

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS MEETING
WEDNESDAY, AUGUST 3, 2022**

A meeting of the Board of Directors of the New Jersey Schools Development Authority (SDA or the Authority) was held on Wednesday, August 3, 2022 at 9:00A.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)

Richard Elbert, Public Member

Daniel Gumble, Public Member

Michael Maloney, Public Member

Mario Vargas, Public Member

being a quorum of the Members of the Board. Mr. Elbert, Mr. Gumble, Mr. Moore and Mr. Piaia 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.

Pledge of Allegiance

Led by the Chairman, the Members and all assembled stood and recited the Pledge of Allegiance.

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 a quorum of the Members of the Board was present.

Approval of Meeting Minutes

The Chairman presented for consideration and approval the minutes of the Board's July 6, 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. Luckie and seconded by Mr. Vargas, the Open Session minutes of the July 6, 2022 SDA Board meeting were approved with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3a***.

Authority Matters

CEO Report

Mr. Nixon asked Mr. Da Silva for the report of the CEO. Mr. Da Silva began his report with an update on design-build projects in the design phase. He said that a notice-to-proceed (NTP) with design-build services for the Union City Grade 7-9 School project was issued to Dobco, Inc. the previous month. He added that the procurement for construction management (CM) services was advertised in June. He said that technical and price proposals were received from ten firms on July 26 and that the price proposals would be publicly opened on August 17.

Turning to design-build projects in construction, Mr. Da Silva reported that for the Plainfield Woodland Avenue Elementary School project, exterior masonry, window and curtain

wall installation is ongoing. For the Perth Amboy High School project, he said that roof work, exterior wall framing and sheathing are ongoing, along with masonry and mechanical, electrical and plumbing rough-in work on all floors.

With respect to design-bid-build projects in the construction stage. Mr. Da Silva reported that final site work and interior finishes are ongoing for the Keansburg Port Monmouth Road School project. He said that the A-wing and the B-wing administrative offices of the school are scheduled for September 2022 district occupancy. He noted that the remainder of the school is scheduled for completion December 2022.

Next, Mr. Da Silva provided the Board with a status update regarding the SDA owned property in the Astor Place section of Jersey City. He informed the Members that, as reported at the July Board meeting, legal counsel for the Black Interest Team Enterprise (BITE) organization, the Jersey City School District (District) and the SDA had a productive discussion on June 28, with all parties expressing support for reestablishing a community garden at the property. He said that the attorneys also acknowledged that the SDA and the District had reached agreement on the terms of prospective licensing documents more than a year ago in May of 2021. He explained that, during the meeting, BITE's counsel asked that he have until July 11 to further discuss the license/sublicense documents with his client. Mr. Da Silva advised the Board that SDA's Chief Counsel followed up with counsel for the District and BITE on July 12 and again on July 21 seeking an update on the status of BITE's comments on the licensing documents. He said that BITE's counsel responded on both occasions that he had attempted to discuss the matter with his client, but was still waiting to hear back from BITE representatives.

In concluding his report, Mr. Da Silva informed the Members that SDA's human resources director, Joseph Shiarappa, had provided his notice of resignation, noting that his last

day with the Authority will be on August 12. He said that he wanted to wish Mr. Shiarappa well and to publicly acknowledge his contributions during his time with SDA.

School Review Committee

Next, Mr. Nixon asked Mr. Luckie to provide the report of the School Review Committee. Mr. Luckie reported that the School Review Committee met twice--on July 18, 2022 and July 27, 2022-- at which time three items that require Board consideration were discussed. He said that the Committee is recommending Board approval of a contract amendment for the Orange Cleveland Street Elementary School (OCES) project. He reported that the OCES is a 39,000 square foot facility currently educating 306 students in grades K through 7. He advised that in March 2019, the SDA Board approved an award for construction services and a final charter for a project at the School. He explained that the project scope includes an 11,550 square foot addition and renovations (Project) to address overcrowding. He added that the Project will allow a change in grade alignment to Pre-K through grade 6, consistent with the district's approved Long Range Facilities Plan. He said that in May 2019, the Project's general contractor (GC), Brockwell & Carrington, initiated construction services with Epic Management (Epic) providing CM services.

