

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

WEDNESDAY, FEBRUARY 6, 2013

A meeting of the Board of Directors of the New Jersey Schools Development Authority (“SDA”, “NJSDA” or “the Authority”) was held on Wednesday, February 6, 2013 at 9:00 AM at the offices of the Authority at One West State Street, Trenton, New Jersey.

Participating were:

Edward Walsh, Chairman

Kevin Luckie (NJDOE)

James Petrino (Treasury)

Bernard Piaia (NJDOE)

Michael Capelli

Kevin Egan

Lester Lewis-Powder

Michael Maloney

Joseph McNamara

Robert Nixon

Martin Perez

Mario Vargas

being a quorum of the Board. Mr. Capelli, Mr. Lewis-Powder, Mr. Perez, Mr. McNamara, Mr. Petrino and Mr. Piaia 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 and assistant secretary; Andrew Yosha, vice president; Donald Guarriello, vice president and chief financial officer; Albert Barnes, acting chief counsel; Corrado Minervini, program director; Manuel Da Silva, program director; Joseph Van Story, program director; Sean Murphy, director; and Thomas Schrum, program director, of the SDA

participated in the meeting. Brett Tanzman of the Governor's Authorities Unit also participated in the meeting.

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 Organizational meeting and the Open and Executive Session meetings of the Board held January 3, 2013 for consideration and approval. A copy of the minutes and resolutions presented had been provided to the Members for review in advance of the meeting. Upon motion duly made by Mr. Egan, and seconded by Mr. Vargas, the Organizational, Open and Executive Session meeting minutes were approved by the Board upon its vote in favor of the resolutions attached hereto as *Exhibit 3a, 3b & 3c*.

Authority Matters

CEO Report

Mr. Walsh asked Mr. Larkins to provide the report of the CEO. Mr. Larkins reported that, in the past month, SDA staff participated in site visits to the Elementary School # 3 site in the Jersey City School District and the Public School #16 Elementary School site in the Paterson School District. He reported that demolition and remediation activities are taking place on both sites. Larkins informed the Members that a dedication event is planned for tomorrow, February 7, at 11:00 a.m. at the Columbus Elementary School in the Union City School District. He said that the school is being renamed after Colin Powell but it is not certain whether Mr. Powell will

be in attendance. Mr. Larkins said that Union City Mayor Stack and Governor Christie are expected to attend the event.

Next, Mr. Larkins reported that the SDA is in the midst of a constructability review for the Elizabeth Academic High School project (Academic) in the Elizabeth School District. He said that the review is going well so far and is anticipated to take approximately sixty (60) days to complete. Mr. Larkins noted that, upon completion, SDA staff will have discussions regarding price given any adjustments to the scope and will ultimately issue a notice to proceed (NTP) in order for the project to advance into construction. With regard to the New Brunswick project, Mr. Larkins reported that SDA staff is working diligently with the contractor, Hall Construction Company, Inc. (Hall), and with the Department of Community Affairs (DCA) to obtain approval to break ground and start working on footings and foundation. He said that he is hopeful that there will be progress in this regard over the next few weeks.

Next, Mr. Larkins provided the Members with an update regarding SDA's active procurements. He reminded the Members that late in 2012, the SDA advertised for the Oliver Street Elementary School project (Oliver Street) in the Newark School District. Mr. Larkins said that bids are due to the Authority today and that they will be run through the evaluation process. He also reported on the status of another job in the Newark School District--the Elliott Street Elementary School project (Elliott Street). He said that proposals for this job, which was also advertised in late 2012, are due to the SDA on February 26.

In continuing, Mr. Larkins updated the Members with regard to SDA's forthcoming advertisements. He reported that, in the next week or so, the SDA will be re-advertising for the Marshall Street Elementary School project (Marshall Street) in the Paterson School District. He explained that the advertisement is tied to one of the awards on today's agenda, which is the New

Henry Street Elementary School project (Henry Street) in the Passaic School District, which will be discussed later in the meeting.

Next, Mr. Larkins advised the Members that the SDA recently advertised for construction management services for the Oliver Street project in Newark and the PS #20 project in the Jersey City School District.

