

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
BOARD OF DIRECTORS MEETING  
WEDNESDAY, SEPTEMBER 4, 2019**

A meeting of the Board of Directors of the New Jersey Schools Development Authority (SDA or the Authority) was held on Wednesday, September 4, 2019 at 9:00 A.M. at the offices of the Authority at 32 East Front Street, Trenton, New Jersey.

Participating were:

Robert Nixon, Chairman  
Michael Kanef (Treasury)  
Bernard Piaia (DOE)  
Donna Sullivan (EDA)  
Kevin Luckie (DCA)  
Kevin Egan  
Richard Elbert  
Lester Lewis-Powder  
Michael Maloney  
Mario Vargas

being a quorum of the Board. Mr. Egan, Mr. Elbert, Mr. Kanef, Mr. Lewis-Powder, Mr. Maloney and Mr. Piaia participated in the meeting by teleconference.

At the Chairman's request, Manuel Da Silva, interim 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. Edmund Caulfield of the Governor's Authorities Unit 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 had been duly posted on the Secretary of State's bulletin board at 20 West State Street in Trenton, New Jersey. Ms. Kelly then conducted a roll call and indicated that a quorum of the Members was present.

### ***Pledge of Allegiance***

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

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

The Chairman then presented for consideration and approval the Minutes of the August 7, 2019 Open and Executive Session meetings. Staff had provided a copy of both sets of minutes and a resolution to the Members for review in advance of the meeting. Upon motion duly made by Mr. Luckie and seconded by Mr. Vargas, the Board approved the Open and Executive Session minutes of the August 7, 2019 SDA Board meeting with the Members' unanimous vote in favor of ***Resolution 4a/4b***.

### ***Authority Matters***

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

Mr. Nixon asked Interim Chief Executive Officer (CEO) Manuel Da Silva for the Report of the CEO. Mr. Da Silva gave an update on September 2019 school openings. He reported that the four new schools that will open in September represent a State investment totaling over \$300 million in total project costs (\$306.3 million) and will deliver a total of: 4,182 new seats with a maximum capacity of 3,666 (facilities efficiency standard capacity); and 680,000 square feet of new school.

First, Mr. Da Silva discussed the Irvington Madison ES project that is set to open in September. He reported that this new 73,500 square foot Elementary School provides maximum

capacity of 504 new seats in grades Pre-K to 5, representing a total project cost of approximately \$38.6 million.

With respect to the Passaic Sonia Sotomayor ES project, Mr. Da Silva informed the Members that this new 105,000 square foot three story Elementary School provides maximum capacity of 698 new seats, representing a total project cost of approximately \$60 million. He said that, during the course of the project, staff adjusted the grade alignment to K to 8 in response to the district's needs.

Mr. Da Silva next gave an update on the Perth Amboy Seaman Avenue ES project (Rose Lopez ES). He said that this new 128,000 square foot, three story Elementary School provides maximum capacity of 804 new seats for grades K to 5, representing a total project cost of approximately \$56.4 million.

Turning to the Trenton Central HS project, Mr. Da Silva said that this new 374,000 square foot High School provides maximum capacity of 2,176 new seats for students in the 10th through 12th grades, representing a total project cost of approximately \$155.4 million.

In continuing, Mr. Da Silva informed the Members that the Irvington Madison Avenue ES project, Perth Amboy Seaman Avenue ES project and Trenton Central HS project were issued temporary certificates of occupancy (TCOs) and the Passaic Sonia Sotomayor ES project was issued a certificate of occupancy (CO).

Next, Mr. Da Silva gave an update on projects in design. He said that design phase services are ongoing for the Paterson Union Avenue MS project. He added that the design-builder has initiated site preparation activities that do not require permit issuance.

Turning to projects in the procurement stage, Mr. Da Silva informed the Members that staff advertised for design-build services in March for the Perth Amboy HS project, with proposals due in September. For the Keansburg Port Monmouth Road School project, he said

that staff advertised for general contracting services in June and proposals are due in September. He added that staff advertised for construction management services in August for the project and proposals are due in September. In regard to the Plainfield Woodland ES project, he said that final site grading work is ongoing and staff advertised for design-build services last week.

Mr. Da Silva gave an update on projects in the constructability stage. He said that for the Orange Cleveland Street ES and Orange HS projects, staff anticipates change orders, finalizing the constructability review process and issuing a notice-to-proceed with construction.

With respect to design-build projects in construction, Mr. Da Silva advised the Members that for the Camden HS project, Ernest Bock & Sons, Inc. (EBS) continues with design phase services. He said that footing, foundation, underground utilities and concrete slab work is ongoing. He added that structural steel work continues in the building. For the East Orange George Washington Carver ES project, he reported that Dobco, Inc., the design-builder, has completed design phase services. He noted that interior mechanical, electrical and plumbing (MEP) finish work is ongoing.

