

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
BOARD OF DIRECTORS MEETING**

**THURSDAY, JANUARY 3, 2013**

A meeting of the Board of Directors of the New Jersey Schools Development Authority (“SDA”, “NJSDA” or “the Authority”) was held on Thursday, January 3, 2013 at 9:10 A.M. at the offices of the Authority at One West State Street, Trenton, New Jersey.

Participating were:

Edward Walsh, Chairman  
Maureen Hassett (NJEDA)  
Kevin Luckie (NJDCA)  
James Petrino (State Treasurer)  
Bernard Piaia (NJDOE)  
Michael Capelli  
Kevin Egan  
Loren Lemelle  
Lester Lewis-Powder  
Michael Maloney  
Joseph McNamara  
Robert Nixon  
Martin Perez  
Mario Vargas

being a quorum of the Board. Mr. Piaia, Ms. Lemelle, Mr. Lewis-Powder, Mr. Petrino and Mr. Perez participated in the meeting via telephone conference.

At the Chairman’s request, Marc Larkins, chief executive officer; Jason Ballard, chief of staff; Jane Kelly, vice president & assistant secretary; Andrew Yosha, vice president; Donald Guarriello, vice president and chief financial officer; Albert Barnes, acting chief counsel; and

Sean Murphy, director, of the SDA participated in the meeting. Nicole Crifo of the Governor's Authorities Unit also participated in the meeting by teleconference.

The meeting was called to order by the Chairman of the Board, Mr. Walsh. Mr. Walsh 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 that a meeting notice had been duly posted on the Secretary of State's bulletin board at the State House in Trenton, New Jersey.

### *Approval of Meeting Minutes*

Mr. Walsh then presented the minutes of the Open and Executive Session meetings of the Board held December 5, 2012 for consideration and approval. A copy of the minutes and resolution presented were provided to the Members for review in advance of the meeting. Upon motion duly made by Mr. Nixon, and seconded by Mr. Vargas, the Open and Executive Session meeting minutes were approved by the Board upon its vote in favor of the resolution attached hereto as *Exhibit 3a & 3b*.

### *Authority Matters*

#### *CEO Report*

Mr. Walsh asked Mr. Larkins to provide the report of the CEO. Mr. Larkins wished the Members and those present at the meeting a happy and healthy New Year. He then thanked all the Board Members for their commitment to the work of the Authority. He noted that the public members serve without compensation and while the *ex officio* members serve with compensation from their normal state jobs, service on the SDA board is an additional duty they perform without added compensation. He thanked them for their service, leadership and commitment to the children of the State. He stated that he is nearing the completion of his third year as CEO

and that he recognizes the significant role that the Members play in what is accomplished at the Authority. He noted his personal appreciation for their guidance and the time and effort they must expend given the volume of materials that are sent out monthly in preparation for Authority meetings. He said that he is looking forward to the work ahead in the coming year. Mr. Larkins reported that a high level summary of the thirty (30) projects that comprise the capital portfolios anticipates that thirteen (13) projects will be in construction in 2013. He noted that there was a significant level of activity in 2012, much of it involving preparation and the laying of ground for construction to begin in 2013. He said that all ten (10) of the projects that were announced in 2011 will be in construction in 2013. He said that a number of the twenty (20) projects announced last year are already in the planning stages, noting that a few may begin construction in 2013. He explained that when he advises that a project is in construction that term is inclusive of all the planning phases which are essential to getting a building built. He advised that in the last number of months SDA's Communications Department has worked hard to make the SDA website more current. He said that on the home page there is a link to construction photos. He advised that when clicking on an active project such as the Long Branch project, there are photos of the site taken as recently as November 2012. He noted that two other projects from the 2011 portfolio are on the verge of beginning construction. He said that the New Brunswick project, the first Design/Build project, anticipates the breaking of ground in the next few months. He noted that this is a success story with all parties working together to keep the project on track. He said that the other project is the high school project in Elizabeth. He said that the site work was completed and the construction award was issued to Patock Construction Company. He said that Patock is on the verge of receiving a Notice to Proceed ("NTP") over the next couple of months following the peer review. Mr. Larkins then advised that progress at the Victor Mralag

