

**Massachusetts School Building Authority
Board Meeting Minutes of August 31, 2022**

A meeting of the Massachusetts School Building Authority (the “Authority” or “MSBA”) was held on August 31, 2022. The meeting was held remotely via Zoom.

Members Present: Deborah Goldberg, State Treasurer and Chair; Sean Cronin, Designee of the Secretary of Administration and Finance; Matt Deninger, Designee of the Commissioner of Education; Terry Kwan, appointed member; Anne Brockelman, appointed member; and Sheila Vanderhoef, appointed member.

Others Present: James MacDonald, Chief Executive Officer; Jack McCarthy, Executive Director/Deputy Chief Executive Officer; Mary Pichetti; Laura Guadagno; Christine Nolan; Matt Donovan; Maria Puopolo; Barbara Hansberry; Colleen Smith; Mike Bergquist; John Jumpe; Karl Brown; Evan Levesque; Erin Sullivan; municipal representatives; legislative representatives; local elected officials; and other members of the MSBA and the public.

Call to Order

The Chair called the meeting to order at 10:01 a.m. and asked if anyone is recording the meeting. No one announced that they were recording the meeting.

She then explained that the meeting is being held in accordance with Chapter 107 of the Acts of 2022, which permits remote participation by all Board members and allows the MSBA to use adequate alternative means, such as a conference call line, to ensure public access to the deliberations of the Board.

The Chair commented that she would like to recognize Greg Sullivan’s service as a member of the MSBA Board of Directors. Mr. Sullivan recently submitted his resignation from the Board, and the MSBA wishes him well with his retirement.

Mr. Sullivan served proudly on the MSBA’s Board of Directors since first being appointed on October 3, 2012. He was reappointed on October 3, 2016, October 3, 2018 and October 3, 2020. The Chair noted that Mr. Sullivan has been very supportive of the MSBA. He has been focused on the kids, the communities, and the taxpayers. The Chair noted that the Executive Director will also speak to Mr. Sullivan’s service during the Executive Director’s report. The Chair commented that, on behalf of the other Board Members, MSBA staff, and all the communities that have benefitted from Mr. Sullivan’s service on the Board, she offers a very heartfelt thank you and wishes Mr. Sullivan well with all his future endeavors.

Next, the Chair provided a brief overview of the items on the agenda for the meeting. She explained that the Board will be voting to: approve minutes from the June 22, 2022 Board of Directors meeting; execute Project Funding Agreements for seven projects from six districts in the Accelerated Repair Program, with an Estimated Maximum Total Facilities Grant of approximately \$11.2 million; authorize two proposed projects to proceed into Preferred Schematic Design with an estimated \$135.2 million in total construction costs; invite one district to enter into a Project Scope and Budget Agreement and Project Funding Agreement, with an Estimated Maximum Total Facilities Grant of approximately \$24.6 million; and approve seven final audits from six districts with a Final Total

Facilities Grant of approximately \$38.4 million. Finally, the Board will receive updates from the Executive Director, Capital Planning, Finance and Legal staff.

Acceptance of the June 22, 2022 Minutes

The Chair asked for a motion to accept the minutes of the June 22, 2022 Board meeting. A motion was made by Ms. Kwan and seconded by Ms. Vanderhoef:

Approval of the Minutes of the June 22, 2022 Board Meeting

VOTED: That the Board of Directors of the Massachusetts School Building Authority hereby approves the Minutes of the June 22, 2022 Board meeting.

There being no Board discussion, the Chair asked for a roll call vote of the Board.

Roll Call Vote:

Anne Brockelman – Yes
Terry Kwan – Yes
Sheila Vanderhoef – Yes
Sean Cronin – Yes
Matt Deninger – Yes
Deborah Goldberg – Yes

The motion passed – 6 in favor, 0 against, 0 abstaining.

Accelerated Repair Program Project Funding Agreement Authorization

Next, Project Manager Evan Levesque explained that prior to today's Board meeting, MSBA staff received Schematic Design submissions from six districts representing seven schools. The school projects combine for five roof replacement projects and two window and door replacement projects. MSBA staff have reviewed the existing conditions analysis and proposed schedule provided by each district and have discussed the scope and budget with the districts and their consultants. The districts have provided combined Total Project Budgets of approximately \$20.4 million, which include total construction estimates of approximately \$16.4 million. The combined Estimated Maximum Total Facilities Grants for these projects are \$11,205,988. Including potentially eligible project contingencies, the combined Maximum Facilities Grants are \$11,705,925.

