

Rochester Joint Schools Construction Board
Minutes
April 9, 2012
4:30 PM

Present

Board Chair Kenneth Bell, Members: Lois Giess, Brian Roulin, Bob Brown, Alex Castro, Jerome Underwood, Richard Pifer, and ICO Windell Gray. Also present were: Executive Director Tom Renauto, General Counsel Peter Abdella, and Assistant Program Director Claude Watt.

Chairman Bell convened the Board meeting at 4:30pm

Chairman Bell requests a motion to enter into executive session pursuant to Section 105(1)(h) of the New York Public Officers Law in order for the Board to discuss the proposed acquisition of real property and because public disclosure would substantially and adversely affect the value thereof.

Motion by Member Brown

Second by Member Pifer

Approved 5-0 with Members Roulin and Underwood not yet present.

The Board reconvened at 4:55pm

Approval of Minutes: Monthly Board Meeting held on March 12, 2012 and Special Board Meeting held on March 26, 2012

Motion by Member Pifer

Second by Member Brown

Approved 7-0

Action Items

Ken Bell stated that all of the Resolutions had been reviewed by the M/WBE Services Procurement Committee at the April 5th meeting and the Committee has recommended that these Resolutions be presented to the full Board for review and consideration.

Resolution 2011-12: 88

Amendment #7 to JCJ Architecture's Agreement

This Resolution was tabled by Chairman Bell pending further information.

Resolution 2011-12: 89

Amendment #8 to SWBR Architect's Agreement

By Board Chairman Bell

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 RJSCB approved the selection of SWBR Architects, ("SWBR") as the Architect for the School 17 project in Phase I (Resolution 2010-11: 35); and

WHEREAS, the RJSCB entered into an agreement with SWBR Architects (Resolution 2010-11: 35) dated March 28, 2011, entitled Agreement Between Board and Architect (the "Agreement"); and

WHEREAS, following the execution of the Agreement, SWBR Architects, along with the Program Manager, identified the need for additional scopes of design work, and cost proposals and/or estimates were then obtained for these additional scope items and provided to the Program Manager for review; and

WHEREAS, the Program Manager thereafter recommended to the RJSCB's MWBE and Services Procurement Committee (the "Committee") that SWBR's Agreement should be amended to add these additional scope items in the total amount of \$16,060 to Exhibit I of the Agreement and that this amount shall be treated as a not-to-exceed allowance under Section 11.1.1 of the Agreement; and

WHEREAS, the Committee considered and discussed the Program Manager's recommendation at its April 5, 2012 meeting and after due deliberation, it approved the request to amend the Agreement;

THEREFORE, BE IT RESOLVED:

1. The proposed amendment to the SWBR's Agreement Between Board and Architect dated March 28, 2011 as set forth above is hereby approved; and
2. The RJSCB's Chair is hereby authorized in the name and on behalf of the RJSCB, to execute an amendment to the Agreement that is consistent with this approval and in an acceptable form to the Chair upon the advice of the Program Manager and the RJSCB's general counsel.

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

**Resolution 2011-12: 90
DOT Property Acquisition**

By Board Chairman Bell

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 RJSCB desires to utilize a portion of the New York State Department of Transportation (the "NYSDOT") right of way for the I-490 Inner Loop for purposes related to the Rochester Schools Modernization Program ("RSMP"), with the property consisting of 10,144 square feet of real property adjoining the northern boundary of School #58 (the "Property"); and

WHEREAS, the parcel to be acquired will be combined with the adjoining school campus to provide the necessary land area for construction of a one-story 11,000 square foot addition that will contain a new gymnasium; and

WHEREAS, the City has agreed to purchase and own the Property using the proceeds of its General Obligation Bonds, which will be refinanced with the proceeds of certain bonds to be issued by the County of Monroe Industrial Development Agency as RSMP program funds (copy of City Council ordinance is attached); and

WHEREAS, the regional office of the NYSDOT has determined that this parcel is surplus and may therefore be sold to the City at appraised value; and

WHEREAS, an independent appraisal has been completed showing an appraised value of \$25,300 (copy is attached), and including closing costs, the total acquisition amount will not exceed \$30,000; and