In terms of recent awards, Mr. Larkins reported that the SDA recently awarded design contracts and issued twenty (20) notices of award to twenty (20) firms in order to advance some emergent and Capital Facility improvement projects that are in the portfolio. Mr. Larkins said that, in terms of other procurement activity, the SDA is in the process of doing re-bids on two projects—one involving a boiler job in the Newark School District due to some identified ambiguities or potential ambiguities in the job specifications. He said that SDA staff has since revised the specifications and will be re-advertising. Mr. Larkins informed the Members that the Phillipsburg bid protests have been resolved in the form of re-advertisement. He said that SDA staff distributed letters to all bidders yesterday, informing them that the procurement was terminated and will be re-advertised. Mr. Larkins thanked SDA Acting Chief Counsel Al Barnes and his staff for their hard work in reaching the most appropriate resolution in this matter. He said that it is the SDA's hope that a re-advertisement will be done in the short term, likely within the next two weeks. Mr. Larkins explained that the same general process must be followed but noted that staff is reviewing whether the timeline can be condensed since the SDA has already gone through the process. He said that the process is expected to take between sixty (60) to ninety (90) days.

Mr. Larkins said that today's agenda includes various awards and the SDA is looking forward to moving this work forward.

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 January 22, 2013. He said that management provided the Committee with the December 2012 New Funding Allocation and Capital Plan Update. He said that management had reported a \$9.9 million decrease in the Unforeseen Events Reserve and no change in the Planning Reserve or 2008 Capital Plan Emergent Projects Reserve. He reported a \$1.3 million decrease in the 2011 Capital Plan Emergent Projects Reserve. Mr. Nixon advised that the reserve balance for the Regular Operating Districts (RODs) increased by \$700,000 due entirely to a reduction in State Share for projects nearing completion.

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; Thomas G. Connors ES Project, Hoboken; Asbury Park Barack Obama (Bangs Ave)/Trenton ECC; and Audit of Design Consultant Amendments. Mr. Nixon advised that the monthly financial report was not presented to the Committee due to the ongoing 2012 audit.

School Review Committee Report

Reports

Change Orders/Amendments

Ernest Bock & Sons, Inc.; TAK, Construction, Inc.

Mr. Walsh advised that he would provide the report of the School Review Committee (SRC). He said that the Committee met on January 22 and discussed various issues. He advised

that the Committee was provided with a proposed change order in the amount of \$19,338.00 for Ernest Bock & Sons, Inc. (EBS) for code-required additional work for the Victor Mravlag Elementary School, No. 21 project in the Elizabeth City School District. At Mr. Walsh's request, Mr. Minervini provided the Members with a brief overview of the project and asked if there were any questions. Mr. Maloney asked if the Authority has kept records from program inception reflecting the change order history of its various General Contractors (GCs). Mr. Larkins said that it is his belief that change order records are maintained on a project by project basis. Mr. Minervini added that an evaluation process is conducted upon completion of each project and stressed that change orders, when they occur, are not always the contractor's responsibility. Mr. Larkins added that the evaluation that is conducted is substantive in its analysis and scoring. He advised the Members that the remainder of change orders for this project are not anticipated to rise to a level requiring Board approval. After further discussion, Mr. Minervini requested that the Members approve the change order.

A resolution for approval of the change order for EBS and the re-establishment of the contract value in the amount of \$28,308,830 had been provided to the Members in advance of the meeting. Following discussion, upon a motion by Mr. Vargas, and seconded by Mr. Nixon, the change order and re-establishment of the contract value were approved by the Board upon its unanimous vote in favor of the resolution attached hereto as *Exhibit 6a1*.

Mr. Walsh asked Mr. Schrum to present the TAK Construction, Inc. (TAK) change orders for the Emerson Elementary School project in the Plainfield School District. He said that requested is compensation for delays and additional work in the total amount of \$996,961.70. Mr. Schrum then provided the Members with an overview of the project and asked if there were

any questions. Mr. Schrum noted that this is a legacy item dating back to 2008. Mr. Larkins advised that this project is part of the Authority's close-out initiative.