In continuing, Mr. Luckie reported that in January 2022, the SDA issued a "Notice of Termination for Convenience" to the GC directing that they complete portions of the work and demobilize from the Project site by March 1. He explained that in preparing to procure a new GC, staff requested that the Project design consultant, LAN Associates (LAN), provide additional services needed to address structural and architectural issues related to conditions uncovered following asbestos abatement that were not visible during design of the renovation. He said that before the Board today is Amendment No. 18 which is necessary to compensate LAN in the lump sum amount of \$128,000 for these additional Project services. He advised that

LAN's performance of the services was confirmed following a review of relevant records with Epic and with the SDA Project team. He said that all documents supporting Amendment No. 18 have been reviewed by staff and determined to be in compliance with SDA policy and procedures. He noted that the items in the amendment and its amount have been determined to be justified, reasonable and appropriate. He advised the Members that the Board is requested to approve Amendment No. 18 for LAN Associates in connection with the OCES 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 Mr. Maloney, Amendment No. 18 for LAN Associates was approved with the Board's unanimous vote in favor of ***Resolution 5a.***

Next, Mr. Luckie said that management is seeking Board approval of Amendment No. 22 for the Orange High School (OHS) project. He reported that OHS is a 145,000 square-foot facility educating 804 students in grades 10 to 12. He explained that the scope of work underway there includes a two-story addition of approximately 50,000 square feet, an enclosed connecting bridge between the OHS and the adjacent Orange Preparatory Academy (OPA), and selective renovations to the existing OHS building to address facilities conditions deficiencies (the Project). He reported that in March 2019, the Board approved the award of a contract in the amount of \$37 million to Terminal Construction (Terminal) for Project construction services along with the Project's final charter. He advised that in April 2019, Terminal was issued a limited NTP with a constructability review to identify any potential conflicts in the Project documents and, once this was completed, any corresponding costs to address them. He said that the constructability review phase was completed in November 2019 and in December 2019, the Board approved Change Order No. 2 for Terminal and issued an NTP with construction in January 2020.

In continuing, Mr. Luckie informed the Members that during the course of construction, various unforeseen hidden conditions were encountered that differed from what was identified on the as-built plans of the existing High School that had been provided to the Project's design architect, Kliment Halsband Architects (KHA), for use during design. He said that following review, it was determined that these variances in existing conditions were not foreseeable by KHA and that the construction work necessary to address them was not accounted for in the Project scope which was the basis of KHA's original fee. He reported that in January of this year, the Board approved Amendment No. 20 to compensate KHA for additional construction phase service hours made necessary by identification of the unforeseen conditions. He said that Amendment No. 20, however, did not include compensation for additional construction administration phase services performed by KHA's mechanical, electrical and plumbing engineer, Loring Consulting Engineers (LCE), with the result that an additional amendment is now required to compensate LCE, through KHA, for their work in performing these additional services. Mr. Luckie advised that all documents supporting Amendment No. 22 have been reviewed by staff and determined to be in compliance with current SDA policy and procedures. He added that staff has also concluded that Amendment No. 22 is justified and the amount is reasonable and appropriate. Mr. Luckie said that the Board is requested to approve Amendment No. 22 in the lump sum amount of \$132,000 to KHA for its sub-consultant, LCE, for additional construction phase service hours for the OHS addition and renovations 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. Burgos and seconded by Mr. Vargas, Amendment No. 22 for Kliment Halsband Architects was approved with the Board's unanimous vote in favor of ***Resolution 5b***.

In continuing, Mr. Luckie informed the Members that management is also seeking Board

approval of Change Order No. 1 in connection with the Asbury Park Thurgood Marshall Elementary School (Marshall School or School) mercury in flooring project (Project).

By way of background, Mr. Luckie reported that in 2020, the Authority, in consultation with the state Department of Health (DOH) and in accordance with DOH guidance, advanced a multi-step initiative to evaluate flooring materials utilized in SDA-delivered school facilities to determine the presence of mercury. He said that in order to identify those facilities with flooring that contained mercury and thus required remedial work, the Authority conducted site visits to more than 140 school facilities in SDA Districts, along with 25 school facilities delivered in Regular Operating Districts. He explained that, of these facilities reviewed by staff, approximately 30% were determined to have poured polyurethane flooring systems requiring further evaluation. He advised that SDA then engaged qualified environmental professionals to perform bulk sample testing and an evaluation of those identified flooring types.

Mr. Luckie advised the Board that with DOH guidance, SDA continues to work in consultation with SDA school districts to complete air monitoring activities in school facilities, and also with impacted school districts to replace or remediate any flooring systems as needed.