In conclusion, staff recommend that the six districts, representing seven schools, receive authorization to enter into Project Funding Agreements with the MSBA.

The Chair asked for a motion, and the following motion was made by Ms. Vanderhoef and seconded by Ms. Kwan:

Vote to Authorize the Executive Director to Execute Project Funding Agreements for the Proposed Accelerated Repair Projects

VOTED: That the Board of Directors hereby approves the Proposed Accelerated Repair Projects, as set forth below and as further described in the materials presented to the

Board and attached hereto, and as such the Proposed Projects shall be further defined in the Project Funding Agreements, and authorizes the Executive Director to take all steps necessary to execute and deliver Project Funding Agreements with the Districts set forth below, in such forms as he may determine to be acceptable, and expend funds in accordance with such Project Funding Agreements, in accordance with the following:

District	School	Scope	Total Project Budget	Estimated Maximum Total Facilities Grant	Maximum Total Facilities Grant
Everett	Webster School	Roof	\$1,741,943	\$911,315	\$947,302
Freetown-Lakeville Regional School District	Assawompset Elementary School	Windows/ Doors	\$4,222,294	\$2,160,168	\$2,259,658
Gloucester	Ralph B. O'Maley Innovation Middle School	Windows/ Doors	\$6,421,887	\$3,554,161	\$3,722,400
Haverhill	Moody Preschool	Partial Roof	\$832,335	\$577,283	\$602,682
Lynn	Captain William G. Shoemaker Elementary School	Roof	\$3,372,500	\$2,357,088	\$2,455,300
Melrose	Herbert Clark Hoover Elementary School	Roof	\$2,306,449	\$1,021,573	\$1,069,127
	Horace Mann Elementary School	Roof	\$1,460,177	\$624,400	\$649,456
			\$20,357,585	\$11,205,988	\$11,705,925

Everett Superintendent Priya Tahiliani thanked the MSBA and the Board and commented that the City has appropriated the funds for the proposed project at the Webster School.

An aide to State Representative Joseph McGonagle thanked the MSBA for its support for the proposed project at the Webster School in Everett.

Lakeville Town Administrator Ari Sky thanked the MSBA and commented that the District is excited for the proposed project at the Assawompset Elementary School.

Gloucester Superintendent Ben Lummis thanked the MSBA for its support for the proposed project at the Ralph B. O'Maley Middle School.

The Executive Director noted that the MSBA received a letter of support from Superintendent Margaret Marotta for the proposed project at the Moody Preschool in Haverhill.

Lynn Interim Superintendent Debra Ruggiero thanked the MSBA for its support for the proposed project at the Captain William G. Shoemaker Elementary School.

Melrose Mayor Paul Brodeur thanked the Executive Director, the Treasurer, and the Board for their support for the proposed projects at the Herbert Clark Hoover Elementary School and the Horace Mann Elementary School.

There being no more discussion, the Chair asked for a roll call vote of the Board.

Roll Call Vote:

Anne Brockelman – Yes
Terry Kwan – Yes
Sheila Vanderhoef – Yes
Sean Cronin – Yes
Matt Deninger – Yes
Deborah Goldberg – Yes

The motion passed – 6 in favor, 0 against, 0 abstaining.

Recommendation for Preferred Schematic Design

Next, the MSBA's Director of Project Management, John Jumpe, explained that the Board is being asked to approve the Preferred Schematic Design for the Fort River Elementary School in the Town of Amherst. The recommendation is for a new three-story building to replace the existing Fort River Elementary School and the Wildwood Elementary School with a new facility for 575 students in kindergarten through grade 5 on the existing Fort River Elementary School site. The proposed project is approximately 106,000 square feet, with an estimated total project cost of \$97.4 million and an estimated total construction cost of approximately \$77.9 million.

