award for D-B approved Apr. 2017 Board. (Hall Construction)	9/30/16
Passaic	Sonia Sotomayor ES (New ES @ Leonard Place)	K-5	628	698	\$55.9	Kit of Parts/ Design-Build	School occupied Sep. 2019. (Dobco, Inc.)	8/13/15
Paterson	New MS @ Union Ave.	6-8	996	1107	\$113.9	Design-Build	Award for D-B approved Sep. 2018 Board. (Epic Management)	3/2/17 4/26/18
Pemberton	Denbo-Crichton ES	PK-5	846	930	\$58.7	Design-Build	School delivered Sep. 2020. (Bock)	3/1/17 9/13/17
Perth Amboy	High School	HS	2,800	3,295	\$283.8	Design-Build	Award for D-B approved Nov. 2019 Board. (Terminal)	3/26/19
Perth Amboy	Rose M. Lopez ES (Seaman Avenue ES)	K-5	724	804	\$56.4	Kit of Parts/ Design-Build	School occupied Sep. 2019. (Epic Management).	2/3/16
Plainfield	New Woodland ES	K-5	756	840	\$59.4	Kit of Parts/ Design-Build	Award for D-B approved Feb. 2020 Board. (Epic Management)	5/23/18 8/29/19
Union City	New Grade 7 to 9 School	7-9	756	840	\$75.5	Kit of Parts/ Design-Build	Revised Preliminary Charter approved Dec. 2019 Board.	TBD
Vineland	Lincoln Ave. MS (New MS)	6-8	562	624	\$49.8	Kit of Parts/ Design-Build	School occupied Sep. 2018. (Bock).	9/24/15

**\*PLEASE NOTE** - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.  
**NOTE # 1** - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions.  
 Recommendations of DOE/SDA/District Working Groups may impact this information in the future.

**2011 & 2012 Portfolio Projects Activities Summary**

as of 5/19/21

**2012 Portfolio Projects (Facilities Deficiencies) - sorted by District**

1								
District	Project	Grade Alignment	FES Capacity	Max. Capacity	Total Estimated Cost (millions)	Design Status	Advancement Status	Projected Construction Advertisement Date*
Camden	High School	9-12	1,244	1,468	\$132.6	Design-Build	Award for D-B approved Aug. 2018 Board. (Bock)	6/9/17 3/23/18
Hoboken	Demarest ES	ES	TBD	TBD	TBD	Design-Bid-Build	Pre-Design Services ongoing.	TBD
Orange	Cleveland St. ES	PK-6	316	348	\$33.2	Design-Bid-Build	Award for GC approved Mar. 2019 Board. (Brockwell & Carrington)	9/10/18 11/14/18
Orange	High School	9-12	1,440	1,694	\$51.9	Design-Bid-Build	Award for GC approved Mar. 2019 Board. (Terminal)	10/12/18
Trenton	Central HS	10-12	1,850	2,176	\$155.4	Design-Build	School occupied Sep. 2019. (Terminal)	12/19/14 9/29/15

**\*PLEASE NOTE** - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.  
**NOTE # 1** - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions.  
 Recommendations of DOE/SDA/District Working Groups may impact this information in the future.

## Active Project Status Report Status as of 5/1/2021

### Major Capital Projects - With Contract for Building Construction Awarded

#	District	Project Name	Project Scope	Project Status	Substantial Completion	Status Substantial Completion	School Opening	Status of School Opening	Total Estimated Project Cost
1	Camden	New Camden High School	New Construction	Construction	3Q 2021	On-target	Sep-21	On-target	\$ 132,569,255
2	City of Orange	Cleveland Street ES	Addition/Renovation	Construction	3Q 2021	Under Review	Sep-21	Under Review	\$ 34,978,332
3	City of Orange	Orange High School	Addition/Renovation	Construction	2Q 2022	On-target	Phased	On-target	\$ 51,931,218
4	Keansburg	Port Monmouth Road School	Addition/Renovation	Construction	2Q 2022	On-target	Sep-22	On-target	\$ 28,440,130
5	Millville	Millville Senior High School	Addition/Renovation	Construction	3Q 2022	On-target	Phased	On-target	\$ 137,503,832
6	Passaic City	New Dayton Avenue Educational Campus	New Construction	Construction	2Q 2022	On-target	Sep-22	On-target	\$ 240,923,270
7	Paterson	New Union Ave MS	New Construction	Construction	3Q 2021	On-target	Sep-21	On-target	\$ 113,902,274
8	Perth Amboy	New High School	New Construction	Construction	2Q 2024	On-target	Sep-24	On-target	\$ 283,830,000
9	Plainfield	New Woodland ES	New Construction	Construction	3Q 2022	On-target	Sep-22	On-target	\$ 59,440,000

## Active Project Status Report Status as of 5/1/2021

### Emergent Projects - With Contract for Construction Awarded

#	District	Project Name	Project Scope	Project Phase	Substantial Completion	Status Substantial Completion	Final Completion	Status of Final Completion	Total Estimated Project Cost
1	Bridgeton	Bridgeton Senior HS	Roof Replacement & Masonry Repairs	Construction	3Q 2021	On Target	4Q 2021	On-Target	\$ 9,842,000
2	Newark	Lafayette Street School	Exterior Doors & Roofing	Substantial Completion	2Q 2020	Achieved	2Q 2021	On-Target	\$ 658,129

## **PROJECT CLOSEOUT STATUS REPORT**



To: Members of the Authority

From: /s/ C. Aidita Milsted, Director, Vendor Development

Date: June 2, 2021

Subject: Project Close-Out Status Report

The attached report provides a status of the following:

- All SDA managed Capital Plan projects which have achieved school occupancy but have not yet been contractually and administratively closed
- All SDA managed Emergent projects which are either (1) currently active, or (2) complete yet have not been contractually and administratively closed
- Projects which have achieved project transfer to the district yet have outstanding open contracts
- A running total of all school facilities projects, health and safety contracts, and suspended design contracts which have been closed

Projects closed since the last report will appear highlighted.