WHEREAS, the RJSCB will obtain aid from New York State to offset the purchase price of the Property , since the purchase price is included in the current project budget for School #58 as an incidental expense; and

WHEREAS, following the purchase of the Property, it is the intent of the RJSCB, the City and the District that the District will have immediate use of this Property as a part of and for School #58; and

WHEREAS, the Program Manager has recommended to the RJSCB's MWBE and Procurement Committee that it approve the proposed purchase by the City of the Property; and

WHEREAS, the Committee considered and discussed the Program Manager's recommendation at its April 5, 2012 meeting and, after due deliberation, it approved the proposed purchase of the Property;

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby approves the proposed acquisition of the Property by the City using RSMP program funds in the amount of \$30,000, subject to satisfactory legal reviews; and
2. The RJSCB hereby authorizes its Chair to execute an Agreement with the City in such form as is acceptable to the Chair with the advice of the Program Manager and the RJSCB's general counsel.

**Second by Board Member Pifer
Approved 6-1 (Member Underwood was opposed)**

**Resolution 2011-12: 91
Moving Services**

By Board Member Underwood

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 Act authorized up to 13 projects in Phase I of the Rochester Schools Modernization Program ("RSMP") which involves the relocations of several schools into temporary "swing" space in order for the schools to continue to operate and to be fully functional during construction; and

WHEREAS, the RJSCB, upon the recommendation of its Program Manager, has determined a need for one or more Moving Services firms to provide the labor and equipment to perform the physical moves for all furniture and equipment that are part of the RSMP; and

WHEREAS, the District obtains its moving services for physical moves for furniture and equipment for the District's schools through existing publicly bid state contracts; and

WHEREAS, the RJSCB, upon the recommendation of its Move Management Consultant (Vargas Associates), will likely separate the proposed school moves into two or more groups, and

WHEREAS, construction is scheduled to begin on or about July 1, 2012, and the RJSCB needs to secure its moving services as soon as possible; and

WHEREAS, the RJSCB's Program Manager and Move Management Consultant have prepared a scope of work for Moving Services ("Scope of Work") which will be used by the RJSCB to obtain bids from Moving Services firms using the best and final offer mini-bid process under the NYS Office of the General Services (OGS) Contract #79004; and

WHEREAS, the MWBE and Services Procurement Committee has reviewed the Scope of Work for Moving Services and approved it at its meeting on April 5, 2012, for forwarding to the full Board;

THEREFORE, BE IT RESOLVED:

1. The Scope of Work for Moving Services is approved for use by the RJSCB to obtain bids from Moving Service firms using the best and final offer mini-bid process under OGS Contract #79004, subject to the approval of bond counsel and the RJSCB's general counsel, and if such approval is not obtained, then the RJSCB shall proceed to obtain bids through a public bid process.
2. The MWBE and Services Procurement Committee, with the advice and recommendations of the Move Management Consultant and the Program Manager, is authorized on behalf of the RJSCB to review the bids from the Move Services firms and recommend one or more firms to the RJSCB for award.
3. The Officers of the RJSCB are hereby authorized and directed for and on behalf of the RJSCB and in its name to do all acts and things required or as may be necessary, or in the opinion of the officer so acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the RJSCB with all of the provisions of the foregoing resolutions.

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

**Resolution 2011-12: 92
Request for Proposals, Special Inspections and Testing Agent**

By Board Chairman Bell

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 RJSCB, upon the recommendation of its Program Manager, has determined a need for a Special Inspections and Testing Agent to provide field inspections and laboratory testing to comply with the specifications set forth by the Architect of Record for the Phase 1 projects that are part of the Rochester Schools Modernization Program; and

WHEREAS, the RJSCB's Program Manager has prepared a Request For Proposal (an "RFP") for a Special Inspection and Testing Agent that requires the responding firms to set forth their Fee Proposals for a specific scope of work (a copy of the RFP is attached hereto); and

WHEREAS, the MWBE and Services Procurement Committee has reviewed the RFP for a Special Inspection and Testing Agent and approved it at its meeting on April 5, 2012, for forwarding to the full Board;

THEREFORE, BE IT RESOLVED:

1. The RFP for a Special Inspection and Testing Agent is approved for issuance on April 10, 2012.

2. The MWBE and Services Procurement Committee, with the advice and recommendations of the Program Manager, is authorized on behalf of the RJSCB to review the RFP responses, reduce the list of firms to be interviewed if appropriate, participate along with other RJSCB board members in the interviews of the Special Inspection and Testing firms, and recommend to the RJSCB the most qualified candidate(s).

