

**Resolution 2022-23:06**  
**Authorization to Resolve Hewitt Young Electric Claim**

By Board Member: Mike Schmidt

WHEREAS, the Rochester School Facilities Modernization Program Act (“School Modernization Act”) established the Rochester Joint Schools Construction Board (“RJSCB” or “Board”), 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 RJSCB contracted with Hewitt Young Electric, LLC (“HYE”) for the electrical construction work for the East Campus Project (the “Project”); and

WHEREAS, on September 13, 2021, HYE commenced an action in NYS Supreme Court, Monroe County against the RJSCB seeking to recover damages in the approximate amount of \$350,000 for breach of contract and *quantum meruit*, arising out of HYE’s contract to perform electrical construction work on the Project (the “Action”); and

WHEREAS, the RJSCB has answered HYE’s complaint, denied the substantive allegations and asserted counterclaims in connection with HYE’s deficient performance on the Project; and

WHEREAS, RJSCB filed a third-party complaint in the Action for indemnity, contribution, breach of contract and negligence against the Project’s construction manager (The Pike Company), architect (Cannon Design, Inc.) and electrical engineer (Popli Design Group) based on their actions or inactions relative to the unauthorized and unapproved installation of an electrical bus duct system by HYE (Resolution 2021-22:96); and

WHEREAS, the Board authorized Bond, Schoeneck & King (“BSK”) to enter into settlement discussions facilitated by third-party, non-binding mediation with HYE and the other parties to the Action to attempt to resolve the Action (Resolution 2021-22:99); and

WHEREAS, the Chair and BSK have recommended to the Board that it fully and finally resolve HYE’s causes of action against the Board through the payment of \$110,000.00 to HYE in exchange for a release and the discontinuance of the HYE’s causes of action in the Action with prejudice; and

WHEREAS, the RJSCB considered the recommendations of the Chair and BSK and after due deliberation, it determined that it is in the best interest of the RJSCB to resolve the HYE causes of action on the terms set forth above and avoid the burden, uncertainty, delay, expense and distraction of continued litigation.

THEREFORE, BE IT RESOLVED:

1. The proposed settlement between the RJSCB and HYE as set forth above is hereby approved;  
and
2. The Chair and BSK are authorized in the name and on behalf of the RJSCB, to execute any necessary instruments to effectuate the settlement described above.

Second by Board Member: Kim Jones