A resolution pertaining to the approval of change order #75 and resolving change order #83 which resolved CCD#1 for TAK had been provided to the Members in advance of the meeting. Following discussion, upon a motion by Mr. Vargas, and seconded by Mr. Egan, the change order and resolving change order were approved by the Board upon its unanimous vote in favor of the resolution attached hereto as *Exhibit 6a2*.

Award of Contract, Approval of Final Charter and Release of Funds from Program Reserve: Newark Public Schools – Hawkins Street Elementary School; Newark Public Schools – Dr. E. Alma Flagg Elementary School; West New York School District – PS#5; West New York School District – PS#1 Design-Build Award and Approval of Final Project Charter; Passaic School District–Henry Street Elementary School

Mr. Walsh then asked Mr. Murphy and Mr. Da Silva to present the emergent project awards for Board approval. Mr. Murphy noted that the first award is for a boiler replacement at the Hawkins Street Elementary School in the Newark School District. He explained that the award is a small business enterprise (SBE) set-aside and that the Sunnyfield Corporation (Sunnyfield) was the low bidder with a bid amount of \$713,000.00. He noted that the bid was just under 2% above the CCE and provided the Members with an overview of the review that took place between the SDA and Sunnyfield. Mr. Da Silva explained that Sunnyfield's estimate for abatement work was higher than the SDA's estimate. Mr. Murphy added that the total price differential is \$15,000. Mr. Luckie asked how environmental activity differs from abatement. Mr. Yosha explained that the SDA engaged an environmental specialist for this project, which is separate from the abatement cost. Mr. Da Silva advised that substantial completion is anticipated by October 2013. After further discussion, Mr. Walsh requested that the Members consider management's request for approval.

A resolution pertaining to the award of the construction contract, final charter and release of funds from the Program Reserve for the emergent project at the Hawkins Street Elementary School had been provided to the Members in advance of the meeting. Following discussion, upon a motion by Mr. Luckie, and seconded by Mr. Vargas, the award, final charter and release of funds from the Program Reserve were approved by the Board upon its unanimous vote in favor of the resolution attached hereto as *Exhibit 6bi*.

Mr. Murphy then presented the Newark Public Schools emergent project for addressing poor air quality at the Dr. E. Alma Flagg Elementary School (Flagg ES). He explained that the project is utilizing the General Construction Services Task Order Contract (GC Task Order). He advised that the rotational method was utilized and Catcord Construction Company (Catcord) was contacted and confirmed its availability and interest in the project. He said that the contract is for a not-to-exceed amount of \$470,250.00. He said that approval is also recommended for the final charter and release of funds from the Program Reserve. Mr. Walsh asked if Catcord was subcontracting out the HVAC work. Mr. Murphy said that an HVAC subcontractor was a requirement of the contract. Mr. Maloney asked if the SDA is aware of whom their subcontractors are. Mr. Murphy replied that Catcord will submit a list of subcontractors but that it is not required to do so up front. Mr. Larkins then explained differences between the bid process and the GC Task Order process. Mr. Da Silva advised that all subcontractors must be pre-qualified. Mr. Walsh said that he would like to meet with management to better understand award processes and procedures. Mr. Walsh stated that he was comfortable with the recommendation and requested that the Members consider approval of management's recommendation.

A resolution pertaining to the award of the construction contract, final charter and release of funds from the Program Reserve for the emergent project at Flagg ES 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 award, final charter and release of funds from the Program Reserve were approved by the Board upon its vote in favor of the resolution attached hereto as *Exhibit 6bii*.

Mr. Murphy then presented the proposed emergent project for Public School #5 (PS#5) in the West New York School District for masonry wall repairs. He advised that GCP, Inc. (GCP) accepted the GC Task Order contract for a not-to-exceed amount of \$1,192,466.00. He noted that this contract followed the same process as Flagg ES. Mr. Larkins noted that GC Task Orders are utilized to save time. Mr. Walsh requested that when the GC Task Order process is nearing \$1 million or over that it be discussed at SRC Meetings prior to the rotational selection from the GC Task Order list. After further discussion, Mr. Walsh requested that the Members consider approval of management's recommendation.