The Chair asked for a motion, and the following motion was made by Ms. Vanderhoef and seconded by Ms. Kwan:

Vote on Moving the Town of Amherst to Schematic Design

VOTED: That the Board of Directors hereby authorizes the Executive Director to do all acts necessary, execute and deliver any and all documents and agreements, and expend funds as deemed appropriate by the Executive Director to assist the Town of Amherst with, in concept, the development of schematic designs to consolidate the student population of the existing Fort River Elementary School and the Wildwood Elementary School and construct a new facility serving grades K-5 on the site of the existing Fort River Elementary School, as further described in the materials presented to the Board and attached hereto, in accordance with G.L. c. 70B and 963 CMR 2.00 *et seq.* and all other guidelines and policies of the Authority.

Amherst Superintendent Mike Morris introduced others that were on the call and thanked the MSBA for its support for the proposed project in Amherst.

The Executive Director noted that State Senator Joanne Comerford and State Representative Natalie Blais sent a letter of support for the proposed project in Amherst.

State Senator Joanne Comerford thanked the MSBA for its support for the proposed project in Amherst.

State Representative Mindy Domb thanked the MSBA and local officials for their support for the proposed project in Amherst.

There being no more discussion, the Chair asked for a roll call vote of the Board.

Roll Call Vote:

- Anne Brockelman – Yes
- Terry Kwan – Yes
- Sheila Vanderhoef – Yes
- Sean Cronin – Yes
- Matt Deninger – Yes
- Deborah Goldberg – Yes

The motion passed – 6 in favor, 0 against, 0 abstaining.

Next, the Director of Project Management explained that the Board is being asked to approve the Preferred Schematic Design for the Green Meadow Elementary School in the Town of Maynard. The recommendation is for a new two-story building to replace the existing Green Meadow Elementary School with a new facility on the existing site for 395 students in kindergarten through grade 3, plus pre-kindergarten. The MSBA's work with the District continues and the MSBA anticipates an updated educational program in September.

The proposed project is approximately 88,000 square feet, with an estimated total project cost of \$71.5 million and an estimated total construction cost of \$57.2 million.

The Chair asked for a motion, and the following motion was made by Ms. Kwan and seconded by Mr. Deninger:

Vote on Moving the Town of Maynard to Schematic Design

VOTED: That the Board of Directors hereby authorizes the Executive Director to do all acts necessary, execute and deliver any and all documents and agreements, and expend funds as deemed appropriate by the Executive Director to assist the Town of Maynard with, in concept, the development of schematic designs to replace the existing Green Meadow Elementary School with a new facility serving pre-kindergarten through grade 3 on the existing school site, as further described in the materials presented to the Board and attached hereto, in accordance with G.L. c. 70B and 963 CMR 2.00 *et seq.* and all other guidelines and policies of the Authority.

Maynard Superintendent Brian Haas thanked the Designer and Owner's Project Manager working on the proposed Green Meadow Elementary School project. He thanked the MSBA for its support.

There being no more discussion, the Chair asked for a roll call vote of the Board.

Roll Call Vote:

Anne Brockelman – Yes
Terry Kwan – Yes
Sheila Vanderhoef – Yes
Sean Cronin – Yes
Matt Deninger – Yes
Deborah Goldberg – Yes

The motion passed – 6 in favor, 0 against, 0 abstaining.

Approval of Project Scope and Budget Agreement and Authorization for Project Funding Agreement

Next, the MSBA's Design Director, Karl Brown, explained that the Board is now being asked to approve a Project Scope and Budget Agreement and to authorize the MSBA to enter into a Project Funding Agreement for a project at the William L. Foster Elementary School in Hingham. The recommendation is to replace the existing William L. Foster Elementary School with a new facility on the existing site. The District and the MSBA have mutually agreed upon a design enrollment of 605 K-5 students, for a project that will serve grades PK-5.

The proposed project includes a Total Project Budget of approximately \$113.3 million, which includes an estimated construction cost of approximately \$88.1 million.