School in Elizabeth is slow but moving forward. He then discussed advertisements and work under review. He noted that bids on the New Henry Street Elementary School project in the Passaic School District are due today and that the bids for the Oliver Street School in Newark are due on January 23<sup>rd</sup>. He said that at the end of December 2012 the SDA advertised for the Elliott Street Elementary School project in Newark with bids due the latter part of February 2013. He said that a great deal of advertisement and award activity is underway. He noted that the pricing is still quite good while the bidding pool is a bit narrow. Mr. Larkins said that the Authority works hard to encourage all General Contractors ("GCs") to get involved to keep the bidding pool as deep as possible. He advised that there are contracts under review right now, noting that the Design Consultants Services contract is on today's agenda. He said that this contract is an important one as once the awards are in place the Authority will be able to assign several emergent project design needs as well as the five (5) facility improvement projects included in the 2012 plan. He then advised that under review is the Philipsburg High School project contract that was delegated to the Chairman of the Board, the CEO and the Chair of the SRC. He said that proposals came in and were reviewed with the presumptive awardee being the Terminal Construction Company. He said that there have been two (2) bid protests filed to-date and these are now under review. He said that once a final decision has been made, the decision memorandum will be shared with the Chairman of the Board and Chairman of the SRC.

In continuing, Mr. Larkins reported that the SDA prepares and distributes three (3) reports each year. He said that these are two (2) biannual reports and one annual report. He noted that the April 2012 thru September 2012 biannual report has been released, explaining that the report highlighted the work that was accomplished during this timeframe. He said that the

report noted the opening of two (2) new schools, emergent projects and other activities. He also said that the report looks ahead to the anticipated work of the SDA.

Lastly, Mr. Larkins reported that there will be a lot of activity in 2013, emphasizing that there will be advertisements going out on the street in the next two (2) to three (3) months. He said that the activity that is being generated is not only good for the state's school children but also for the construction trades community. He said that his hope is that the Board will be very proud of the accomplishments of the Authority in 2013. Mr. Vargas remarked that Mr. Larkins has done an amazing job as CEO of the SDA. He noted the pressures that are exerted by all the various constituencies that follow the work of the Authority. He then asked if the protests filed with regard to Philipsburg High School were unusual. Mr. Larkins replied that while it is not typical it is not odd noting that it is something that happens in the ordinary course of procurements. He added that the Office of Chief Counsel will work through the process and come up with a fair resolution. Ms. Hassett asked if the process for bid protests is handled through the Board. Mr. Larkins explained that it starts out as an internal administrative process and that a final agency decision is issued. Mr. Barnes noted that, once the final decision is made, any appeal would go directly to the Appellate Division of the Superior Courts.

#### *Chairman's Report*

Mr. Walsh agreed with Mr. Larkins' comments regarding the volume of reports, meeting minutes and the like that the Authority must prepare. He said that while it takes a long time to review materials and minutes, it takes a lot longer to prepare them. He thanked Mr. Larkins, the executive team and SDA staff for their efforts and noted that their hard work is recognized. He said that he feels that the Authority has come a long way and he knows that has not always been easy. Mr. Walsh said that he is looking forward to being involved in the upcoming construction

projects and invited anyone with historic construction knowledge to come forward to assist. Mr. Walsh expressed the hope that problems of the past will be avoided, noting that procurement is the key to the success of a project. He said that he is also looking forward to seeing how the Design/Build process progresses.

### *Audit Committee Report*

The Chairman then requested that Mr. Nixon provide the Board with the Report of the Audit Committee. Mr. Nixon advised the Members that the Audit Committee met on December 17, 2012. He said that, at the meeting, management provided the Committee with the November 2012 New Funding Allocation and Capital Plan Update. He said that management had reported no change in the Unforeseen Events or Planning Reserves and no change in the 2008 or 2011 Capital Plan Emergent Projects Reserves. He reported that the reserve balance for the Regular Operating Districts ("RODs") increased by \$1.9 million due entirely to a reduction in State Share for projects nearing completion. He also noted that one additional grant was offered in the current reporting period.