With respect to the matter at hand, Mr. Luckie informed the Members that in 2006, the Schools Construction Corporation, SDA's predecessor entity, completed construction of a 3-story, 13,278 square foot addition with a new entrance at the Marshall School. He said that testing and air monitoring of the flooring at the School by an SDA-engaged environmental consultant revealed the presence of mercury in excess of DOH standards. He said that based on these test results, the Authority determined that it was necessary to remove the flooring in the Marshall School's multipurpose room and to install new flooring. He advised the Board that the work to this end is proceeding during non-school hours. He further advised that during the

removal process of the multipurpose room floor, additional problematic flooring material was found at the front edge of the concrete steps to the stage and at the adjacent brick columns.

Mr. Luckie explained that Change Order No. 1 would compensate the GC, Hall Building Corporation (HBC), for the removal of these two concrete steps at the stage front, the first course of brick at adjacent columns, and all flooring material beneath these elements. He said that in an effort to ensure timely project completion and allow for September occupancy, the Project team requested that the contractor provide two price proposals: the first for removal of the concrete steps and brick and floor material to facilitate the complete abatement of the conditions underneath; and the second for replacement of the stairs and brick. He explained that HBC's first cost proposal--for removal of the concrete stairs and brick and floor material to facilitate the complete abatement of the conditions underneath--was in the amount of \$38,295.00, with subsequent negotiations resulting in an agreed-upon not-to-exceed value of \$36,400 for Change Order No. 1. He said that management expects that the additional work-- replacement of the stairs and brick work--will be completed by the GC under a separate change order that would not be at a level that requires Board approval but, rather, would be presented to the CEO for authorization. Mr. Luckie said that all documents supporting Change Order No. 1 have been reviewed by the associated SDA Project team and it was determined that the items included therein are consistent with SDA policies and that the amount is reasonable and appropriate.

He concluded by advising the Members that management is requesting Board approval of Change Order No. 1 in the not-to-exceed amount of \$36,400 so that the contractor can proceed with removal of the stairs, brick and floor material and with abatement of the conditions underneath in order to ensure district occupancy of the building in September.

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, Change Order

No. 1 for Hall Building Corporation was approved with the Board's unanimous vote in favor of **Resolution 5c.**

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 in Executive Session. Ms. Kelly said that the Board will consider management's request for authorization to purchase Real Property in Newark, New Jersey. She said that the Board will vote on this matter upon its return to Open Session. Ms. Kelly requested that the Chairman present **Resolution No. 8.**, reflecting the Members' resolve to move into Executive Session to discuss the above-described matters.

The Chairman presented **Resolution No.8.** for a vote. Upon motion duly made by Mr. Vargas and seconded by Mr. Luckie, the Members of the Authority 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. Vargas announced that in Executive Session the Board had discussed management's and the Real Estate Committee's recommendation that SDA management receive Board authorization to purchase Real Property in Newark, New Jersey and undertake the necessary due diligence to facilitate the acquisition.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Maloney, and seconded by Mr. Luckie, the Board authorized management to conduct the necessary due diligence and to proceed with the purchase of Real Property in Newark, New Jersey with the Board's unanimous vote in favor of **Resolution 6a.**

The Chairman then acknowledged the presence of those Jersey City residents who had arrived at the meeting after the CEO offered his monthly report. He said that, as these members

of the public had missed the CEO's status update regarding the Astor Place Community Garden, he would ask Mr. Da Silva to provide the update again for their benefit.

Mr. Da Silva advised that, as reported at the July Board meeting, on June 28, legal counsel for the BITE organization, the District and the SDA had a productive discussion with all parties expressing support for reestablishing a community garden at the property. He said that they also discussed that SDA and the District had reached agreement on the terms of prospective licensing documents more than a year ago in May of 2021. He reiterated that SDA and the District are in agreement to open the community garden. He explained that during the meeting, BITE's counsel asked that he have until July 11 to further discuss the license/sublicense documents with his client, adding that his client is the BITE organization. He said that SDA's Chief Counsel followed up with counsel for both the District and BITE on July 12 and again on July 21 to request any comments that BITE might have on the licensing documents. He added that BITE's counsel responded on both occasions that he had attempted to discuss the matter with his client (BITE) but was still waiting to hear back from the BITE organization. Mr. Da Silva said that as far as the licensing agreement, SDA and the District are on board and ready to execute the agreement, however, they are awaiting feedback and comments from BITE.

Mr. Nixon said that the ball is fully in BITE's court and that once BITE signs the agreement the community garden will open up again.

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 August 3, 2022 meeting.

/s/ Jane F. Kelly
Assistant Secretary