The Chair asked for a motion, and the following motion was made by Mr. Deninger and seconded by Ms. Vanderhoef:

Vote to Authorize the Executive Director to Execute a Project Scope and Budget Agreement and Project Funding Agreement with the Town of Hingham

VOTED: That the Board of Directors of the Massachusetts School Building Authority hereby approves the Potential Project to replace the existing William L. Foster Elementary School with a new facility serving pre-kindergarten through grade 5 on the existing site, as further described in the materials presented to the Board and attached hereto and as such Proposed Project shall be further defined in the Project Scope and Budget Agreement, and authorizes the Executive Director to take all steps necessary to execute and deliver a Project Scope and Budget Agreement and Project Funding Agreement with the Town of Hingham, in such forms as he may determine to be acceptable, for the William L. Foster Elementary School project at a reimbursement rate of forty and fifty-four hundredths percent (40.54%) of approved, eligible costs, up to an Estimated Maximum Total Facilities Grant of \$24,582,732, which shall not include any funds for owner's or construction contingency expenditures; that the Board of Directors hereby further authorizes the Executive Director to increase the Estimated Maximum Total Facilities Grant up to a Maximum Total Facilities Grant of \$25,118,559, in the event that the MSBA determines, in its sole discretion, that any owner's and/or construction contingency expenditures are eligible for reimbursement

pursuant to MSBA regulations, guidelines, or policies; that the Board of Directors hereby further authorizes the Executive Director to expend funds in accordance with such Project Funding Agreement.

Ms. Kwan commented that she is glad to see the project moving forward. She encouraged local leaders in Hingham to tour some of the other school facilities that the MSBA looks at across the Commonwealth.

Mr. Cronin asked what the rate of inflation is that is included in this project and others.

Chris Carroll, Owner's Project Manager for Hingham, commented that they are carrying 5% escalation in the budget. He added that the team is working with estimators.

There was a brief discussion among Board members, MSBA staff, and the District regarding the rate of escalation for projects.

The Director of Project Management commented that the MSBA can look at other MSBA projects and report back on the rate of escalation.

Vice Chair of the Hingham School Building Committee Ray Estes commented that the Town has taken the bidding climate into consideration. He added that the Town is prepared to engage in value engineering.

Ms. Kwan commented that she wants to commend MSBA staff for how they work with the staff on individual projects.

Mr. Cronin commented that if a district needs more money and has to cut things out of a project, then the project may change from what was presented to the voters.

Vice Chair of the Hingham School Building Committee Ray Estes thanked the MSBA for its support and commented that he looks forward to traveling to other schools across the Commonwealth. He thanked the Treasurer, the Executive Director, the school administration, the project team, and the legislative delegation, among others.

There being no more discussion, the Chair asked for a roll call vote of the Board.

Roll Call Vote:

Anne Brockelman – Yes
Terry Kwan – Yes
Sheila Vanderhoef – Yes
Sean Cronin – Yes
Matt Deninger – Yes
Deborah Goldberg – Yes

The motion passed – 6 in favor, 0 against, 0 abstaining.

Audit

The MSBA's Chief Financial Officer, Laura Guadagno, thanked Wei Xu, Beini Wang, and the Audit team, in conjunction with the Capital Planning team, for their hard work. She began her audit update by explaining that the MSBA has completed final audits for 621 Capital Pipeline Program projects plus the seven projects that are being presented for final approval to the Board today, all together representing approximately \$7.6 billion in submitted and audited costs.

She continued, explaining that the MSBA has also audited approximately \$5.9 billion in submitted costs for the 229 projects currently submitting monthly requests for reimbursement. Based on the Total Project Budget information and submitted costs to date of approved projects, the MSBA estimates that approximately \$4.4 billion in additional costs will be submitted for audit for these projects.

The Chief Financial Officer then explained that monthly submitted costs have averaged \$129.5 million over the 12 months preceding this Board meeting, and the total amount submitted and audited in this 12-month period equals approximately \$1.55 billion.

Approval of Audits, Capital Pipeline Program

The Chief Financial Officer explained that the Board is being asked to approve seven Capital Pipeline Program audits listed on Exhibit A. She explained that the total combined grant amount for these seven projects is \$38,445,157.

The Chair asked for a motion, and the following motion was made by Ms. Vanderhoef and seconded by Mr. Deninger:

Approval of Audit Costs for Several Projects

VOTED: That the Board of Directors of the Massachusetts School Building Authority hereby approves the final audited approved grant amounts for the projects listed in the spreadsheet attached hereto as Exhibit A and authorizes the Executive Director to make payments consistent with this vote.