**PROJECT STATUS REPORT - As of May 1, 2021**

Year of Occupancy	DOE #	School	Disposition	Project Transfer Date	Outstanding Issues Preventing Complete Close-out
<b>Bridgeton</b>					
2016	0540-050-13-0ACN	Buckshutem Road Elementary School			
2017	0540-100-13-0ACO	Quarter Mile Lane Elementary School			
<b>Burlington City</b>					
2007	0600-020-01-0957	New High School	Project Transferred	12/29/11	Open contract(s)
<b>Camden</b>					
2009	0680-350-01-0938	HB Wilson Elementary School	Project Transferred	04/14/10	Open contract(s)
<b>East Orange</b>					
2020	1210-060-02-0296	Sheila Y. Oliver Academy (aka GW Carver ES)			
<b>Egg Harbor City</b>					
2010	1300-X01-04-0ADY	New Middle School	Project Transferred	01/01/12	Open contract(s)
<b>Egg Harbor Township</b>					
2011	1310-005-04-0AEB	Egg Harbor Township High School			
<b>Elizabeth</b>					
2017	1320-N20-13-0AEG	Halloran Elementary School	Project Transferred	06/12/18	Open contract(s)
2016	1320-X07-01-0867	Frank J. Cicarell Academy (New Academic HS)	Project Transferred	07/18/19	Open contract(s)
2013	1320-240-03-0339	Victor Mravlag Elementary School # 21	Project Transferred	08/27/19	Open contract(s) - Legal matter pending
<b>Garfield</b>					
2018	1700-205-03-0315	James Madison Elementary School #10			
<b>Gloucester City</b>					
Legacy	1770-160-01-0245	Cold Springs Elementary School	Project Transferred	06/05/09	Open contract(s)
2017	1770-N01-03-0188	Gloucester City Middle School	Project Transferred	04/17/18	Open contract(s)
<b>Harrison</b>					
2020	2060-N03-15-0AEJ	Kennedy Elementary School (New Harrison ES)			
<b>Irvington</b>					
2019	2330-120-03-0755	Madison Avenue Elementary School			
<b>Jersey City</b>					
Legacy	2390-N01-99-0227	New Elementary School #3 (Frank R. Conwell ES #3)	Project Transferred	12/19/15	Open contract(s) - Legal matter pending
Legacy	2390-N02-99-0228	Jersey City Middle School # 4 (Frank R. Conwell MS #4)	Project Transferred	12/19/15	Open contract(s) - Legal matter pending
2016	2390-190-01-0581	New Public School #20	Project Transferred	08/11/17	Open contract(s)
2017	2390-X03-01-0587	Patricia M. Noonan ES (New PS #3)	Project Transferred	12/14/17	Open contract(s)
2007	2390-N03-99-0147	Heights Middle School #7			
<b>Keansburg</b>					
2016	2400-E01-02-0116	New Caruso Elementary School	Project Transferred	08/13/18	Open contract(s)

**PROJECT STATUS REPORT - As of May 1, 2021**

<b>Year of Occupancy</b>	<b>DOE #</b>	<b>School</b>	<b>Disposition</b>	<b>Project Transfer Date</b>	<b>Outstanding Issues Preventing Complete Close-out</b>
<b>Millville</b>					
2020	3230-050-13-0AEF	Millville High School			
<b>Newark</b>					
Legacy	3570-X01-01-0617	Science Park	Project Transferred	05/03/13	Open contract(s)
2010	3570-X07-01-0693	Speedway Elementary School	Project Transferred	10/21/15	Open contract(s)
2016	3570-590-02-0315	Oliver Street Elementary School	Project Transferred	05/18/17	Open contract(s)
2018	3570-640-02-0311	South Street ES			
<b>Passaic</b>					
2015	3970-X01-01-X760	New Henry Street Elementary School			
2019	3970-N11-07-0DAY	Leonard Place Elementary School			
<b>Paterson</b>					
2008	4010 -S01-02-0101	International High School			
<b>Pemberton</b>					
2011	4050-E01-02-0082	Pemberton Early Childhood Education Center	Project Transferred	02/01/13	Open contract(s)
2020	4050-130-15-0AEL	Denbo-Crichton Elementary School			
<b>Perth Amboy</b>					
2019	4090-N01-98-0325	Seaman Avenue Elementary School			
<b>Phillipsburg</b>					
2016	4100-X01-99-0464	New High School	Project Transferred	06/07/18	Open contract(s)
<b>Trenton</b>					
2019	5210-050-13-0AEH	Trenton Central High School			
<b>Vineland</b>					
2018	5390-N02-02-0245	Lincoln Avenue Middle School			
<b>West New York</b>					
2009	5670-065-01-0559	Elementary School #2	Project Transferred	05/14/13	Open contract(s)
<b>Capital and Demonstration Projects Totals</b>					
<b>Total Capital and Demonstration Projects</b>			<b>159</b>		
<b>Closed Capital and Demonstration Projects</b>			<b>122</b>		
<b>Capital and Demonstration Projects Not Closed</b>			<b>37</b>		
<b>Capital and Demonstration Projects Not Closed, Project Transferred</b>			<b>20</b>		
			<b>Legal Matter</b>	<b>3</b>	
			<b>Miscellaneous</b>	<b>17</b>	