In continuing, Mr. Da Silva said that for the Harrison New ES project, MEP rough-in and building enclosure, exterior masonry veneer construction, roofing and window installation activities are ongoing. For the Millville HS addition and renovation project, he reported that a TCO was issued for the media center in the administrative wing. He added that Hall Construction continues with design phase services. He said that Phase II addition masonry and MEP rough-in activities and Phase III footings and foundation work is ongoing. In regard to the Passaic Dayton Avenue Educational Campus project, Mr. Da Silva reported that Terminal Construction continues with slabs on grade. He added that masonry, site work and bridge construction are ongoing. For the Pemberton Denbo Crichton ES project, he said EBS is completing exterior

walls in preparation for building enclosure prior to winter weather. He noted that MEP interior work is underway.

Next, Mr. Da Silva reported on projects in the programming stages. He said that Hoboken Demarest ES project working group (district, Department of Education and SDA) discussions have concluded and staff will be scheduling a design services kickoff meeting. For the Union City New Grade 7 to 9 School project, he advised that programming refinement discussions and SDA in-house design development are ongoing. He added that the project will be advanced through a design-build delivery method.

Turning to Authority events, outreach and other activities, Mr. Da Silva said that SDA staff and Board Members have had an opportunity to tour the new Trenton Central HS. He thanked Mr. Nixon, Ms. Lemelle, Mr. Vargas, Mr. Elbert, Mr. Luckie and Mr. Piaia for coming out to visit the school. He added that he thinks the facility will be transformative for the students and community.

Mr. Da Silva said that on August 8, SDA joined students, school district officials, and state and local officials for a beam signing ceremony for the new Dayton Avenue Educational Campus in Passaic. He added that it was a great day and that the Mayor and Assemblyman Gary Schaer were able to join the event.

Mr. Da Silva informed the Members that SDA will be running the 2019 Contractor Training Program this coming fall. He said that staff will be advertising the program, noting that it serves the positive purposes of bringing new contractors into the program and increasing the bidding pool.

Finally, Mr. Da Silva said that Communications staff is working on scheduling ribbon cutting events for the 4 new school openings this September. He said that we will be cutting the ribbon on the first day of school for the Passaic Sonia Sotomayor ES tomorrow. He advised the

Members that the Trenton Central HS ribbon cutting will be on Friday, September 6. He noted that once staff has ribbon cutting events confirmed for the Perth Amboy Seaman Avenue and Irvington Madison ES, the Members will be advised.

At this time, Mr. Lewis-Powder joined the call.

### *Chairman's Report*

#### **Document Revisions**

Mr. Nixon said that he is presenting to the Board, after consultation and review with the Audit Committee and with the input of the executive team, some amendments to the SDA Bylaws. He said that while the changes that are being proposed to amend the Bylaws and other operating documents to the SDA are “no brainers”, these changes will provide the Board with a little more information that the Members should have on a quarterly, annual or day to day basis. He said that he doesn't think that the Board should go to the other extreme and micro-manage staff, noting that this is not what this Board is designed to do or should be doing. He said that, overall, in the history of the SDA the Board has had a wonderful team of leaders at the Authority and they have done amazing work. He noted that the amendments that are being brought to the Board today enhance the ability of the Board to exercise its fiduciary responsibility and oversight of the Authority. Mr. Nixon asked Ms. Kelly to present the proposed changes to the Board.

Ms. Kelly informed the Members that in order to amend the bylaws, changes must be approved by 8 Members of the Board. She explained that as the Audit Committee Charter is silent on its amendment process she recommends that the Board approve the Charter amendments as well. She added that the proposed changes to the SDA Handbook will be made through a policy change and management can do this on its own.

Ms. Kelly said that the proposed the amendments to the Bylaws require that management prepare and provide the Board with a Staffing Plan on an annual basis and the Board would have

to approve and adopt that Staffing Plan as it currently approves the Authority's annual budget. She added that if the CEO desires to reorganize the Authority, this would require Board approval as well. She noted that the Board also must be consulted regarding employee compensation matters.

Ms. Kelly said that, pursuant to the proposed changes to the Audit Committee Charter, the Audit Committee would be required to compare actual expenses to budgeted amounts at least quarterly. She said that the amendments also provide that the Audit Committee is the proper entity for an individual to go to should they see a potential violation of the Authority's rules and regulations (e.g. Operating Authority, Employee Handbook, etc.). She added that the Audit Committee also would now be required to review a proposed Staffing Plan before it goes to the Board for approval. Ms. Kelly said that management also would be responsible for ensuring that a discussion of compensation and personnel matters appears on the Audit Committee's agenda on a quarterly basis.

