

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
BOARD OF DIRECTORS MEETING  
WEDNESDAY, JANUARY 4, 2023**

A meeting of the Board of Directors of the New Jersey Schools Development Authority (SDA or the Authority) was held on Wednesday, January 4, 2023 at 9:06 A.M. at the offices of the Authority at 32 East Front Street, Trenton, New Jersey.

Participating were:

Robert Nixon, Public Member, Chairman  
    Juan Burgos (EDA)  
    Kevin Luckie (DCA)  
    David Moore (Treasury)  
    Bernard Piaia (DOE)  
Daniel Gumble, Public Member  
Lester Lewis-Powder, Public Member  
Michael Maloney, Public Member  
Mario Vargas, Public Member

being all the Members of the Board. Mr. Gumble, Mr. Moore, Mr. Lewis-Powder, Mr. Piaia and Mr. Vargas participated in the meeting by teleconference.

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

The meeting was called to order by Mr. Nixon, who requested that Ms. Kelly 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, and been duly posted on the Secretary of State's bulletin board at 20 West State Street in Trenton, New Jersey and on the

SDA Website. Ms. Kelly then conducted a roll call and indicated that all the Members of the Board were present.

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

The Chairman presented for consideration and approval the minutes of the Board's December 7, 2022 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. Burgos and seconded by Mr. Mr. Luckie, the Open Session minutes of the December 7, 2022 SDA Board meeting were approved with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3a.***

Mr. Nixon next presented for consideration and approval the minutes of the Board's December 7, 2022 Executive 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. Maloney, the Executive Session minutes of the December 7, 2022 SDA Board meeting were approved with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3b.***

### ***Authority Matters***

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

Mr. Nixon asked Mr. Da Silva for the report of the CEO. Mr. Da Silva said that he would like to start the New Year by thanking the Members for their support and commitment to the Authority's work. He also thanked Governor Murphy and the State Legislature for the funding that has been put in place which allows the Authority to advance the school construction program. Lastly, he thanked the SDA staff and the executive team, noting that that without them it wouldn't be possible to deliver schools.

Mr. Da Silva then provided the Board with an update on design-build projects in the design stage. He reported that Dobco, Inc. and Anser Advisory are advancing the Union City New Grade 7-9 School project as site work continues.

Turning to design/bid build projects in the construction stage, Mr. Da Silva reported that for the Perth Amboy High School and Plainfield Woodland Elementary School projects, both buildings have been equipped with temporary heat to enable the continuation of work throughout the winter. He advised the Members that work was completed on the Keansburg Port Monmouth Road School project and management is preparing the necessary paperwork in anticipation of receiving a full temporary certificate of occupancy. He said that for the Orange High School project, management delivered the final renovated areas and is currently finalizing the elevator. He added that staff anticipates performing additional scope relating to the installation of a greenhouse and partial replacement of the Orange Preparatory Academy gymnasium floor. He said that the Orange High School project charter is in need of updating as reflected in today's Board meeting agenda.

Next, Mr. Da Silva reported that final bid documents are under final review by the Department of Community Affairs and the Office of the State Comptroller for the Orange Cleveland Street Elementary School project. He added that the project's final phase is positioned for advertisement and the procurement of a general contractor.

In continuing, Mr. Da Silva said that distribution of the \$75 million grant program that the Authority received as part of the FY2023 Budget is well underway. He added that the SDA is also advancing fifteen emergent projects in all life cycle stages and is focused on work anticipated for the summer of 2023.

Finally, Mr. Da Silva said that staff is working on finalizing the Biannual Report for distribution by the end of the month.

## *Audit Committee*

Mr. Nixon, as Audit Committee Chairman, reported that the Audit Committee met on December 19, 2022, at which time management provided the Committee with the November 2022 New Funding Allocation and Capital Plan Update. He said that staff informed the Committee that there were no changes in any of the reserve balances for either the SDA or Regular Operating Districts during the reporting period.

Next, Mr. Nixon advised the Board that the Internal Audit Division (IA) provided the Committee with the results of one interim, real-time project audit. He noted that the audit was conducted to ensure compliance 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 said that IA also provided the Committee with a report on the current status of open audit recommendations and suggestions for improvement from the various project and operational audits.