**PROJECT STATUS REPORT - As of May 1, 2021**

Year of Occupancy	DOE #	School	Disposition	Project Transfer Date	Outstanding Issues Preventing Complete Close-out
<b>Emergent Projects</b>					
<b>Bridgeton</b>					
	0540-020-17-0AEU	Bridgeton Senior HS Roof and Masonry Repairs			
<b>Camden</b>					
	0680-170-12-0ACF	Cramer Elementary School			
<b>Irvington</b>					
	3570-330-12-0ABT	Chancellor Ave Annex - Building Envelope			
<b>Newark</b>					
	3570-301-17-0AES	Marin - HVAC			
	3570-415-17-0AER	Dr. E. Alma Flagg E.S. - Doors and Roofing			
	3570-460-17-0AEZ	Hawkins ES - Chimney Repairs			
	3570-480-17-0AET	Lafayette - Doors and Roofing			
	3570-750-17-0BBC	Wilson School Annex - Chimney			
<b>Paterson</b>					
	4010-N02-12-0ABX	Roberto Clemente ES	Closed		
<b>Plainfield</b>					
	4160-050-17-0BBD	Plainfield High School			
<b>Vineland</b>					
	5390-050-12-0ACK	Vineland High School South			
<b>Emergent Project Totals</b>					
<b>Total Emergent Projects</b>			<b>81</b>		
<b>Emergent Projects Closed</b>			<b>71</b>		
<b>Emergent Projects Not Closed</b>			<b>10</b>		
<b>Emergent Projects Not Closed but Transferred</b>			<b>0</b>		
<b>Health and Safety Contract Totals</b>					
<b>Total Contracts</b>			<b>399</b>		
<b># of Contracts Closed</b>			<b>394</b>		
<b># of Open Contracts</b>			<b>5</b>		
<b>Open Design Contracts</b>					
<b>Total Contracts</b>			<b>109</b>		
<b># of Contracts Closed</b>			<b>98</b>		
<b># of Open Contracts</b>			<b>11</b>		

## **PROJECT STATUS REPORT**



**MEMORANDUM**

TO: Members of the Authority

FROM: Gregory Voronov  
Managing Director – Program Operations

DATE: June 2, 2021

SUBJECT: Executive Summary – Monthly Project Status Reports

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**MONTHLY PROJECT STATUS REPORT**

**Projects that have Expended 75% or More of Board Approved Contingency:**

No activity during the reporting period

**Projects Greater than 90 Days Behind Schedule:**

No activity during the reporting period

**Revisions to Project Charters:**

No activity during the reporting period

## Projects that have Expended 75% or More of Board Approved Contingency

Reporting Period: January 2008 to April 2021

District	Project	Board Approved Project Charter Contingency	Contingency Expended/Committed	Contingency Remaining <sup>1</sup>	% of Contingency Expended/Committed	Project Completion %	Cause(s)	Current Status
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### In Construction

NO DATA TO REPORT

### Substantially Complete & Building Occupied

Please refer to the Project Close-Out Activity Report for status of close-out activities

Newark	Speedway Avenue E.S.	\$1,826,000	\$1,754,119	\$71,881	96.1%	99%	1. Removal of unforeseen impacted materials	Project complete and building occupied. Project close-out pending resolution of open contracts.
West New York	West New York P.S. #2	\$2,708,883	\$2,708,883	\$0	100.0%	99%	1. Unforeseen site foundation issues	Project complete and building occupied. Project close-out pending resolution of open contracts.

<sup>1</sup> Does not include expended contingency or contingency funds allocated for change orders, amendments

**Projects Greater than 90 Days Behind Schedule or with Occupancy Date in Jeopardy**

Reporting Period: April 2021

#	Event Date	District	Project	Board Approved Project Charter SubComp Date	Current Contract SubComp Date	Forecasted Contract SubComp Date	# of Days Behind Schedule	Cause(s)	Current Status
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No Activity During the Reporting Period

## Revisions to Project Charters

Reporting Period: April 2021

#	District	Project	Financial & Schedule Impacts	Additional Funds Approved	Additional Funds as % of Total Project Budget	Operating Authority Approval Requirement	Description of Revision
No Activity During the Reporting Period							



**CONTRACTS EXECUTED REPORT/AMENDMENTS & CHANGE ORDERS REPORT**



**MEMORANDUM**

TO: Members of the Authority

FROM: Gregory Voronov  
Managing Director, Program Operations

DATE: June 2, 2021

SUBJECT: Contracts Executed Report and Amendments & Change Orders Report  
(For Informational Purposes Only)

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**Contracts Executed Report**

This report contains the activity of Contracts executed during the period April 1 through April 30, 2021.

**Noteworthy Items during the reporting period:**

- No noteworthy items during the reporting period.

**Amendments & Change Orders Report**

This report contains the activity of Amendments and Change Orders executed during the period April 1 through April 30, 2021.

**Noteworthy Items during the reporting period:**

- 2 Professional Services Amendments were executed during the reporting period totaling a credit of \$221k, of the 2 executed amendments none required Board Approval.
- 19 Construction Services Change Order were executed during the reporting period totaling a credit of \$1.5M, of the 19 executed change orders none required Board Approval.

**Report of change orders less than \$10,000 yet requiring Board Approval**

In accordance with the Operating Authority adopted by the Members on December 1, 2010 as amended on March 7, 2012, the Members are to be provided a report of any change order which received delegated approval by the CEO due to the fact that they are valued at less than \$10,000 yet require Board approval due the total change orders exceeding 10% of the contract value.

