

**Rochester Joint Schools Construction Board
Special Meeting Minutes
June 20, 2016
4:00 PM**

Present

Chair Tom Richards, Charles Benincasa, Vice Chair Bob Brown, Ineabelle G. Cruz, Mike Schmidt (left at 5:10 pm), Allen Williams, Wayne Williams, and ICO Brian Sanvidge. Also present were: Executive Director Tom Renauto, General Counsel Peter Abdella, and Program Manager Pepin Accilien from Savin.

Chair Richards convened the meeting at 4:09 pm

Action Items

**Resolution 2015-16: 189
Municipal Cooperation Agreement**

By Board Member Benincasa

WHEREAS, the Rochester School Facilities Modernization Program Act ("the Act") established the Rochester Joint Schools Construction Board ("RJSCB"), a seven voting member board consisting of equal representation by the City of Rochester ("City") and the Rochester City School District ("District"), as well as a member jointly selected by the City and the District; and

WHEREAS, under the Act, the RJSCB has certain enumerated powers to act as agent for the District, the City, or both; and

WHEREAS, the authorizing legislation for Phase 2 of the Rochester Schools Modernization Program ("RSMP") (the "Phase 2 Legislation") was signed into law by the Governor of the State of New York on December 17, 2014; and

WHEREAS, the Phase 2 Legislation authorized up to 26 projects in Phase 2 of the RSMP, including a District Wide Technology program which involves technology upgrades and infrastructure work at several of the possible projects; and

WHEREAS, the Phase 2 Legislation states that "the RJSCB may enter into cooperative agreements with the City and the School District to "effect the purposes of this Act"; and

WHEREAS, to avoid a significant delay in the start of phase 2 construction, the RJSCB requested that the District advance certain funds for the RSMP (the "Interim Funding"); and

WHEREAS, in May 2015, the District, the City, and the RJSCB entered into a Municipal Cooperation Agreement for Phase 2 of the RSMP (the "Agreement") that called for (i) the District to advance approximately \$2.7 million in Interim Funding, (ii) as soon as reasonably possible, the City to issue its general obligation Bond Anticipation Notes ("BAN's") to reimburse the District for the Interim Funding and fund approximately \$16 million of additional Phase 2 project expenses, and (iii) the RJSCB to secure permanent financing (the "Phase 2 Bonds") through either the County of Monroe Industrial Development Agency or the Dormitory Authority of the State of New York (subject to required governmental approvals) to reimburse the City for the BAN's and fund additional project expenses; and

WHEREAS, the Board of Education (“BOE”) approved the Agreement by Resolution 2014-15: 627, adopted on May 7, 2015; and

WHEREAS, the City Council of the City of Rochester approved the Agreement by Ordinance 2015-121 adopted on May 19, 2015; and

WHEREAS, the RJSCB approved the Agreement by Resolution 2014-15: 231, adopted on May 4, 2015; and

WHEREAS, the City has not yet issued the BAN’s; and

WHEREAS, the RJSCB has asked the District to advance an additional Seven Million Three Hundred Thousand Dollars (\$7,300,000) (the “Additional Interim Funding”) to fund additional Phase 2 project-related expenses related to initial planning, design and construction, which shall be repaid to the District from the proceeds of the BANS or the Phase 2 Bonds; and

WHEREAS, pursuant to BOE Resolution 2015-16: 772, the Board of Education approved an amendment to the Agreement (the “Amended Municipal Cooperation Agreement”), approved the Additional Interim Funding, and asked the City to increase the amount of the BAN’s from \$16,000,000 to \$32,000,000 ; and

WHEREAS, the City Council of the City of Rochester is expected to adopt an Ordinance approving the Amended Municipal Cooperation Agreement;

THEREFORE, BE IT RESOLVED

1. The RJSCB hereby approves the execution of the Amended Municipal Cooperation Agreement and authorizes the Chair, in the name and on behalf of the RJSCB, to execute and deliver the Amended Municipal Cooperation Agreement, with such changes as the Chair may approve on the advice of the Executive Director and the RJSCB’s general counsel; and
2. The RJSCB hereby formally requests that the District provide the Additional Interim Funding and that the City issue the BAN’s, in the amounts and with the terms described herein and in the Amended Municipal Cooperation Agreement.
3. That this Resolution shall be contingent upon and shall have no force or effect until all parties have executed the Amended Municipal Cooperation Agreement

Second by Board Member A. Williams
Approved 7-0

Resolution 2015-16: 190
Phase 2 SEQRA Determination

By Board Member W. Williams

WHEREAS, the Rochester Schools Facilities Modernization Program Act (“School Modernization Act”) established the Rochester Joint Schools Construction Board (“RJSCB”), a seven voting member board consisting of equal representation by the City of Rochester (“City”) and the Rochester City School District (“District”), as well as a member jointly selected by the City and the District; and