Next, Ms. Kelly discussed proposed changes to the SDA Handbook. She said that the amendments clarify that background checks must precede hiring and that fingerprint checks may be done in connection with certain (IT, Human Resources, Financial) staff positions.

Ms. Kelly explained that, currently, relatives of the CEO, Chief Financial Officer and Chief of Staff cannot work at the Authority. She added that this provision extends that prohibition to the Chief Operating Officer and vice president positions. She reported that the amendments also would establish a formal process in the event that a relative of an employee is to be on-boarded. She added that such a hire would require transparency, Ethics Liaison Officer (ELO) sign off, and executive team and CEO sign off.

In continuing, Ms. Kelly said that, currently, if two employees develop a romantic relationship, they can decide which one of them must leave if accommodations cannot be made

enabling both to stay. She advised that the amendments would provide that management will make that call. She explained that the amendments also make clear that employees involved in a romantic relationship cannot serve in supervisor/subordinate roles.

Ms. Kelly said that the proposed amendments establish a process for the filling of all positions: a requisition form, Executive Team review and recommendation to the CEO and CEO sign off. She explained that, similarly, appointments, assignments and transfers require Executive Team approval before advancing to the CEO. She added that the basis for these changes is to ensure that no one person can do things unilaterally. She said that the Executive Team also must review new hire salaries and candidate resumes against job descriptions to ensure that the new hire is a proper fit. She added that in the event that an employee who has not been employed by the Authority for one full year is to be considered for a new position within the Authority, the proposed amendments require that the Executive Team determine that a legitimate “business need” warrants waiver of the existing one year ban to such movements. She added that, as stated before, this is to ensure that no one person can give a new employee a new job within the Authority without a solid basis.

In continuing, Ms. Kelly explained that the amendments require that all resumes to be considered for a position be received in response to a job posting through the SDA’s resume portal. She said that the amendments specify that resumes cannot be given by individuals to others for consideration and that employees must not attempt to influence a hiring process. She added that if an employee seeks to interfere with a hiring process or to retaliate against another employee in connection with that process, they will be subject to discipline. She noted that any such attempts must be reported to the ELO.

Next, Ms. Kelly informed the Members that, currently, the handbook stipulates that the CEO is to be provided with an SDA vehicle. She said that the amendments would eliminate that

provision and simply provide that any employee may be assigned a vehicle if the situation warrants.

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. Luckie, the proposed document revisions were approved with the Board's unanimous vote in favor of ***Resolution 5bi***.

### ***Audit Committee***

Mr. Nixon, as Audit Committee Chairman, reported that the Audit Committee met on both August 19 and August 26, 2019 at which time management provided the Committee with the June-July 2019 New Funding Allocation and Capital Plan Updates. He advised that, during the reporting period, there was a \$2.6 million decrease in the 2008 Emergent Projects Reserve balance following approval of emergent project funding for the Pleasantville North Main Street ES emergent HVAC replacement project. He reported that there was a \$2.3 million decrease in the 2011 Emergent Projects Reserve balance following approval of emergent project funding for the Camden Forest Hill ES roof and HVAC replacement, Newark Chancellor Avenue ES basement water infiltration and structural repairs, Newark Dr. E. Alma Flagg ES exterior door and partial roof replacement and Newark Lafayette Street ES exterior door and partial roof replacement projects. He noted that there were no changes in the remaining SDA District Reserve balances. Mr. Nixon advised that the reserve balance for the Regular Operating Districts ("RODs") increased by \$1.3 million during the reporting periods due to a reduction in state share for grant projects nearing completion.

Mr. Nixon then provided the July 2019 Monthly Financial Report. He advised the Committee that the Authority's operating expenses (Actual vs. Budget) for the year-to-date period totaled \$11.0 million, down \$1.3 million as compared to the budget for the corresponding period. He explained that the decrease is mainly attributable to lower than budgeted personnel