- No Activity to Report


**STATE OF NEW JERSEY**  
**SCHOOLS DEVELOPMENT AUTHORITY**

## Amendments & Change Orders Report

Reporting Period: 4/1/2021 through: 4/30/2021

District	School Name(s)	Contract Number	Contract Execution Date	CO #	Vendor Name	CO Execution Date	Contract Award Amount	Prior CO's (cumulative)	Current CO Amount	Board Approval Required	Board Approval Date	Revised Contract Amount	Cumulative CO %
<b>Professional Services</b>													
<b>Construction Management Services</b>													
Pemberton Township	Denbo Crichton E.S.	WT-0023-M01	5/21/2018	1	Cambridge Construction Management, Inc.	4/29/2021	\$1,658,551	\$0	(\$200,710)			\$1,457,841	-12.10%
Pemberton Township	Denbo Crichton E.S.	WT-0023-M01	5/21/2018	2	Cambridge Construction Management, Inc.	4/29/2021	\$1,658,551	(\$200,710)	(\$20,000)			\$1,437,841	-13.30%
<b>Construction Management Services</b>													
<b>Professional Services</b>													
<b>(\$220,710)</b>													
<b>Construction Services</b>													
<b>Contractor</b>													
City Of Orange Township	Orange H.S.	ES-0042-C01	4/29/2019	18	Terminal Construction Corp.	4/8/2021	\$37,000,000	\$1,918,158	\$150,000			\$39,068,158	5.58%
City Of Orange Township	Cleveland Street E.S.	ES-0043-C01	5/2/2019	9	Brockwell & Carrington Contractors, Inc.	4/20/2021	\$18,400,000	\$2,406,550	\$2,405			\$20,808,955	13.09%
City Of Orange Township	Cleveland Street E.S.	ES-0043-C01	5/2/2019	12	Brockwell & Carrington Contractors, Inc.	4/28/2021	\$18,400,000	\$2,408,955	\$240,000			\$21,048,955	14.39%
Harrison	Harrison Kennedy E.S.	HU-0027-B01	12/15/2016	13	Brockwell & Carrington Contractors, Inc.	4/19/2021	\$25,899,600	\$818,853	(\$33,631)			\$26,684,822	3.03%
Harrison	Harrison Kennedy E.S.	HU-0027-B01	12/15/2016	14	Brockwell & Carrington Contractors, Inc.	4/19/2021	\$25,899,600	\$785,222	(\$145,000)			\$26,539,822	2.47%
Harrison	Harrison Kennedy E.S.	HU-0027-B01	12/15/2016	15	Brockwell & Carrington Contractors, Inc.	4/29/2021	\$25,899,600	\$640,222	(\$200,000)			\$26,339,822	1.69%
Millville	High School	ST-0046-B01	5/24/2017	18	Hall Construction Co., Inc.	4/23/2021	\$114,453,000	\$4,256,937	\$10,001			\$118,719,937	3.72%
Millville	High School	ST-0046-B01	5/24/2017	24	Hall Construction Co., Inc.	4/23/2021	\$114,453,000	\$4,266,937	\$26,000			\$118,745,937	3.75%
Passaic City	New ES at Leonard Place	NT-0050-B01	1/14/2016	10	Dobco, Inc.	4/30/2021	\$32,750,000	(\$545,933)	(\$250,000)			\$31,954,067	-2.43%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	19	Ernest Bock & Sons, Inc.	4/1/2021	\$43,185,000	\$678,081	\$3,089			\$43,866,170	1.57%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	24	Ernest Bock & Sons, Inc.	4/6/2021	\$43,185,000	\$681,170	(\$143,359)			\$43,722,811	1.24%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	25	Ernest Bock & Sons, Inc.	4/6/2021	\$43,185,000	\$537,811	(\$250,000)			\$43,472,811	0.66%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	26	Ernest Bock & Sons, Inc.	4/6/2021	\$43,185,000	\$287,811	(\$383,809)			\$43,089,002	-0.22%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	27	Ernest Bock & Sons, Inc.	4/6/2021	\$43,185,000	(\$95,998)	(\$61,615)			\$43,027,387	-0.36%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	28	Ernest Bock & Sons, Inc.	4/6/2021	\$43,185,000	(\$157,613)	(\$50,000)			\$42,977,387	-0.48%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	29	Ernest Bock & Sons, Inc.	4/6/2021	\$43,185,000	(\$207,613)	(\$312)			\$42,977,075	-0.48%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	30	Ernest Bock & Sons, Inc.	4/6/2021	\$43,185,000	(\$207,925)	(\$22,951)			\$42,954,124	-0.53%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	22	Ernest Bock & Sons, Inc.	4/29/2021	\$43,185,000	(\$230,876)	(\$11,257)			\$42,942,867	-0.56%
Perth Amboy	New Perth Amboy High School	ET-0099-B01	1/6/2020	2	Terminal Construction Corp.	4/29/2021	\$247,950,000	\$35,000	(\$397,259)			\$247,587,741	-0.14%
<b>Contractor</b>													
<b>Construction Services</b>													
<b>(\$1,517,699)</b>													
										<b>Total Change Order Summary</b>		<b>Total Change Orders</b>	
										<b>(\$1,738,409)</b>		<b>21</b>	
<b>Grand Totals</b>													
<b>Column Description Legend</b>													
<b>CO Execution Date</b>			<b>Date the Change Order was entered into the SIMS system</b>										
<b>Revised Contract Amount</b>			<b>Current value of the contract (excluding additional assignments) including current change order</b>										

**CONTRACT TERMINATIONS REPORT** *(no activity)*

**SETTLEMENT CLAIMS** *(no activity)*

## **DIVERSITY AND WORKFORCE PARTICIPATION REPORT**



**MEMORANDUM**

TO: Members of the Authority

FROM: Karon L. Simmonds, Director, Risk Management

DATE: June 2, 2021

SUBJECT: Diversity and Workforce Participation Monthly Update for March 2021

The Risk Management staff continues to participate at mandatory pre-bid and pre-construction meetings to instruct and inform bidders regarding SDA’s Small Business Enterprise (SBE) and Workforce goals, policies and procedures, including:

- SBE subcontracting goal of 25% of all contracts
- County workforce goals for minorities and females
- Local county workforce goals for minorities and females
- Detailed process procedures to monitor and track the progress made toward these goals throughout the life cycle of each project

At these meetings, vendors are strongly encouraged to identify and hire minority-owned and women-owned firms, as well as locally-based enterprises, for diverse business participation on all school building projects. Additional outreach strategies are discussed and utilized.

**SMALL BUSINESS ENTERPRISE ATTAINMENT**

The SDA regularly exceeds the State-mandated 25% SBE goal. The total SDA contract dollars awarded through March 31, 2021 was \$235,717,000. The total contract dollars awarded to all SBE contractors was \$1,890,415 (including minorities, women and veterans). This represents an initial participation of 0.80% of all SDA contracts awarded in 2021. Participation will continue to increase as the Prime contractor continues to hire additional subcontractors/subconsultants through the lifecycle of the construction project.