Next, Mr. Nixon discussed the November 2022 Monthly Financial Report. He advised the Members that the Authority's operating expenses (Actual vs. Budget) for the year-to-date period total \$12.4 million, down \$2.3 million as compared to the budget for the corresponding period. He explained that this decrease is mainly attributable to lower salary and benefits expenditures than budgeted, partially offset by lower than projected payroll allocations to project expenditures and other personnel expenses including: temporary staffing, travel, and training & professional development. He said that other contributing factors are lower spending for contracted services, information system purchases and general office expenses. He reported that the current employee (FTE) headcount as of November 30, 2022 is 129 a decrease of 41 employees from the year-to-date budget. He advised the Members that the Authority's operating expenses (Actual vs. Budget) for the year-to-date period total \$12.4 million, \$323,000 lower as

compared to the budget for the corresponding period. He explained that this decrease is mainly attributable to lower personnel costs than budgeted, partially offset by a lower than projected payroll expense allocation to project costs. He said that the current number of FTEs, at 129 on November 30, 2022, is down by 24 FTEs as compared to the corresponding prior year. He clarified, however, that the SDA actually has 128 FTEs on staff at the present time. Mr. Nixon then reported that school facilities project expenditures (Actual vs. Forecast) for the year-to-date period total \$257.3 million, \$14 million higher as compared to the capital spending forecast for the corresponding period. He advised that this variance is the result of higher than forecasted expenditures in grant activity, offset by a decrease in construction activity, project insurance, payroll expense allocation, school furniture and design services. He reported that project expenditures (Actual vs. Prior Year Actual), at \$257.2 million, are \$17.2 million higher as compared to the corresponding prior year period. He explained that the variance is due to an increase in grant activity, offset by a decrease in construction activity, furniture purchases, CM services, project insurance and payroll expense allocation. Mr. Nixon said that since program inception, 78.1% 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 \$1.2 billion.

Mr. Nixon then advised the Members that the Committee discussed one action item for Board consideration--a proposed Grant Agreement between the Authority and the state Department of the Treasury. He said that the Board will discuss this item in Executive Session and vote upon its return to Open Session.

## *School Review Committee*

The Chairman asked Mr. Luckie to provide the report of the School Review Committee. Mr. Luckie reported that the School Review Committee met on December 19, 2022, at which time three items were discussed. Mr. Luckie said that management is seeking approval of two credit change orders (CCO) for the Orange Cleveland Street Elementary School (OCES or School) project (Project). By way of background, he said that the OCES in the Orange School District (District) is a 38,750 square foot facility educating 306 students in grades Kindergarten to 7. He reminded the Members that SDA is advancing an addition and renovation project at the School. He said that the Project scope includes an 11,550 square foot addition and renovations to the existing facility to address overcrowding. He advised the Board that the Project would also allow a change in grade alignment to Pre-K through grade 6 consistent with the District's Long Range Facilities Plan.

Mr. Luckie said that on March 6, 2019, the Board approved the Project's final charter and a contract award to Brockwell & Carrington Contractors (Brockwell) for construction services. He said that the SDA then issued a notice-to-proceed (NTP) to Brockwell on May 2, 2019 to proceed with the constructability review to verify the constructability and coordination of the work, the elimination of conflicts in the work, and the completeness of the work consistent with the contract documents. He reported that two years after issuance of the NTP, the Authority issued Brockwell a Notice of Termination for Convenience on January 20, 2022. He noted that Brockwell was directed to complete portions of the work and to demobilize from the Project site by March 1, 2022.

In continuing, Mr. Luckie said that management is now asking the Board to approve two CCOs for the Project. He said that CCO No. 44, in the amount of (\$1.6 million), would credit the unused amount of funds previously authorized to Brockwell for work not completed prior to

termination of the contract. He said that CCO No. 46, in the amount of (\$8.5 million), would credit the unused balance of contract funds remaining on Brockwell's contract for work not completed prior to termination. He noted that these change orders (CO) are necessary to finalize contract closeout with Brockwell.

Mr. Luckie then advised the Board that management had provided the Committee with the details of two additional COs associated with the Project that do not require Board approval. He said that these are CO No. 43, in the amount of \$381,000, which would address the extended general conditions incurred by Brockwell for the three months they remained on site following the contract's completion date; and CCO No. 45, in the amount of (\$59,000), which would credit bond and insurance values included in Brockwell's contract that were unused and are no longer required due to the contract's termination. He reported that the balance of unused contract funds resulting from CCOs No. 44, 45 and 46 will be used for the completion of the Project under a new construction services contract. He said that staff is preparing to procure the new contract with revised design documents in order to complete the Project. He noted that the planned revised forecasted substantial completion date is August 2024. He concluded by reiterating that management is seeking Board approval of CCOs No. 44 and 46.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Burgos and seconded by Mr. Maloney, Credit Change Orders No. 44 and 46 for Brockwell & Carrington Contractors were approved with the Board's unanimous vote in favor of ***Resolution 6a***.