There being no Board discussion, the Chair asked for a roll call vote of the Board.

Roll Call Vote:

Anne Brockelman – Yes
Terry Kwan – Yes
Sheila Vanderhoef – Yes
Sean Cronin – Yes
Matt Deninger – Yes
Deborah Goldberg – Yes

The motion passed – 6 in favor, 0 against, 0 abstaining.

MSBA Updates

Executive Director's Report

The Executive Director began his report by thanking MSBA staff members for their hard work in preparing for the Board meeting. He thanked Robin McElaney and Erin Sullivan for their help with the PowerPoint slides. He commented that Project Manager Evan Levesque did a great job presenting for the first time to the Board today. He noted that, since the June 22, 2022 Board meeting, the MSBA has visited or had meetings with individuals from 15 projects. As of June 22, 2022, one district has voted affirmatively to appropriate feasibility study funds. He explained that the MSBA anticipates seven project visits or meetings in September and October and presented a list of the districts as part of his PowerPoint presentation. He noted that since the June 22, 2022 Board meeting he has participated in several outreach events and presented a list of the events as part of his PowerPoint presentation.

The Executive Director noted that since the last Board meeting, the MSBA has participated in three ribbon cutting ceremonies and presented pictures of the events as part of his PowerPoint presentation.

Next, the Executive Director welcomed the MSBA's new hire Carley Belfield as a Project Coordinator. He then congratulated Robin McElaney on her promotion to Project Coordinator, Ashley Smith on her promotion to CA Project Manager III, Chizoba Gatlin on her promotion to CA Project Manager I, and Thirtsa Savain on her promotion to Assistant Financial Analyst.

The Executive Director commented that he has known Board member Greg Sullivan for a long time, having worked for him at the Inspector General's office. He commented that it has been wonderful having Mr. Sullivan on the Board for many years and that he will miss him.

The Chief Executive Officer commented that he has known Mr. Sullivan for a long time as well. He commented that Mr. Sullivan always acknowledged the work of MSBA staff and that the MSBA was lucky to have him serve on the Board.

Then, the Executive Director congratulated Donna Paul on the birth of her first grandchild, Avery Christina, born June 21, 2022, Chizoba Gatlin and her husband Corey on the birth of their daughter, Keziah Grace Gatlin, born July 31, 2022, Alisua Masmela and her husband Fabio on the birth of their daughter, Lenora, born August 19, 2022, and Julie Leonard on completing her Master of Business Administration degree and graduating magna cum laude from UMass Dartmouth.

Project Status Updates

The MSBA's Director of Capital Planning, Mary Pichetti, shared an update on the proposed Accelerated Repair Program project at the Mansfield High School. The Town of Mansfield was approved to enter into a Project Funding Agreement for a boiler replacement project at the Mansfield High School on June 22, 2022. With that approval, the MSBA granted an additional 60 days beyond the 90 days to secure funding for the project. On August 26, 2022, the Town requested additional time to meet the Town's Fall Town Meeting date of December 1, 2022. At this time, staff are recommending an additional 32 days for a total of 182 days for the Town of Mansfield to secure funding for a Project Funding Agreement.

Project Overview Report

Next, the Director of Capital Planning provided an update for substantially completed projects. For 2021, nineteen projects were scheduled to achieve substantial completion. The MSBA has received certificates of substantial completion from eighteen projects, with the remaining project having declared substantial completion and the form is circulating pending signatures.

For 2022, fifteen projects are scheduled to achieve substantial completion. The MSBA has received four certificates of substantial completion from Easthampton, Pentucket Regional and since the June Board, Millbury and Attleboro. Project schedules anticipated an additional seven projects reaching substantial completion by the end of August.

For the seven remaining projects, four districts have declared substantial completion with the certificates routing for signature, including Sharon, Weymouth, Acton-Boxborough, and Bridgewater-Raynham.

The other three projects include West Springfield, Gardner and Boston Arts Academy who are in various stages of finalizing the dates and/or finalizing the walk-throughs and associated items for school opening.