**Diversity Breakdown**

Type of Business Enterprise	Contract Amount	% of Total SDA Contracts
Small Business Enterprises	\$ 1,890,415	0.80%
Small/ Minority Business Enterprises	\$ -0-	0.00%
Small/Women Business Enterprises	\$ -0-	0.00%
Small/Veteran Owned Business Enterprises	\$ -0-	0.00%
Small/Minority/Women Business Enterprises	\$ -0-	0.00%
<b>TOTAL DIVERSITY CONTRACTS</b>	<b>\$ 1,890,415</b>	<b>0.80%</b>

## WORKFORCE PARTICIPATION

For the month of March 2021, there was a contractor workforce of 933 on SDA projects. This represents a total of 74,815 contractor workforce hours as follows:

<b>Contractor Workforce Breakdown (All Trades/Districts/Counties)</b>			
<b>Ethnicity</b>	<b>Total Workforce</b>	<b>Total Workforce Hours</b>	<b>Workforce Hours Percentage</b>
Black	53	5,491	7.34%
Hispanic	174	13,947	18.64%
American Indian	2	40	0.05%
Asian	2	88	0.11%
<b>Total Minority Participation</b>	<b>231</b>	<b>19,566</b>	<b>26.15%</b>
Total Non-Minority Participation	702	55,249	73.85%
Total Contractor Workforce	933	74,815	100.00%

There was a contractor workforce of 217,905 total workforce hours and 4,747 total female workforce hours on SDA projects for the period of January 1, 2021 through March 31, 2021. The following table highlights the *Local County Contractor Workforce* participation for this period:

<b>Local County Contractor Workforce Participation</b>	<b>Workforce Hours</b>	<b>Percentage</b>
*Total Workforce Hours	217,905	100.00%
<b>*Total Local County Workforce Hours</b>	<b>8,213</b>	<b>3.77%</b>
<b>Total Local County Non-Minority Workforce Hours</b>	<b>3,070</b>	<b>1.41%</b>
<b>Total Local County Female Workforce Hours</b>	<b>0</b>	<b>0.00%</b>
<b>Total Local County Minority Workforce Hours</b>	<b>5,143</b>	<b>2.36%</b>
<b>**Local County Workforce Hours by Ethnicity:</b>		
Black	2,804	1.29%
Hispanic	2,291	1.05%
American Indian	0	0.00%
Asian	48	0.02 %

\*Total workforce and total local county workforce represent all laborers including females.

\*\*Minority breakdown represents Black, Hispanic, American Indian, and Asian laborers. Minority female laborers are captured as female laborers only and are not included in the minority breakdown.



The following table represents contractor minority and female workforce for all SDA active Capital Projects and all active and completed Emergent Projects for the period of January 1, 2021 through March 31, 2021.

<b>SDA Managed Project</b>	<b>Total Workforce Hours</b>	<b>Minority Workforce Hours &amp; Percentage</b>		<b>Local County Workforce Hours &amp; Percentage</b>	
Camden HS	52,634	8,650	16.43%	2,964	5.63%
Harrison ES	36	0	0.00%	0	0.00%
Port Monmouth Road School	2,864	1,047	36.56%	214	7.47%
Millville HS	22,787	3,943	17.30%	1,029	4.52%
Dayton Ave Campus	51,112	15,690	30.70%	1,652	3.23%
Union Ave MS	56,352	19,649	34.87%	815	1.45%
Cleveland ES	7,029	4,171	59.34%	0	0.00%
Orange HS	16,912	5,876	34.74%	560	3.31%
Perth Amboy HS	1,909	383	20.06%	60	3.14%
Plainfield ES	1,431	260	18.17%	0	0.00%
Emergent Projects	4,839	676	13.97%	871	17.99%

Prepared by: Charlotte Brooks  
Zaida Olszak

## **REGULAR OPERATING DISTRICTS (RODs) ACTIVITY REPORT**



**MEMORANDUM**

TO: Members of the Authority

FROM: Gregory Voronov  
Managing Director, Program Operations

DATE: June 2, 2021

SUBJECT: Regular Operating District Grant Activity Report  
(For Informational Purposes Only)

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This report summarizes the Regular Operating District Grant activity from inception to date and for the months of April 2021. Also included is a detailed list of grants executed and grants offered during the reporting period.

**Monthly Update:**

- No grants were offered during the reporting period.
- No grants were executed during the reporting period.
- 2 grants impacting 2 districts were closed out during the reporting period representing \$388 thousand in total project costs and state share of \$151 thousand.
- Since inception, over \$2.9B has been disbursed to 524 regular operating districts through the grant program.
- Since inception over \$3.3B in funding has been approved by the Department of Education and offered to regular operating districts through the grant program.



ROD Grant Summary Since Program Inception				
	Offered <sup>1</sup>	Executed	Closed-Out	Active
Districts Impacted	-	524	518	65
Number of Grant Projects	-	5,404	5,152	252
Total Project Cost Estimate	\$ -	\$ 8,944,696,272	\$ 8,696,132,815	\$ 248,563,457
Grant Amount	\$ -	\$ 3,003,636,118	\$ 2,878,532,800	\$ 125,103,318
Amount Disbursed	N/A	\$ 2,941,669,697	\$ 2,878,532,800	\$ 63,136,897

Total Funding Offered to School Districts via Grant Program	\$ 3,342,209,450
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Total ROD Grant Funding remaining for new Grant Projects	\$ 80,749,956
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1. Includes grants that have been offered to District's but have not yet been executed.

Monthly Activity ROD Grant Summary		
	Executed	Closed-Out
Districts Impacted	-	2
Number of Grant Projects	-	2
Total Project Cost Estimate	\$ -	\$ 387,909
Grant Amount	\$ -	\$ 150,872
Amount Disbursed	NA	\$ 150,872

\* Report is inclusive of all Regular Operating Districts grants (including vocational school districts).

\*\* Total Project Cost Estimate and Grant Amount may be adjusted as the projects advance. Grant Amount is capped at the value approved in the DOE Final Eligible Cost Approval.