Next, Mr. Luckie advised that management is seeking Board approval of three actions in connection with the Orange High School (OHS or High School) project (Project). He reported that the OHS is a 145,294 square-foot facility educating 804 students in grades 10 to 12. He said that in March 2019, the Members approved an award to Terminal Construction Corporation

(Terminal) for construction services, along with a final charter for a Project at the High School. He explained that the Project scope includes a two-story addition of approximately 50,000 square feet; an enclosed connecting bridge between the High School and the nearby OPA; and selective renovations to the existing High School building to address facilities conditions deficiencies. He added that the Project also includes an allowance to address limited facilities conditions deficiencies at the OPA.

In continuing, Mr. Luckie informed the Members that in April 2019, the SDA issued an NTP to Terminal to commence performance of a constructability review. He said that as part of the process and after its completion, SDA management authorized an allowance increase and various change orders for the Project. He advised that the Board memorandum also references a 2022 revision to the final project charter, a release of funds from the Program Reserve and the reestablishment of the construction contract value in connection with the Project. He explained that management is now asking the Board to approve CO No. 233 in the not-to-exceed amount of \$550,000.00 in order to furnish and install a replacement greenhouse on the Project's recently installed new greenhouse footings. He said that, as the Board memorandum explains, the original intent was to relocate the existing greenhouse but that it was found to be structurally unsound. He added that the new greenhouse structure is currently being designed by the architect and the design is expected to be completed in January 2023.

Next, Mr. Luckie said that the second action for Board consideration involves the Project's final charter approved in March 2019. He reported that the charter includes various budget line items that are now known to be insufficient to support completion of the Project. He explained that management is now seeking Board approval to revise the final project charter and provide the additional funding needed to ensure that there are sufficient funds to complete the Project.



Mr. Luckie said that the Board memorandum describes the unforeseen, hidden conditions that were encountered over the course of construction, noting that the same were not identified on the “as built” plans of the existing High School that were provided to the architect of record for use during design. He explained that since these unforeseen conditions required the issuance of numerous COs to Terminal as the Project advanced, management has determined that the value inclusive of this work, as well as the prior executed change orders, represents the true value of the work necessary to advance the Project. He advised the Board that, for this reason, management recommends that the Board approve the proposed adjusted contract value inclusive of all approved change orders through November 30, 2022 as the appropriate baseline for the ongoing application of Operating Authority requirements. He said that, upon receipt of Board approval today, management will again seek Board approval should future change orders individually exceed \$500,000.00, or singularly or in the aggregate exceed 10% of the reestablished contract amount of \$44.2 million.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Burgos and seconded by Mr. Maloney, Change Order No. 233, the revised project charter and proposed reestablishment of the general contractor’s contract value for the Orange High School project were approved with the Board’s unanimous vote in favor of ***Resolution 6b***.

Next, Mr. Luckie said that management had also discussed with the Committee the details of the proposed Grant Agreement between the SDA and the state Department of the Treasury that Mr. Nixon will be presenting to the Board in Executive Session.

Mr. Nixon then asked for a motion to adjourn the Open Session of the meeting into Executive Session. He asked Ms. Kelly to announce the matter to be considered by the Board in Executive Session. Ms. Kelly said that the Board will consider management’s request for Board

authorization to execute a Grant Agreement between the Authority and the state Department of the Treasury. She said that the Board will vote on this matter upon its return to Open Session.

Upon motion by Mr. Burgos and seconded by Mr. Luckie the Board unanimously voted to approve ***Resolution No. 8.*** and thereby adjourn the Open portion of the meeting into Executive Session.

Following the Board's return to Open Session, Mr. Nixon announced that in Executive Session the Board had discussed management's and the Audit Committee's recommendation for approval of the proposed Grant Agreement between the SDA and the state Department of the Treasury.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Luckie and seconded by Mr. Piaia, the Board approved the proposed Grant Agreement between the SDA and the state Department of the Treasury with the Board's unanimous vote in favor of ***Resolution 5a.***

### ***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 January 4, 2023 meeting.

*/s/ Jane F. Kelly*  
Assistant Secretary