costs. He noted that there are 48 fewer than budgeted full time employees (FTE) on staff – including a decrease of 30 FTEs near the end of July. He reported that operating expenses (Actual vs. Prior-year Actual) for the year-to-date period, at \$11 million, are approximately \$1 million higher as compared to the corresponding prior year. He advised the Committee that the variance is largely attributable to an increase in personnel costs and the 2018 Authority restructuring. Mr. Nixon then said that school facilities project expenditures (Actual vs. Forecast) for the year-to-date period total \$174.8 million, \$10.8 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 grant activity, design services— net of cost recovery settlements, property acquisitions and other related costs. He noted that this decreased spending is offset by an increase in construction activity. Mr. Nixon then reported that project expenditures (Actual vs. Prior Year Actual), at \$174.8 million, are \$13.7 million lower as compared to the corresponding prior year period. He explained that the variance is due to decreased grant activity, project insurance costs and design services – net of cost recovery settlements. He noted that this decreased spending is offset by an increase in spending for construction work and school furniture purchases. He further reported that, since program inception, approximately 84.6% of the funds authorized for SDA districts have been disbursed. Additionally, he said that, since program inception, 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, emergent and regular operating district grant projects is approximately \$2 billion.

Next, Mr. Nixon advised that four (4) matters were discussed requiring Board action. He said that the first item for Board consideration is management’s proposed one-year contract extension for Network, Hardware and Software Support Services (IS services). Referencing a

memorandum that was distributed to the Members in advance of the meeting, Mr. Nixon noted that in September 2016 the Board approved a 3-year IS services contract with Vinci Systems, LLC for the not-to-exceed amount of \$1 million. He noted that the contract provided the SDA with a one-year extension option. He explained that IS services are necessary to ensure that critical systems do not experience failures that lead to excessive network or system outages. He said that, in July 2017, Amendment No. 1 to the contract was approved for \$62,300.00 to include on-site technical support and consulting services. He advised that the current contract expires October 31, 2019, with approximately \$447,000 having been expended to date for IS services. He said that management is seeking approval to extend the agreement for the one-year optional period. He said that the one year extension would commence on November 1, 2019 and terminate on October 31, 2020. Mr. Nixon emphasized that no additional dollars are required and that the total not-to-exceed contract will remain unchanged at \$1,062,300.00. Mr. Nixon said that the Committee recommends Board approval of the optional one-year extension to the contract for Network Hardware and Software Support Services in the amount of \$0.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon a motion duly made by Mr. Vargas and seconded by Mr. Luckie, the Board approved the one-year extension for network hardware and software support services as proposed upon its unanimous vote in favor of ***Resolution 6a***.

Next, Mr. Nixon advised the Members that the Audit Committee is recommending that the Board of Directors approve the award of a contract for Independent Auditor Services to Ernst & Young, LLP. Referencing materials that previously were provided to the Members for review, he explained that the Request for Proposals (RFP) was advertised on June 24, 2019 as a “Price and Other Factors” solicitation. He advised that price was 20% of the overall weight, and all non-price factors were given a combined weight of 80%. He explained that, consistent with Executive

Order (EO) No. 122, the SDA Bylaws and the Audit Committee Charter, the procurement process was conducted by an Evaluation Committee consisting of three (3) Board Members. Mr. Nixon reported that, upon completion of the process, the top ranked firm was Ernst & Young, LLP. He advised that the initial term of the annual lump sum fee contract is 3 years, covering the financial statements for fiscal years ending December 31, 2019, 2020 and 2021. Additionally, he said that the contract may be extended for two (2) one-year terms subject to approval by the Board of Directors. Mr. Nixon requested that the Board approve the award for independent auditor services to Ernst & Young, LLP.

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. Luckie, a contract award for independent auditor services to Ernst & Young, LLP was approved with the Board's unanimous vote in favor of **Resolution 6b**.

In continuing, Mr. Nixon said that the Board is being requested to consider management's recommendation to approve the SDA's 2018 Financial Statements (the Statements). He said that the Authority's accrued net pension liability as of December 31, 2018 is \$49.8 million, a decrease of \$10.3 million from 2017. He advised that the decrease is largely attributable to the increase in the discount rate. He noted that the financial statements reported no corrected misstatements or material uncorrected misstatements. Mr. Nixon explained that the independent auditor's report expressed an unmodified, or clean, opinion that the Financial Statements present fairly, in all material respects, the financial position of the Authority as of December 31, 2018 consistent with Generally Accepted Accounting Principles. Mr. Nixon and Mr. Vargas noted the outstanding cooperation and assistance that SDA staff provided throughout the audit process. Mr. Nixon asked for a vote on the 2018 Financial Statements.

Staff had provided the Members with a resolution pertaining to the 2018 Financial Statements in advance of the meeting. Following discussion, upon a motion by Mr. Vargas and seconded by Mr. Luckie, the Authority's 2018 Financial Statements were approved by the Board upon its unanimous vote in favor of the resolution attached hereto as ***Resolution 6c***.

Mr. Nixon also advised the Members that, in accordance with Executive Order 122, at the conclusion of the August 26 Audit Committee Meeting, the Committee met with Ernst & Young without management present.