3. The Officers of the RJSCB are hereby authorized and directed for and on behalf of the RJSCB and in its name to do all acts and things required or as may be necessary, or in the opinion of the officer so acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the RJSCB with all of the provisions of the foregoing resolutions.

Second by Board Member Brown
Approved 7-0

Resolution 2011-12: 93
Memorandum of Understanding Concerning Maynard's Property

By Board Member Underwood

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 City has acquired certain property located at 1776 North Clinton Avenue, 1790 North Clinton Avenue, and 21 Rau Street, consisting of 61,676 square feet of warehouse space and 2.66 acres of real property (the "Property"), using funds provided by the RJSCB with the intent that the Property be used for program functions associated with the Rochester Schools Modernization Program (the "RSMP"); and

WHEREAS, the use of the Property for the RSMP will include: office space for the staff of Gilbane Building Company (the "Program Manager"); office space for RJSCB staff and program functions; swing space for furniture storage for all school projects that need to be vacated during construction; office space and parking for the construction manager and construction contractors performing work in connection with School # 50 which is located adjacent to the Property; office and training space for RSMP Pre-Apprentice Training Program services; and office space for the ICO; and

WHEREAS, it is expected that the use of the Property will revert to School # 50 and the District in approximately 4 to 5 years for possible future use by the District relating to School #50; and

WHEREAS, pursuant to the Act and a Cooperative Agreement dated February 22, 2010, by and among the City, the District, and the RJSCB (the "Cooperative Agreement"), the RJSCB wishes to establish a Memorandum of Understanding Concerning Use and Operation of Real Property (the "MOU", a copy of which is attached hereto) among the City, the District, the RJSCB, the Program Manager, Career Compliance Placement, Landan & Rian Enterprises, Inc., the Pike Company, and additional parties that may in the future require use of the Property in connection with certain aspects of the RSMP (collectively known as "the Parties"); and

WHEREAS, the Executive Director and the RJSCB's general counsel have recommended that the RJSCB execute the Memorandum; and

WHEREAS, the Committee considered and discussed the Executive Director's recommendations at its April 5, 2012 meeting and after due deliberation, it approved the request to forward the Memorandum to the full Board for review and approval;

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby approves the MOU in substantially the form presented at this meeting.
2. The RJSCB hereby authorizes its Chair, in the name and on behalf of the RJSCB, to execute the MOU, including such changes as he deems necessary, with the advice of the Program Manager and the RJSCB's general counsel, to finalize the document and conform to any requirements of Bond Counsel to the County of Monroe Industrial Development Agency.

Second by Board Member Brown
Approved 7-0

Resolution 2011-12: 94
Authority for RJSCB Executive Director to Sign Certain Documents and Approve Certain Contract Amendments

By Board Member Pifer

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 RJSCB has hired an Executive Director (Resolution 2010-2011: 47) to oversee the day-to-day operations of the RJSCB and implementation of the Rochester Schools Modernization Program ("RSMP"); and

WHEREAS, in fulfilling his duties, the Executive Director has and will obtain detailed knowledge of the RSMP and the day-to-day operations of the RJSCB; and

WHEREAS, in order to promote efficient and streamlined operation of the RSMP and give the Executive Director sufficient responsibility to address minor situations as they arise, the RJSCB intends to delegate to the Executive Director the power to sign certain RJSCB documents and approve certain amendments to existing RJSCB contracts without obtaining prior approval of the RJSCB.