In continuing, Mr. Nixon said that, for informational purposes, management had provided the Committee with an overview of forecasted Capital spending for 2013. He said that expenditures for school facilities projects are estimated at \$271 million in 2013, which represents an increase of approximately \$66 million as compared to 2012 estimated expenditures. He noted that the majority of the increase is in construction costs as several new capital projects are expected to begin construction during 2013.

Mr. Nixon said that management also presented and is seeking Board approval of a sole source procurement. He explained that approval is being sought for the sole source procurement of a site license for ARCOM's MasterSpec® Specifications System software for SDA program

wide use and, specifically, for use by the SDA design studio. He said that the system is a product of the American Institute of Architects and is the most widely used master guide specification system in the building and construction industry.

Mr. Nixon advised the Board that the cost is \$4,790 for the initial year and \$2,150 for renewal years. He said that, following management's presentation, the Committee had determined to recommend approval of the procurement and award by management of a contract to ARCOM on a sole source basis and to authorize management to renew the software license annually without further Board approval so long as ARCOM remains the sole source provider and the costs remain below the threshold requiring board approval in accordance with the SDA Operating Authority. Following discussion, upon motion made by Ms. Hassett and seconded by Mr. Vargas, the Board approved the award of a contract to ARCOM as a sole source procurement upon its unanimous vote in favor of the resolution attached hereto as *Exhibit 5a*.

Mr. Nixon then reported that management had discussed with the Committee one completed audit recommendation, SDA's Audit of Design Consultant Amendments, and had updated the Committee on four (4) open recommendations. He said that the four are SDA Owned Real Estate; the Thomas G. Connors ES Project, Hoboken; the Catrambone ES Project, Long Branch; and Trenton ECC. He said that Management had also discussed its proposed 2013 Audit Plan with the Committee. He said that included are an audit of SDA's compliance with the state Prompt Payment Act and the audit of SDA leases with common area maintenance fees. He noted that both are conducted to ensure financial due diligence. He advised the Board that management's internal audit division would also be proceeding with the statutorily mandated audits including audits of the ROD Grant Agreement, Sayreville War Memorial HS; East Orange

Performing Arts School (demo project); and Union City, HS and Athletic Complex (demo project).

He also noted that audits are anticipated on a “most recently opened school” priority basis, of 26 SDA managed projects. He advised the Board that the SDA Division of Chief Counsel is consulting with the Attorney General’s Office regarding a statutory interpretation of the legislation governing the project audit requirement. He emphasized that additional projects and priorities may be assigned and/or requested by the executive team going forward.

Mr. Nixon said that the Committee was provided with the November 2012 Monthly Financial Report, with management reporting that, as of November 2012, the Authority’s operating expenditures totaled \$31.7 million which is \$4.8 million lower than budget for the period. He noted that this is a \$2.6 million decrease from the corresponding period in the prior year.

Mr. Vargas asked whether savings from 2012 projects completed under budget are carried over to 2013. Mr. Guarriello explained the yearly budgeting process. Mr. Larkins noted that every dollar saved on the operating side is one more dollar available for other projects. He said that the savings reflect the efficiency of the Authority, noting that all funds come from one source. Mr. McNamara said that at some agencies if funds are not used they are lost, which is not the situation at the SDA.

### *School Review Committee Report*

#### **Award of Contract Approval of Charter and Release of Funds from Program Reserve – Newark Public Schools – Ridge Street Elementary School – Emergent Project – Boiler Replacement**

Mr. Walsh asked Ms. Hassett to provide her final report as Chairperson of the School Review Committee (“SRC”) and thanked her for her service to the SDA. Ms. Hassett thanked



staff for the comprehensive year-end report that had been prepared. She noted that staff is routinely asked to present information in a variety of formats and sequences and added that the refined level of the reports has been very helpful to the Members. She thanked everyone for their efforts and hard work. Ms. Hassett reported that the Committee met on December 17, 2012 and discussed various issues. She noted that the Committee had also reviewed the outcome of the bids submitted in connection with the Philipsburg High School Project. Referencing material that had been previously provided for Committee review she said that the Board is being asked today to approve a delegation of authority for the award of design consultant contracts. She reported that the SDA is in full construction mode now and is working very hard to be very effective and efficient in its processes. She said that the proposed delegation of authority for the award of design consultant contracts (to be discussed later in the meeting) greatly assists the Authority in getting work underway. She said that the Committee was very supportive of the award and the delegation of authority in front of the Board today.