The Director of Capital Planning then provided bid data for the MSBA's Accelerated Repair Program. For the 2020 program, ten of the thirteen reported projects bid within the estimated budget. An additional five projects are anticipated to bid with results reported by the October Board of Directors meeting.

Next, the Director of Capital Planning presented a PowerPoint, including a summary of bid results for the Core Program for 2021. She reported that twelve projects received sub-bids in 2021 and nine of twelve projects have reported bids within budget.

Since the June Board, Lowell High School has been added as the twelfth and final project included in 2021. This includes the anticipated result as reported by the Lowell project team as receipt of the executed GMP for Lowell High School is not anticipated until September. The twelve projects which have reported bids consist of five Construction Manager at Risk projects and seven Design-Bid-Build projects. In square foot cost, the 2021 results continue to range from \$428/sf (Easton Center School) to \$721/sf (Waltham High School).

Then, the Director of Capital Planning presented a PowerPoint, including bid results for the Core Program for 2022. For 2022, sixteen projects are scheduled to receive sub-bids. Three of sixteen projects have now reported bids. Since the June Board, Worcester Doherty Memorial High School and Westwood Paul R. Hanlon Elementary School have been added.

The three projects which have reported bids consist of two Construction Manager at Risk projects and one Design-Bid-Build project. In square foot cost, the 2022 results continue to range from \$633/sf (Worcester Doherty Memorial High School) to \$658/sf (Ashland David Mindess Elementary School).

A fourth district received bids at the end of July - the Town of Somerset for their middle school. Their preliminary results reflected an overage of 9.35%. The Town scheduled a Special Town Meeting for August 22nd and a ballot vote on September 24th for an additional appropriation of

approximately \$7.5 million. The Special Town Meeting vote did not pass. The Town has decided to revisit the project design and has voted to change from a DBB methodology to Construction Manager at Risk.

Next, the Director of Capital Planning summarized available data for anticipated sub-bids in August, September and October and anticipated DBB Bids or GMP Executions in August, September and October.

Next, Assistant Project Manager Erin Sullivan presented slides for bidding information regarding MSBA projects. She explained that the MSBA is currently tracking 26 projects for filed sub bidding through 2024. This includes all projects that have been approved for Preferred Schematic Design prior to today. The 26 projects have a total estimated construction budget of approximately \$3.1 billion.

For 2022, seven projects received filed sub bids so far and staff are tracking an additional nine for the year. Those nine projects have a total estimated construction budget of approximately \$750 million. 2022 bidding will continue with Lawrence, which is scheduled to receive trade bids today. Nauset is scheduled for sub-bids in September. In October, sub-bids are scheduled for Swampscott.

2023 now has thirteen projects with an estimated construction budget of approximately \$1.5 billion. Westfield, Wellesley, Bristol-Plymouth, and Watertown will be among the first to bid in 2023.

2024 has four projects following Preferred Schematic Design approvals for Haverhill and Wakefield at the June Board meeting. The projects combine for over \$760 million. The project count will continue to increase following today's board meeting.

Finance

Sales Tax Collections Update

The Chief Financial Officer commented on the Women in Finance Fellowship program and shared that the MSBA always has terrific young women join the office through the program. She commented that they all have bright futures ahead. The Chair thanked the Chief Financial Officer for her comments and noted that it can be hard for women to break into the finance field.

The Chief Financial Officer thanked the MSBA's Treasurer Gianpiero Tirella. Next, she presented a PowerPoint and provided an FY2022 SMART Collections update. The FY2022 collections for July through June are \$88.2 million (8.01%) higher than the same period of FY2021.

She presented a slide with a graphical depiction of FY2018 – FY2022 Monthly SMART collections, and then year-to-date SMART collections by year from FY2018 – FY2022, as well as quarterly.

Grant Payments Update

The Chief Financial Officer provided an update regarding MSBA grant payments for projects, noting that the MSBA has made \$42,250,836 in grant payments to date in Fiscal Year 2023. This is for 40 Capital Pipeline Program projects in 37 districts.