THEREFORE, BE IT RESOLVED:

1. The RJSCB grants the following authority to its Executive Director:
 - a. The Executive Director may sign documents on behalf of the RJSCB that are necessary for the day-to-day operations of the RSMP without obtaining prior RJSCB approval, provided that such documents do not constitute a third-party contract and do not involve RJSCB operating expenses. The Executive Director shall promptly provide copies of all such documents to the Board Chair.
 - b. The Executive Director may approve one or more amendments to existing RJSCB contracts, without obtaining prior RJSCB approval, provided that such amendments do not concern construction contracts and do not involve a financial commitment of the RJSCB in excess of \$15,000 per contract per month. The Executive Director shall report all such amendments to the Board for its acceptance at the next regularly scheduled Board meeting.
 - c. The Executive Director may approve construction change directives issued by the Architect, Construction Manager and Program Manager for the RSMP projects, without obtaining prior RJSCB approval, provided that such construction change directives do not involve a financial commitment of the RJSCB in excess of \$25,000 per contract per month. The Executive Director shall report all such construction change directives to the Board for its acceptance at the next regularly scheduled Board meeting.
 - d. For amounts in excess of the not-to-exceed levels in subparagraph b) and c), and when the Executive Director and Board Chair believe that the progress of the RSMP projects require approval of these

amounts, the Board Chair may authorize the Executive Director to approve amounts in excess of such not-to-exceed levels with the Executive director providing copies of all such changes promptly to the Board. The Executive Director and the Board Chair shall report on such amendments and/or such construction change directives to the Board for its acceptance at the next regularly scheduled Board meeting.

Second by Board Member Giess
Approved 7-0

Resolution 2011-12: 95
Pay Requisition Summary Acceptance (March 2012)

By Board Chairman Bell

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 RJSCB developed a Pay Requisition Approval Procedure with input from its Counsel, the MWBE and Services Procurement Committee, members of the accounting department of Rochester City School District, and the RJSCB's independent auditing firm; and

WHEREAS, the RJSCB, at its regular monthly meeting on September 12, 2011, adopted a Pay Requisition Approval Procedure (Resolution 2011-12: 23); and

WHEREAS, in compliance with the Pay Requisition Approval Procedure, the RJSCB Executive Director has reviewed the individual pay applications from each of the consultants and suppliers for accuracy and completeness; and

WHEREAS, the Executive Director forwarded a Pay Requisition Summary (attached to this Resolution) totaling \$1,082,143.52 to the Board Chair with copy to the full Board on March 21, 2012; and

WHEREAS, the RJSCB Chair approved the Pay Requisition Summary on March 22, 2012; and

WHEREAS, the Executive Director forwarded an additional Pay Requisition (attached to this Resolution) in the amount of \$100,827.11 to the Board Chair with copy to the full Board on March 28, 2012; and

WHEREAS, the RJSCB Chair approved the additional Pay Requisition on March 28, 2012; and

WHEREAS, the total approved amount for the month of March 2012 is \$1,182,970.63; and

WHEREAS, the BAN proceeds for the RSMP were deposited in the City's account on September 15, 2011;

THEREFORE, BE IT RESOLVED:

1. That the Rochester Joint Schools Construction Board hereby accepts the Pay Requisition Summary and the additional Pay Requisition for the month of March 2012 in the amount stated above and as shown in the Summary attached to this Resolution.

Second by Board Member Brown
Approved 7-0

Staff Updates

Monthly project reports from Gilbane are included in the Board member's packets. Lois Giess asked that there be representation from the Library and the Recreation Departments at School #12 during the design process.

The MWBE Compliance Report is in the Board member's packets. The numbers continue to be ahead of the goals.

The monthly budget reports for the Board's operating expenses and the Board's contract commitments are included in the Board member's packets. Tom Renauto stated that the line item "Director's Insurance" was only originally meant to include the RJSCB's insurance costs, however the District Accounting Department has also included the Staff insurance costs in that line item. Tom will review this with the District.

The Committee Report from 4/5/12 is included in the Board member's packets.

Adjournment

Motion by Member Brown

Second by Chairman Bell

Approved 7-0 at 6:08 pm