**NOTIFICATION OF AMENDMENTS TO GOODS AND SERVICES CONTRACTS NOT  
EXCEEDING \$100,000 OR 10% OF THE CONTRACT VALUE (*no activity*)**

**COMMUNICATIONS MONTHLY REPORT** *(no report)*

## **MONTHLY FINANCIAL REPORT**

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Sherman E. Cole, MBA, CPA /s/  
Controller

**DATE:** June 2, 2021

**SUBJECT:** Monthly Financial Report – April 2021

**Fund Reporting Operating Expenses (Year-to-Date Actual vs. Budget)**

For April 2021 year to date, Authority operating expenses, **\$6.6M**, are **\$917K** lower than budget for the corresponding period. This variance is primarily related to lower year to date personnel costs, **\$687K**, resulting primarily from the Authority having 8 fewer FTEs than budgeted, along with the partial offset of lower than projected payroll allocation to project expenditures, **\$329K**. The budget variance is also attributable to lower spending for facilities and general office related expenses, **\$218K**, professional & other contracted services, **\$192K**, SDA-owned automobiles, **\$65K**, and information systems, **\$63K**.

**Fund Reporting Operating Expenses (Year-to-Date Actual vs. Prior Year Actual)**

For April 2021 year to date, Authority operating expenses, **\$6.6M**, are **\$120K** higher when compared to the corresponding prior year.

**School Facilities Project Expenditures (Year-to-Date Actual vs. Forecast)**

For April 2021 year to date, project expenditures, **\$74.3M**, are **\$29.8M** lower than the capital spending forecast for the corresponding period. This variance is due to lower than forecasted construction activity **\$15.9M**, grant activity **\$9.7M**, project insurance **\$1.6M**, and furniture and fixture purchases **\$990K**, property acquisition **\$429K**, and payroll expense allocation to project expenditures **\$329K**.

**School Facilities Project Expenditures (Year-to-Date Actual vs. Prior Year Actual)**

For April 2021 year to date, project expenditures, **\$74.3M**, are lower by **\$16.7M** when compared to the corresponding prior year. This variance is attributable mainly to decreases in grant activity **\$9.1M**, project insurance **\$3.1M**, construction **\$2.5M**, and furniture and fixture purchases **\$1.3M**, and design services **\$358K**.

**Other**

Since program inception, 89.7% of the funds authorized for the SDA Districts have been disbursed. Additionally, since program inception, 96% of all SDA disbursements relate to school facility projects and 4% relate to operating expense.

The estimated value of active school facilities, capital, emergent and ROD grant projects is approximately \$2B.

Attachment



**New Jersey Schools Development Authority**  
**Monthly Financial Report**  
**April 2021**  
**(Unaudited)**

# New Jersey Schools Development Authority

## Overview of Financial Position

### April 30, 2021

**To:** The Audit Committee

**From:** Sherman E. Cole, Controller

The information contained in this monthly financial report is for the period as of, and for the year-to-date ending, April 30, 2021.

► Overall **Cash and Cash Equivalents** have increased by \$268.3 million to \$537.0 million, as follows:

■ Receipt of bond and note proceeds (Issued by EDA)	\$ 350,000,000
■ Investment earnings	80,061
■ Miscellaneous revenue	4,000
■ Project costs	(74,266,620)
■ SDA operating expenses	(7,495,856)
■ SDA capital expenditures	(68,104)
■ Deposits (primarily district local shares)	61,942
Net Change in Cash	\$ 268,315,423

► **Prepaid Expenses** total \$505,290 as follows:

- Prepaid insurance of \$324,364.
- Prepaid rents of \$105,817 for the Authority's leased office space in Trenton and Newark.
- Prepaid MIS maintenance service contracts of \$45,104.
- Other prepaids of \$30,005.

► **Capital Assets** total \$1,363,843 (net of accumulated depreciation of \$7,050,640), consisting of leasehold improvements (SDA offices), and capitalized software, equipment, furniture and fixtures in support of SDA operations. Depreciation on capital assets is generally calculated using the straight-line method over the life of each asset. For the year to date, **Capital Expenditures** are \$56,620 and **Depreciation Expense** is \$190,490.

► **Accrued Liabilities** total \$96.5 million, as follows:

- Accrued project costs of \$21.1 million consisting of unpaid invoices (\$3.1 million) and retainage (\$18.0 million).
- Net pension liability of \$44.0 million.
- Other post-employment benefits obligation of \$27.6 million.
- Pollution remediation obligations (PRO) under GASB 49 net to \$1.6 million (PRO liability \$3.1 million, offset by expected cost recoveries of \$1.5 million).
- Estimated liability for loss contingencies totaling \$0.2 million.
- Payroll related liabilities of \$1.7 million.
- Other accrued liabilities of \$0.3 million.

► **Deposits** total \$5.2 million, as follows:

- \$5.2 million is held for local share agreements (pass-through item).

► The Authority's **Net Position** at month end is \$422.1 million.

# New Jersey Schools Development Authority

## School Facilities Project Expenditures & Funding Allocation

### April 30, 2021

#### ► **School Facilities Construction Bond / Note Proceeds & Project Expenditures**

- During the current year to date, the SDA has received \$350.0 million bond and note proceeds. The total amount of proceeds received since program inception is \$11.848 billion.
- Project expenditures for the month and year-to-date periods total \$18.4 million and \$74.3 million, respectively, as follows:

<u>Category</u>	<u>Current Month</u>	<u>Current Year-To-Date</u>	<u>Since Program Inception</u>
Construction	\$ 16,382,793	\$ 61,802,702	\$ 5,354,180,121
Design Services	161,274	442,429	413,370,529
PMF/CM Services	478,036	2,178,605	470,700,667
SDA Project Management	1,040,162	3,960,491	114,585,789
Property Acquisition, Relocation & Enviro	161,805	610,289	584,376,512
School Furniture, Fixtures & Equipment	140,107	244,244	199,253,260
Project Insurance	35,161	(138,313)	112,518,593
NJ State Inter-Agency Transfers	-	-	52,122,502
SDA District Grant & Funding Agreements	-	108,390	878,880,153
Regular Operating District Grant Agreements	(8,768)	4,788,462	2,950,548,608
Real-Time Project Audits	-	36,506	664,506
Property Management, Maintenance & Utils	-	95,002	18,639,441
Outside Legal & Claims Resolution Services	14,316	78,487	11,427,408
Temporary Staffing	1,947	30,091	10,660,105
Other Project Costs	4,706	29,235	62,119,813
Project Credits	-	-	(54,902,944)
<b>Total Project Expenditures</b>	<b>18,411,539</b>	<b>74,266,620</b>	<b>11,179,145,063</b>
Less: Local Share Contributions	-	-	(185,112,439)
<b>Project Expenditures (State Share)</b>	<b>\$ 18,411,539</b>	<b>\$ 74,266,620</b>	<b>\$ 10,994,032,624</b>
2021 Capital Spending Forecast	\$ 26,306,314	\$ 104,097,554	