A resolution pertaining to the award of the construction contract, final charter and release of funds from the Program Reserve for the emergent project at PS#5 had been provided to the Members in advance of the meeting. Following discussion, upon a motion by Mr. Nixon, and seconded by Mr. Egan, the award, final charter and release of funds from the Program Reserve were approved by the Board upon its vote in favor of the resolution attached hereto as *Exhibit 6biii*.

Mr. Murphy noted that the last emergent project award is for Public School #1 in West New York for a not-to-exceed amount of \$1,040,570.00. He noted that this project also utilized the general construction services GC Task Order pool and advised that TCI Construction &

Management Company, Inc. (TCI) has confirmed its interest in the project. Mr. Walsh asked if the SDA has staff on site as this is a self-managed project. Mr. Da Silva responded in the affirmative, noting that staff is at the site to supervise the daily time sheet, forms, equipment and such. Mr. Larkins said that the SDA has been self-managing emergent projects for some time. He said that this has not put an undue burden on staff to date and explained staffing logistics. He noted that self-managing capital projects, due to the larger scope, is a greater burden in terms of staffing. After further discussion, Mr. Walsh requested that the Members consider approval of management's recommendation.

A resolution pertaining to the award of the construction contract, final charter and release of funds from the Program Reserve for the emergent project at PS#1 in the West New York School District 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 award, final charter and release of funds from the Program Reserve were approved by the Board upon its vote in favor of the resolution attached hereto as *Exhibit 6biv*.

Mr. Walsh then requested that the design-build award and approval of final charter for the Henry Street Elementary School project (Henry St. ES) in the Passaic City School District be presented. Mr. Larkins suggested that the Board vote in this matter follow the Executive Session and proceed upon the Board's return to Open Session. He said that settlement negotiations to be discussed in Executive Session have some relevance to the award. Mr. Larkins advised the Members that recommended is the award of a design-build contract to Dobco, Inc. (Dobco) in the negotiated amount of \$28,900,000.00. He explained that the award value was preceded by negotiations as Dobco was the sole responsive bidder.

Approval of Award: Estimating/Cost Analysis and CPM Scheduling Services

Mr. Walsh then asked Mr. Murphy to present the Estimating/Cost Analysis and Critical Path Method (CPM) Scheduling Services Award. Mr. Murphy explained that the purpose of the procurement was to establish two (2) task order pools: one for estimating/cost analysis services and one for CPM scheduling services. He gave an overview of the procurement advising that in both categories there was a tie for the third ranked firm. He noted that initially the award was for three (3) firms in each discipline but, due to the tie, the recommendation is to approve four (4) firms in each discipline. He advised that the compensation for the engagements, including all awardees, will not exceed \$2,000,000.00 in the aggregate for the three year term and will be awarded on a rotational basis. Mr. Walsh asked if the engagements were on a time and materials (T&M) basis. Mr. Larkins said that there would be a proposal from each firm and that all have agreed to a set hourly rate. Mr. Walsh asked when the SDA would be using these services. Mr. Murphy explained that the SDA Construction Management Division (CMD) has a need for these services based on current staff capabilities. Mr. Larkins asked Mr. Van Story to address the questions raised, adding that the SDA is in the process of hiring a full time estimator/coordinator. Mr. Van Story explained that each specific job will require a task order and each task order requires that a proposal be submitted based on the job requirements. He said that the proposal will be reviewed by CMD and will be negotiated for a final price. He noted that each proposal will identify the amount of resources that consultants will use regarding that particular job. He explained that this award will represent an additional resource for CMD when there is a need for a specific job depending on the availability and capability of in-house staff. Mr. Larkins then discussed the need for CPM services to track scheduling in real time noting that historically gaps have existed in previous projects that resulted in delay claims. After further discussion, Mr.

Walsh requested that the Members consider approval of management's recommendation of the award.