Referencing the first item presented for formal action Ms. Hassett said that the Board is being asked to approve a contract award, project charter and release of funds from the Program Reserve for an emergent project at the Ridge Street Elementary School in Newark. She explained that the award is for a \$757,000 construction contract to Sunnyfield Corporation. She added that the amount to be released from the Program Reserve for the Charter for the emergent project is approximately \$1,102,000. Mr. Murphy advised the Board that there were twelve (12) eligible bidders noting that two (2) were rejected as nonresponsive. He said that following review of the price proposals, two (2) bidders were determined to be responsive with the lowest bidder being Sunnyfield Corporation. Mr. Vargas asked if these funds are moved over from one line item to another. Mr. Larkins explained that the funds will be moved noting that these funds

are not part of the operating budget but rather associated with the specific project. He further noted that the accounting for staff salaries working on projects is a true-up of where the costs should actually be applied, i.e. against the project and not in the operating budget. Mr. Walsh added that the SDA is now managing these projects as opposed to outsourcing the work.

Following discussion, a resolution for approval of the award of a construction contract to Sunnyfield Corporation in amount of \$757,000.00, the approval of the charter for the Newark Public Schools – Ridge Street Elementary School Emergent Project and the release of \$1,102,593.00 from the program reserve to address the emergent project had been provided to the Members in advance of the meeting. Following discussion, upon a motion by Ms. Hassett, and seconded by Mr. McNamara, the award, charter and release of funds was approved by the Board upon its unanimous vote in favor of the resolution attached hereto as *Exhibit 6a1*.

### **Delegated Authority/Design Consultant Services for Emergent Projects, Capital Improvements Projects and Other School Facilities Projects**

Ms. Hassett reported that the Committee was provided with a recommendation for approval of delegated authority to the CEO, Chairman of the Board and SRC Chair to award contracts to twenty (20) firms for design consultant services, for a total aggregated not to exceed amount of \$60 million. Referencing materials that had been previously provided for Board review, she explained the way the selection process would work. Mr. Walsh added that this issue was discussed in detail by the SRC. Mr. Larkins noted that this award is the equivalent of the CG task order pool. He explained that this award positions the Authority to more proactively address a number of different types of projects in the portfolio. He said that the most important are the emergent projects. He added that for those emergent projects that need design services, there now will be a pool of professionals with specific expertise to either bid a

project, do a scope of services or be assigned a project by rotation. He said that all five (5) of the capital facilities projects that were announced last year in the capital portfolio will require significant design services. He discussed the size of the pool in relation to the volume of work anticipated. He then explained that the value of the not-to-exceed contracts was chosen by the largest of the projects or scope of work that would be awarded to a firm. He stressed that the Authority does not anticipate that it will be approaching anywhere near the total value of \$60 million. He advised that the decision was not to limit certain firms to dollar amounts while allowing other firms a higher amount but rather to seek consistency. He explained that the smaller, lower value jobs will be awarded on a rotation basis much like the CG task order awards. Mr. Larkins advised that in the instance that a particular firm might approach the not-to-exceed amount, which is not anticipated, this would be brought to the Board in accordance with the Operating Authority ("OA"). Mr. Walsh noted that this delegation assists the Authority in making the process more efficient.

A resolution for a delegation of authority for the award of Design Consultant Services contracts, task order assignments and the execution of individual project planning charters had been provided to the Members in advance of the meeting. Following discussion, upon a motion by Mr. Vargas, and seconded by Mr. Luckie, the Board unanimously approved the resolution attached hereto as *Exhibit 6bi*.

In concluding her report, Ms. Hassett noted that the Committee also considered one settlement matter that will be discussed in Executive Session

## **Reports**

Mr. Walsh asked Mr. Ballard for a brief update regarding the status of project closeouts. Mr. Ballard reported that work on the traffic signals was completed successfully at New Brunswick High School and he is anticipating full closeout in the first quarter of 2013. He noted that work continues on the Vineland and Union City projects. He advised that one capital project was closed out and another three (3) were successfully transferred to the districts. He added that only one project remains to be deeded back to the school district.