WHEREAS, under the School Modernization Act, the RJSCB has certain enumerated powers to act as agent for the District, the City, or both; and

WHEREAS, the authorizing legislation for Phase 2 of the Rochester Schools Modernization Program (“RSMP”) was signed into law by the Governor of the State of New York on December 17, 2014; and

WHEREAS, the amended Act authorized up to 26 projects in Phase 2 of the RSMP including a District Wide Technology program which involves technology upgrades and infrastructure work at several of the possible projects; and

WHEREAS, the District, with the technical support of the RJSCB, and after developing and considering (including provision for public input and public discussion) a comprehensive master plan specified under the School Modernization Act, has developed a list of fourteen proposed school renovation projects at thirteen school buildings (the "Action"); and

WHEREAS, the Board of Education ("BOE") approved the comprehensive master plan in March 2016 (BOE Resolution 2015-16: 630); and

WHEREAS, the proposed projects and the BOE decisions related to the Action and its components are or may be subject to the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, on February 8, 2016 the RJSCB adopted a Resolution declaring its intent to act as SEQRA Lead Agency for the Action and its project components (Resolution 2015-16: 95); and

WHEREAS, Notices of RJSCB's intent to be SEQRA Lead Agency (including copies of the EAF Part 1s) were forwarded to all Involved Agencies on February 9, 2016 and additionally on April 22, 2016 with several updates; and

WHEREAS, no other Involved Agency objected to RJSCB acting as Lead Agency; and

WHEREAS, the RJSCB on March 7, 2016 adopted Resolution 2015-16: 123 confirming it would act as SEQRA Lead Agency; and

WHEREAS, the RJSCB, acting through its SEQRA consultant, has prepared long-form Environmental Assessment Forms ("EAFs") Parts 1, 2 and 3 on each of the project components; and

WHEREAS, the completed EAFs for all fourteen proposed school renovation projects have been reviewed by RJSCB; and

WHEREAS, RJSCB, through its consultants, has conferred with the New York State Office of Parks, Recreation and Historic Preservation ("SHPO") and with other involved or interested agencies; and

WHEREAS, RJSCB has reviewed the "Reasons Supporting SEQRA Negative Declaration" attached hereto; and

WHEREAS, RJSCB has, through the EAF Parts 1, 2 and 3 identified relevant areas of environmental concern related to the Action; thoroughly analyzed such areas for significant adverse impact and provided a written elaboration in support of its determination.

THEREFORE be it resolved that:

1. RJSCB hereby determines that the Action, as proposed, will not result in any significant adverse environmental impacts.
2. The Chairman of RJSCB is hereby authorized and directed to sign the attached "Reasons Supporting SEQRA Negative Declaration" and the attached Determination of Significance.
3. Copies of this Resolution shall be promptly forwarded by the SEQRA Consultant to the Involved Agencies listed on the Agency List, to all interested agencies, and to the NYSDEC Environmental Notice Bulletin for Publication in such Bulletin.

**Second by Board Member Brown
Approved 7-0**

The timing of the Phase 2 PLA was discussed. There is a timing issue related to the Monroe 2a project. The bid documents are being prepared to issue in the next two weeks. We will need to include language regarding the PLA in the bid documents. Tom Renauto stated that the Phase 1 PLA can be extended per the language in the Legislation. The plan discussed is to include the Phase 1 PLA in the bid documents and to issue the Phase 2 language via addendum during the bid.

Tom Richards requested that this issue be moved and seconded.

**Resolution 2015-16: 191
Extension of Phase 1 Project Labor Agreement for Monroe High School Phase 2a Project**

By Board Member Brown

WHEREAS, the Rochester School Facilities Modernization Program Act ("School Modernization Act") established the Rochester Joint Schools Construction Board ("RJSCB"), a seven voting member board consisting of equal representation by the City of Rochester ("City") and the Rochester City School District ("District"), as well as a member jointly selected by the City and the District; and

WHEREAS, under the School Modernization Act, the RJSCB has certain enumerated powers to act as agent for the District, the City, or both; and

WHEREAS, the authorizing legislation for Phase 2 of the Rochester Schools Modernization Program ("RSMP") was signed into law by the Governor of the State of New York on December 17, 2014; and

WHEREAS, the amended Act authorized up to 26 projects in Phase 2 of the RSMP including District Wide Technology improvements which involve technology upgrades and infrastructure work at several of the possible projects; and