A resolution pertaining to the approval of award for Estimating/Cost Analysis and CPM Scheduling Services had been provided to the Members in advance of the meeting. Following discussion, upon a motion by Mr. Vargas, and seconded by Mr. Nixon, the award for Estimating/Cost Analysis and CPM Scheduling Services was approved by the Board upon its vote in favor of the resolution attached hereto as *Exhibit 6ci*.

Final Re-adoption with Amendments: – Title 19, Chapter 36 Procurement of Design Build Projects

Lastly, Mr. Walsh asked Ms. Haney to present the final rule re-adoption matter on the agenda to the Members. Ms. Haney explained that the Committee discussed the proposal for the final re-adoption of the rules for procurement of design build projects (Rules). She reminded the Members of their approval of the proposed re-adoption at the March 7, 2012 Board Meeting. She noted that the Rules appeared in the New Jersey Register on May 7, 2012 and were subject to a sixty (60) day public comment period. She advised that comments were received but that management has determined that none of the comments will result in any modification to the proposal as published. She recapped, briefly, some of the public comments received which were set forth in detail in her memorandum dated February 6, 2013. Mr. Maloney asked if the commenters received the responses prior to adoption. Ms. Haney explained that once the Board approves the re-adoption, the re-adoption along with the comments/responses, are available to the commenters. Mr. Walsh asked why commenters don't receive responses until after Board approval. Ms. Haney explained that the Board could conceivably have suggestions resulting from the comments that would change the wording of the Rules so it would be premature to

share proposed responses prior to review by the Board. Mr. Walsh stated that it is important to monitor the design-build projects and suggested that the SRC be updated periodically regarding the progress of these projects in order to track the success of the design-build method as a quicker way to deliver a school project.

A resolution pertaining to the Rules as presented had been provided to the Members in advance of the meeting. Following discussion, upon a motion by Mr. Luckie, and seconded by Mr. Vargas, the Rules were approved by the Board upon its unanimous vote in favor of the resolution attached hereto as *Exhibit 6d*.

Reports

Mr. Walsh asked if any Member had questions regarding the reports and/or whether Mr. Ballard had any additional information to add. Mr. Ballard informed the Members that, with regard to the demonstration projects, the Vineland, Union City and Trenton projects are the first three (3) of the six (6) projects that will advance to full closeout. Mr. Ballard said that his staff is actively working to advance the remaining invoices and to ultimately have discussions regarding final closeout procedures in an effort to expedite allocation of shared savings. Mr. Ballard added that the conversations with the New Brunswick District are going well, that the work is done and that his staff is actively reviewing final invoices, working on reallocations and completing the paperwork prior to issuing any shared savings.

Public Comments

Mr. Walsh asked if there were any members of the public present who wished to address the Board. Mr. Joseph Taylor, President and CEO of Matrix Development Group addressed the Members. He said that for over thirty (30) years his company has been an active developer in New Brunswick, Newark and throughout the State of New Jersey. Mr. Taylor noted that his

company is committed to meeting the SDA's administrative space needs and urged that any questions or concerns that the Authority may have be addressed promptly. He noted that the property at 32 East Front Street is a first class building that will aid in facilitating the job the SDA is doing for the State of New Jersey for many years to come. Mr. Taylor said that he has been working with SDA staff in the process and hopes to work with the SDA moving forward. He expressed his appreciation for the opportunity to address the Board.


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 adjourned to Executive Session.

Following adjournment of its Executive Session meeting, the Board reopened the Open Session of the meeting. The Chairman asked that the Members consider the design/build award and approval of final project charter for Henry Street Elementary School in the Passaic School District that was before the Board. Mr. Walsh noted that he is comfortable approving the award. He also noted his interest in personally engaging in discussions with Dobco, the firm to which the contract would be awarded.

A resolution to approve the design/build award and final project charter for Henry Street Elementary School in the Passaic School District had been provided to the Members in advance of the meeting. Following discussion, upon a motion by Mr. Vargas, seconded by Mr. Egan, and with Mr. Perez voting in the negative, the Board approved the resolution attached hereto as *Exhibit 6bv*.

Mr. Walsh then asked for a motion to adjourn the meeting. Upon motion 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 February 6, 2013 meeting.



Jane F. Kelly
Assistant Secretary