## ***Public Comments***

Mr. Walsh announced that the Public Comments portion of the meeting would begin. He requested that, if appropriate, multiple individuals from the same organization or district come up together to offer remarks. He advised that the public comment period is to afford citizens the opportunity to comment on matters pertinent to the Authority's business. He said that a phone number is available for members of the public seeking answers to particular questions on any topic. He requested that those speaking hold their comments to between three (3) and five (5) minutes.

Mr. Walsh then asked if there were any members of the public present who wished to address the Board. Mr. Dwaine Williams from the Camden Redevelopment Agency then addressed the Board. Mr. Williams stated that over the last ten (10) years he has been involved with the Catto pool boys and girls club at the demonstration project. He said that the City of Camden and the Governor deem this to be a successful project. Mr. Williams said everything was done that should have been done including recovering \$6.5 million in environmental funding, E-rate funding, relocating residents and acquiring property. He said that this property

has been a wonderful success up until now which is the reason he is addressing the Board today. He inquired as to when this project is going to close. He stated that there were a number of issues at the very end of the project that are very concerning to him as a project manager. He said that his timeline for closing this project was in 2011 and it is now 2013. He stated that he does not see an end in sight. He asked for a meeting to go over some particular concerns that he has.

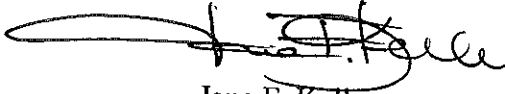
Mr. Walsh thanked Mr. Williams for his remarks noting that closing out projects has been a priority of late at the Authority. He advised Mr. Williams that someone would be contacting him in the near future.

Next, the Chairman asked Moriah Kinberg of the New Jersey Work Environment Council ("NJWEC") to address the Board. Ms. Kinberg said that the NJWEC is heading up a healthy school coalition along with other advocacy organizations across the state. She apologized for arriving late and said that the first issue she would like to bring up was the time of the Board meetings. She said that nine o'clock in the morning on a Wednesday or Thursday is very early. She suggested that the Board consider commencing its meetings at ten o'clock in the morning. She stated that she comes from Jersey City which, to Trenton, means a two and one-half hour trip. She then referenced the December 14, 2012 court ruling in which the court cited the Department of Education's ("DOE") Office of School Facilities' ("OSF") failure to expedite emergent repairs. Ms. Kinberg said that the judge had criticized the OSF for putting the blame on the SDA for these delays. She then said that she was addressing the Board to ask them what the SDA is doing and if the SDA is working with the OSF to address these conditions and expedite the process. On behalf of the Authority, Mr. Larkins responded that, because this is

active litigation, he cannot speak to the judge's findings or to the commentary in the opinion. He said that the Authority enjoys a good working relationship with the OSF but noted that he could only speak for the time that he has been with the Authority. Mr. Larkins stated that the DOE has a designee to the SDA Board as do the Department of Community Affairs ("DCA") and other sister agencies. Ms. Kinberg then said that she wanted to bring a letter that the Leadership for Educational Excellence ("LEE") had sent to Governor Christie. She asked if the Board was familiar with that letter. Mr. Larkins responded in the negative. She stated that the letter noted that the LEE is comprised of the New Jersey Association of School Business Officials along with the New Jersey Congress of Parents and Teachers and others. She said that the letter addressed the issue of school budgets and the constraints the schools districts are facing with the 2% cap. She noted that, after the storm, there were significant repairs required and that the school districts are having some problems right now. She said that also cited was the SDA's refusal to fund the 40% matching program in the regular operating districts. She said that the letter stated that, without the matching 40%, referendums have been rejected. Mr. Walsh asked for a copy of the letter. Ms. Kinberg said she would send him a copy.

Mr. Walsh then asked if there were any other members of the public present who wished to address the Board. Hearing none, upon motion and with unanimous consent, the meeting was adjourned to executive session.

**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 3, 2013 meeting.



Jane F. Kelly  
Assistant Secretary