WHEREAS, the School Modernization Act allows the RJSCB to "revise and extend the requirements of the Project Labor Agreement entered into for Phase 1 Projects to the Projects authorized in Phase 2, contingent upon the completion of a supplemental Project Labor Agreement Benefit Analysis"; and

WHEREAS, the Project Labor Agreement ("PLA") for Phase 1 was approved by the RJSCB in February 2012 and subsequently executed by the Phase 1 Program Manager, Gilbane Building Company, as the Phase 1 PLA Administrator, and the Rochester Building and Construction Trades Council, and each of the craft unions participating in Phase 1 of the RSMP; and

WHEREAS, in December 2015, the RJSCB engaged Seeler Engineering, P.C., to perform a PLA Study for Phase 2 (Resolution 2015-2016: 83) to evaluate potential costs/benefits of utilizing a PLA for Phase 2 of the RSMP; and

WHEREAS, the RJSCB accepted the results of the Phase 2 PLA Study and approved the use of a PLA for Phase 2 in April 2016 (Resolution 2015-2016: 149); and

WHEREAS, the RJSCB has authorized the Phase 2 Program Manager to act as the PLA Administrator for Phase 2 and, with the assistance of Seeler Engineering, P.C. and the Board's General Counsel, to negotiate a PLA for Phase 2 with the Rochester Building and Construction Trade's Council (Resolution 2015-16: 149); and

WHEREAS, the RJSCB's Program Manager for Phase 2, Savin Engineers P.C. ("Program Manager" or "Phase 2 PLA Administrator"), working with the District, has developed a list of proposed Phase 2 projects

known as the Phase 2 Draft Comprehensive Master Plan dated March 2016 (the "Proposed Plan") which includes among the projects listed, the Monroe High School 2a Project; and

WHEREAS, the Board of Education approved the Proposed Plan at its monthly meeting on March 24, 2016 (BOE Resolution 2015-16: 630); and

WHEREAS, the RJSCB also approved the Proposed Plan at its monthly meeting on April 4, 2016 (Resolution 2015-16: 144) and authorized the Phase 2 Program Manager to submit the Proposed Plan to the New York State Education Department ("SED") Office of Facilities Planning for review and approval; and

WHEREAS, as a part of the Proposed Plan, the RJSCB authorized the Program Manager to prepare bid documents for the first project in Phase 2, the Monroe High School 2a Project ("Bid Documents") (Resolution 2015-16: 175); and

WHEREAS, the Program Manager, along with the Architect of Record and the Construction Manager for the Monroe High School 2a Project, is in the process of preparing plans and specifications (the "Construction Documents") for bidding purposes; and

WHEREAS, the Program Manager has submitted the Construction Documents to the SED Office of Facilities Planning for review and approval; and

WHEREAS, the RJSCB anticipates approval of the Monroe High School Phase 2a Project Construction Documents by the SED in the next 4 to 6 weeks; and

WHEREAS, negotiations between the RJSCB and the Rochester Building and Construction Trades Council are expected to begin at the end of June 2016; and

WHEREAS, due to schedule constraints, it is not likely that the Phase 2 PLA negotiations will be concluded nor will an amendment to the Phase 1 PLA or a new Phase 2 PLA be fully executed in time to incorporate into the Monroe High School 2a Project Bid Documents, anticipated to be issued for bid in early July 2016; and

WHEREAS, the RJSCB wishes to extend the Phase 1 PLA for use on the Monroe High School Phase 2a Project in Phase 2; and

WHEREAS, should Phase 2 PLA negotiations be concluded and an executed amendment to the Phase 1 PLA or a new Phase 2 PLA be completed in time, it shall be inserted into the Monroe High School Phase 2a Project Bid Documents via addendum, prior to receipt of bids;

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby approves the use of the Phase 1 PLA to be included in the Bid Documents for the Monroe High School Phase 2a Project of the RSMP, which Bid Documents are under review at the SED and are expected to be bid in early July 2016.
2. In the event that Phase 2 PLA negotiations are concluded and the resulting agreement is executed with sufficient time to include it in the Monroe High School 2a bid documents via addendum, the Phase 1 PLA shall be amended or replaced as necessary by the newly executed agreement.

Second by Board Member A. Williams
Approved 6-0 with Member Schmidt absent (left at 5:10 pm)

Tom Richards updated the Board on the status of the Legislation. The Legislation has passed the Assembly. It will now need to be sent to the Governor for signature by the Senate (the entity that initiated it). The Office of Budget will need to comment on it, for which we believe all issues have been cleared up. Tom stated that the project will run out of money at the end of June. If we do not get more money the program will need to stop. Monroe, 7, 16, and East are then in jeopardy of not being completed on schedule.

Adjournment

Approved at 5:19 pm