Next, Mr. Nixon reported that the Authority's Annual Report for 2018 has been prepared by management in compliance with the SDA bylaws and in accordance with Executive Order No. 37. He explained that the Annual Report is comprised, among other things, of the Authority's audited financial statements and identifies internal controls that govern expenditures, procurements and other financial matters and transactions. He said that management is recommending that the Board approve the Authority's 2018 Annual Report. Mr. Nixon asked for a vote on the 2018 SDA Annual Report.

A resolution pertaining to the 2018 SDA Annual Report was provided to the Members in advance of the meeting. Following discussion, upon a motion by Mr. Luckie and seconded by Mr. Vargas, the Authority's 2018 Annual Report was approved by the Board upon its unanimous vote in favor of the resolution attached hereto as ***Resolution 6d***.

### ***School Review Committee***

#### **Approval of Awards – General Construction Services Task Order Contract – GP-0259-C01**

Mr. Nixon asked Mr. Vargas to provide the report of the School Review Committee. Mr. Vargas reported that the School Review Committee met on August 19, 2019 at which time one

item was discussed in Open Session. He explained that the Authority utilizes a general construction services task order contract (GCTOC) to address emergent projects and in situations that constitute an “emergency” consistent with the public exigency exception to statutory public bidding requirements. He said that the GCTOC has been structured so that the SDA can quickly initiate work through a pool of contractors. Mr. Vargas advised that the task order firms are expected to perform all phases of general construction and to mobilize and begin construction within a maximum of 14 calendar days. He reported that the Authority issued 12 task orders valued at approximately \$9,700,000 through its most recent GCTOC which is due to expire on November 15. He explained that, following a competitive procurement process, SDA executive management recommends that the Board approve the execution of a new three year GCTOC with 12 firms. Mr. Vargas said that, as with the current GCTOC, under the proposed GCTOC, no individual task order can exceed \$3 million and no individual firm can receive more than \$5 million of work per region (northern and southern) during the three-year term. He added that the memorandum provided to the Board outlines additional details, compensation, the term and parameters of the proposed task order contract, along with the names of the 12 firms and the particulars of the procurement process that was followed.

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 Ms. Sullivan, the proposed General Construction Services Task Order Contract was approved with the Board’s unanimous vote in favor of *Resolution 7a*.

### ***Public Comments***

The Chairman then opened the Public Comments portion of the meeting. At the Chairman’s request, Ms. Marcella Simadiris addressed the Board. Ms. Simadiris stated that she has been an educator for nineteen (19) years in Paterson and is the parent of three (3) children

who attend the Montclair Public Schools. She said that she is a member of the Peoples Organization for Progress (Newark) founded by Chairman Lawrence Hamm. Ms. Simadiris apologized for her lack of knowledge about the business that is taking place and said that if there are already plans in place for the concerns she is bringing forth today she would ask to be directed to those plans. She said that her major concern is the bureaucracy that the SDA places on the districts that the Authority was created to help. She said that what she hears “in the street” is that emergency applications have been denied that should have been accepted to address lead issues in the schools. Mr. Nixon advised that at the close of the meeting, Ms. Simadiris will be put in contact with staff that can explain the emergent process to her.

Ms. Simadiris said that on top of the spending that occurred with the new hires and nepotism, a press article had indicated that the SDA spends a lot more per square foot than the average project. Ms. Simadiris said that she has been watching the agency since the early 2000s when it was the SCC. She referenced the original mismanagement of funds and when the list of projects was reduced to 30 schools. She said she watched the agency place the Colin Powell School on the reduced list of schools after the massive mismanagement of funds. She noted that a site in Union City was awarded to a developer who built an apartment building that raised the property value by \$1 million. She said that that apartment building was quickly demolished. She said that the SDA has wasted money when it was created to bring forth equity for the state’s most vulnerable children. She asked to be directed to someone who could show her that there will be an authentic shift in the company towards curbing waste. She asked for help in looking up information on the SDA website regarding grants. She stressed that she doesn’t want to pit the ROD districts against the SDA districts but that it seems that the RODs are receiving greater benefits from the Authority than are the children that SDA was supposed to help. Mr. Nixon said that he would disagree with her statement that the SDA is wasting money. He noted that

there is a lot of misinformation “out there” and that it is important to know what the law is, and how it relates to what the Authority controls vs. what the districts are responsible for, and how the DOE is involved in the process. He said that he will make sure that Ms. Simadiris is put in contact with staff that can enlighten her and answer her questions.

### *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 September 4, 2019 meeting.

*/s/ Jane F. Kelly*  
Assistant Secretary