#### **Allocations Since Program Inception**

#### ► **Program Funding & Expenditures**

	<u>Bonding Caps</u> <sup>1</sup>	<u>Total Funding</u> <sup>2</sup>	<u>Paid to Date</u> <sup>3</sup>
■ SDA Districts	\$ 8,900,000,000	\$ 9,026,946,067	\$ 8,096,407,679
■ Regular Operating Districts	3,450,000,000	3,500,245,424	3,276,114,265
■ Vocational Schools	150,000,000	152,007,955	122,580,403
<b>Total - State Share</b>	<b>\$ 12,500,000,000</b>	<b>\$ 12,679,199,446</b>	<b>\$ 11,495,102,347</b>

#### ► **Percentage of Total Funding Paid to Date**

■ SDA Districts	89.7%
■ Regular Operating Districts	93.6%
■ Vocational Schools	80.6%
<b>Total - State Share</b>	<b>90.7%</b>

1 Of the \$12.5 billion authorized for the school construction program, \$11,847,702,648 principal amount of bond and note proceeds have been received to date.

2 Includes bonding cap amounts and other income and miscellaneous revenue earned to date (i.e., interest income on invested funds and State appropriations).

3 These amounts include the allocation of SDA operating expenses and capital expenditures totaling \$501,069,723.

**New Jersey Schools Development Authority**  
**Fund Reporting Operating Expenses vs Budget**  
**April 30, 2021**

<b><u>Category</u></b>	<b><u>Actual</u></b>	<b><u>Budget</u></b>	<b><u>Over/</u></b>
	<b><u>Year-To-Date</u></b>	<b><u>Year-To-Date</u></b>	<b><u>(Under)</u></b>
<b>Personnel Expenses:</b>			
Employee Salaries	\$ 4,937,815	\$ 5,408,640	\$ (470,825)
Employee Benefits	4,132,861	4,257,089	(124,228)
Direct Hire Temporary Employee Costs	-	16,148	(16,148)
Total Employee Salaries & Benefits Costs	9,070,676	9,681,877	(611,201)
<b>Less: Employee Salaries &amp; Benefits Costs</b>			
Charged to Projects	3,960,491	4,289,031	(328,540)
Salaries & Benefits Charged to Operating Expense	5,110,185	5,392,846	(282,661)
Temporary Staffing Services	-	50,000	(50,000)
Travel & Expense Reimbursements	4,444	8,220	(3,776)
Training & Professional Development	8,972	31,380	(22,408)
Total Personnel Expenses	5,123,601	5,482,446	(358,845)
<b>Non-Personnel Operating Expenses:</b>			
Facilities & General Office Expenses	678,264	896,752	(218,488)
Information Systems	465,254	528,260	(63,006)
Professional & Other Contracted Services	133,506	325,968	(192,462)
Property & Casualty Insurance	134,407	135,428	(1,021)
SDA-Owned Automobiles	18,254	83,332	(65,078)
Communications & Outreach	-	1,000	(1,000)
Reserve for Unforeseen Events & New Initiatives	-	16,668	(16,668)
<b>Total Authority Operating Expenses</b>	<b>\$ 6,553,286</b>	<b>\$ 7,469,854</b>	<b>\$ (916,568)</b>
 <b>2021 Annual Operating Budget</b>		 <b>\$ 16,292,294</b>	

**New Jersey Schools Development Authority**  
**Capital Expenditures**  
**April 30, 2021**

Description of Capital Item:	Budget Year	Budget Amount	Capital Expenditures			Project Funds Not Required	Over/ (Under) Budget
			2021	Pre-2021 (1)	Total		
Leasehold Improvements		\$ -	\$ -	\$ -	\$ -	\$ -	-
Office Furniture & Equipment		-	56,620	-	56,620	-	56,620
PMWeb Computer Software System:							
Software & Development - Consulting	2018/2019	2,500,000	-	812,988	812,988	1,200,000	(487,012)
Development - SDA Staff Time	2019/2020	600,000	-	520,697	520,697		(79,303)
Development - SDA Staff Time							
Reallocated from Consulting	2021	-	-	-	-	(200,000)	(200,000)
<b>Total Capital Items</b>		<b>\$ 3,100,000</b>	<b>\$ 56,620</b>	<b>\$ 1,333,685</b>	<b>\$ 1,390,305</b>	<b>\$ 1,000,000</b>	

(1) Multi-year capital projects only.

# New Jersey Schools Development Authority

## Fund Reporting Operating Expenses vs Prior Year

### April 30, 2021

<u>Category</u>	<u>Actual</u> <u>Year-To-Date</u>	<u>2020</u> <u>Year-To-Date</u>	<u>Over/</u> <u>(Under)</u>
<b>Personnel Expenses:</b>			
Employee Salaries	\$ 4,937,815	\$ 5,320,835	\$ (383,020)
Employee Benefits	4,132,861	3,763,730	369,131
Direct Hire Temporary Employee Costs	-	2,561	(2,561)
Total Employee Salaries & Benefits Costs	9,070,676	9,087,126	(16,450)
<b>Less:</b> Employee Salaries & Benefits Costs Charged to Projects	3,960,491	4,131,576	(171,085)
Salaries & Benefits Charged to Operating Expense	5,110,185	4,955,550	154,635
Temporary Staffing Services	-	-	-
Travel & Expense Reimbursements	4,444	3,944	500
Training & Professional Development	8,972	12,227	(3,255)
Total Personnel Expenses	5,123,601	4,971,721	151,880
<b>Non-Personnel Operating Expenses:</b>			
Facilities & General Office Expenses	678,264	791,767	(113,503)
Information Systems	465,254	352,371	112,883
Professional & Other Contracted Services	133,506	177,760	(44,254)
Property & Casualty Insurance	134,407	118,547	15,860
SDA-Owned Automobiles	18,254	20,964	(2,710)
Communications & Outreach	-	-	-
Reserve for Unforeseen Events & New Initiatives	-	-	-
<b>Total Authority Operating Expenses</b>	<b>\$ 6,553,286</b>	<b>\$ 6,433,130</b>	<b>\$ 120,156</b>