FY23 Budget Update

Next, the Chief Financial Officer thanked the MSBA's Director of Budget and Finance Administration, Julie Leonard, and provided the Board with an FY23 budget update. She presented a PowerPoint with the FY2023 budget compared to the actuals for the Total Operating and Capital Budget, Administrative Expenses, Capital Pipeline Support Services, Operating Expenses, and the Grant Program.

Legal

Litigation Update

The MSBA's General Counsel Christine Nolan spoke about two projects in the MSBA's pipeline that have been affected by project related litigation. She thanked the Legal department for all their work in analyzing and monitoring the cases.

First, she spoke about the Doherty High School in Worcester, noting that the litigation has been resolved. She explained while the litigation was pending, reimbursement payments for Worcester had been placed on hold but the City proceeded with the project at its own risk and without receiving reimbursement payments. During that time, the MSBA continued to work with the City to receive project submittals and provide feedback. Once the City provided the necessary confirmations that the litigation was resolved, the MSBA resumed making grant payments. The General Counsel noted that the process worked well, as the MSBA had audited reimbursements submitted by the City and we were in position to pay the City as soon as the litigation was resolved, helping the City avoid having to borrow for project costs. She commented that this project is a great example of teamwork among the MSBA staff and of the partnership that the MSBA has with districts in the grant program.

Next, the General Counsel spoke about litigation that is related to the East Gloucester Elementary School project in Gloucester. She explained that, as reported at prior Board meetings, in December 2020, the Authority was named as a defendant in a lawsuit related to the East Gloucester Elementary School project in the City of Gloucester. The MSBA was named along with the City of Gloucester and the Massachusetts Executive Office of Environmental Affairs. The plaintiffs were not seeking any monetary relief against the MSBA and the suit appeared aimed solely at stopping the project. The defendants, including the Authority, filed dispositive motions, all of which were heard and taken under advisement by the Superior Court on July 22, 2021. On August 2, 2021, the Superior Court ordered that the City of Gloucester's Motion for Summary Judgment was allowed; the Massachusetts Executive Office of Environmental Affairs' Motion to Dismiss was allowed; and the Authority's Motion for Summary Judgment was allowed. As reported at previous Board meetings, the Plaintiffs appealed the decision and then the appeal was dismissed as against the MSBA. The appeal was also dismissed as against the Executive Office of Environmental Affairs but not the City of Gloucester. The parties appeared before the Appeals Court last week on June 14th and presented oral arguments. As planned, the MSBA filed an amicus brief also called a friend of the court brief, with the Court clarifying the meaning of the MSBA's regulations cited in the Plaintiffs' brief and addressing other matters of institutional interest to the MSBA. The City's attorney referred to this brief in his argument before the Appeals Court. At this meeting, the General Counsel announced that, earlier this month, the appeals Court issued a decision in favor of the City. She explained that we are now waiting to see if the plaintiffs will file for further appellate review. As the litigation is still pending, the Project Funding Agreement that was authorized for this Project by the MSBA, has not been

The August 31, 2022 Board Meeting minutes were approved by the MSBA's Board of Directors at the October 26, 2022 meeting.

executed. The MSBA has been working with the City's law office and we will continue to update the Board.

The Chair thanked the General Counsel for the update.

Ms. Vanderhoef commented that she will miss Board member Greg Sullivan.

The Chair asked for a motion to adjourn the meeting. A motion was made by Ms. Kwan and seconded by Ms. Vanderhoef:

There being no discussion, the Chair asked for a roll call vote of the Board.

Roll Call Vote:

Anne Brockelman – Yes
Terry Kwan – Yes
Sheila Vanderhoef – Yes
Sean Cronin – Yes
Matt Deninger – Yes
Deborah Goldberg – Yes

The motion passed – 6 in favor, 0 against, 0 abstaining.

The meeting was adjourned at 11:15 a.m.

List of documents and exhibits used at the meeting:

- PowerPoint Presentation
- June 22, 2022 Board Meeting Minutes
- Authorization to Execute Project Funding Agreements – Accelerated Repair Program
- Recommendation for Preferred Schematic Design
- Invitation to Project Scope and Budget
- Audit Status Report
- Recommendation for Approval of Final Audits, Capital Pipeline Program
- Project Overview Report
- Sales Tax Collections Update
- Grant Payments Update
- FY23 Budget Update