# New Jersey Schools Development Authority

## Employee Headcount

### April 30, 2021

	<u>Current Month End</u>	<u>Budget</u>	<u>Over/ (Under)</u>
<b>Office of Chief Executive Officer</b>	3	4	(1)
Human Resources	4	4	-
Communications	2	2	-
Information Systems	14	14	-
Central Records Management	3	3	-
Legislative Affairs	1	1	-
<b>Office of Program Operations &amp; Strategic Planning</b>	2	2	-
Capital Planning & Program Operations	7	7	-
Design Studio	18	18	-
Grants Administration	9	10	(1)
Real Estate Services & Predevelopment	7	8	(1)
Vendor Development	4	5	(1)
<b>Office of Construction Operations</b>	0	0	-
Project Teams	27	28	(1)
<b>Office of Corporate Governance &amp; Legal Affairs</b>	5	5	-
Chief Counsel	8	9	(1)
Safety	6	6	-
Internal Audit	3	3	-
<b>Office of Chief Financial Officer</b>	2	2	-
Financial Operations	7	7	-
Financial Accounting & Disbursements	11	11	-
Procurement	8	10	(2)
Risk Management	8	8	-
Property Management	4	4	-
Facilities	4	4	-
<b>Total Full-Time Employees at Month End</b>	<b><u>167</u></b>	<b><u>175</u></b>	<b><u>(8)</u></b>
<b>Total Full-Time Employees at Year End</b>		<b><u>175</u></b>	

**New Jersey Schools Development Authority**  
**Statement of Net Position**  
**April 30, 2021**

**Excludes 2020 GASB 68 Entries**

	<u>Current Month End</u>	<u>2020 Year End</u>	<u>Over/ (Under)</u>
<b>ASSETS</b>			
Cash and Cash Equivalents	\$ 536,951,197	\$ 268,635,774	\$ 268,315,423
Receivables	36,033	41,180	(5,147)
Prepaid Expenses	505,290	227,090	278,200
Capital Assets (Net of Accumulated Depr.)	1,363,843	1,497,713	(133,870)
Total Assets	538,856,363	270,401,757	268,454,606
<b>DEFERRED OUTFLOWS OF RESOURCES</b>			
Deferred Amount for Pensions & OPEB	11,236,758	14,083,375	(2,846,617)
<b>TOTAL ASSETS &amp; DEFERRED OUTFLOWS OF RESOURCES</b>			
	<b>\$ 550,093,121</b>	<b>\$ 284,485,132</b>	<b>\$ 265,607,989</b>
<b>LIABILITIES</b>			
Accrued Project Costs	\$ 22,973,433	\$ 45,456,575	\$ (22,483,142)
Net Pension Liability	44,045,377	44,045,377	-
Accrued Other Post-Employment Benefits	27,571,454	27,307,940	263,514
Other Accrued Liabilities	1,914,523	5,436,894	(3,522,371)
Deposits	5,151,450	5,089,508	61,942
Total Liabilities	101,656,237	127,336,294	(25,680,057)
<b>DEFERRED INFLOWS OF RESOURCES</b>			
Deferred Amount for Pensions & OPEB	26,335,089	26,335,089	-
<b>NET POSITION</b>			
Invested in Capital Assets	1,363,843	1,497,713	(133,870)
Restricted for Schools Construction:			
Special Revenue Fund	420,737,952	129,316,036	291,421,916
Net Position	422,101,795	130,813,749	291,288,046
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES &amp; NET POSITION</b>			
	<b>\$ 550,093,121</b>	<b>\$ 284,485,132</b>	<b>\$ 265,607,989</b>



**New Jersey Schools Development Authority**  
**Statement of Activities**  
**April 30, 2021**

**Excludes 2020 GASB 68 Entries**

	<u>Current Year-To Date</u>	<u>2020 Year-To Date</u>	<u>Over/ (Under)</u>
<b>REVENUES</b>			
Program Revenues:			
Bond and Note Proceeds (Issued by EDA)	\$ 350,000,000	\$ -	\$ 350,000,000
Bidding Fees-Plans & Specs	-	-	-
General Revenues:			
Investment Earnings	80,061	2,381,699	(2,301,638)
Rental Income	4,000	11,500	(7,500)
Other Revenue-OPRA	-	-	-
Total Revenues	350,084,061	2,393,199	347,690,862
<b>EXPENSES</b>			
Administrative & General Expenses	6,816,800	6,566,486	250,314
Capital Depreciation	190,490	56,226	134,264
School Facilities Project Costs	51,788,725	68,106,292	(16,317,567)
Total Expenses	58,796,015	74,729,004	(15,932,989)
<b>CHANGE IN NET POSITION</b>	<b>291,288,046</b>	<b>(72,335,805)</b>	<b>363,623,851</b>
Beginning of Period Net Position	130,813,749	434,338,673	(303,524,924)
<b>NET POSITION END OF PERIOD</b>	<b>\$ 422,101,795</b>	<b>\$ 362,002,868</b>	<b>\$ 60,098,927</b>

**DESIGN CONTRACT DE-OBLIGATIONS REPORT (*no activity*)**

## **PUBLIC COMMENT STATEMENT**

**We will now begin the Public Comment Portion of the Meeting consistent with the New Jersey Open Public Meetings Act.**

**We would ask that any member of the public who wishes to address the Board limit their comments to 3 minutes. If there are multiple individuals from the same organization or district who wish to address the Board on the same matter, we would ask that you come up together to offer your remarks.**

**Please keep in mind that public comment is to afford citizens the opportunity to comment on matters pertinent to the Authority's business. Should you seek answers to questions on any topic, please contact the Authority at 609-943-4585 at your convenience.**