

Resolution 2015-16: 83
Phase 2 Core Professional Services Providers

By Board Member B. Brown

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”) 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 legislation for Phase 2 of the RSMP states that “the RJSCB may extend the contracts of the providers of professional services for Phase One upon the adoption of findings that doing so would be in the public interest; the contracts of the Program Manager and the independent Compliance Officer for Phase Two will be rebid, and provided further that the Program Manager and the Independent Compliance Officer and any new or different providers of professional services shall be engaged in compliance with the provisions of Section Eight of this Act”; and

WHEREAS, in order to support the completion of the Phase 2 Master Plan and avoid a delay in the start of Phase 2 construction the District has advanced funds to the RSMP; and

WHEREAS, it is understood by the District, the City, and the RJSCB that the funds advanced by the District would be reimbursed by the City as soon as possible through a Bond Anticipation Note (“BAN”) against the City’s debt limit; and

WHEREAS, the District’s counsel prepared a Board of Education (“BOE”) resolution to authorize the advance of the funds based on the full faith and credit of the City (BOE Resolution 2014-15: 627); and

WHEREAS, the future BAN provided by the City would reimburse the funds advanced by the District for the design work associated with Phase 2 projects at Monroe High School, School 15, and East High School (the Early Start Projects), as well as provide the interim financing necessary to begin other Phase 2 project designs and to engage other professional service firms to begin Phase 2 planning and coordination work; and

WHEREAS, the City will be reimbursed for its BAN from the Phase 2 bond proceeds (anticipated to occur in the summer of 2016) following approval of the Phase 2 Master Plan by the Board of Education and approval of the first group of projects in Phase 2 by the New York State Education Department; and

WHEREAS, the District, the City and the RJSCB have executed a memorandum that sets forth the understanding that the District will advance funds to the RSMP for the payment of the expenses and that the City will reimburse the District for these amounts through the BAN proceeds; and

WHEREAS, the RJSCB recognizes that in order to maintain the proposed Phase 2 activity schedule it is necessary to engage the other professional service firms (the "Core Service Providers") to begin Phase 2 planning and coordination work necessary to support the completion of the Master Plan and to provide the technical assistance necessary towards SED approval; and

WHEREAS, the RJSCB believes that the time necessary for a formal request for proposal and selection process for these Core Service Providers services will jeopardize the start of construction for these projects in 2016 and will not achieve any measurable cost savings where negotiations can achieve the same outcome in a more timely fashion; and

WHEREAS, as permitted by the Phase 2 legislation, the RJSCB wishes to extend the services of those professional Core Service Providers which are most familiar with the Project, having performed the specific Phase 1 scopes of work and to do so, would be in the public interest; and

WHEREAS, the RJSCB approved the selection of Capital Market Advisors ("Capital Markets") as the Financial Advisor in Phase I (Resolution 2009-10: 12); and

WHEREAS, the RJSCB entered into an agreement with Capital Markets (Resolution 2009-10: 12) dated May 31, 2010, entitled Financial Advisory Services Agreement (the "Agreement"); and

WHEREAS, the RJSCB approved the selection of Clark Patterson Lee ("Clark Patterson") as the SEQRA consultant in Phase I (Resolution 2010-11: 18); and

WHEREAS, the RJSCB entered into an agreement with Clark Patterson (Resolution 2010-11: 18) dated November 23, 2010, entitled Agreement Between Owner and Consultant (the "Agreement"); and

WHEREAS, the RJSCB approved the selection of Seeler Engineering ("Seeler") as the Project Labor Agreement ("PLA") consultant in Phase I (Resolution 2011-12: 16); and

WHEREAS, the RJSCB entered into an agreement with Seeler (Resolution 2011-12: 16) dated October 3, 2011, entitled Consulting Services Agreement (the "Agreement"); and

WHEREAS, the RJSCB has directed the Executive Director to engage Capital Markets, Clark Patterson, and Seeler, and to obtain and review proposals to provide services for the Phase 2 program; and

WHEREAS, for these Core Service Providers, the RJSCB's Executive Director and Program Manager will review the individual pay applications from each of the professional service firms for accuracy and completeness and will forward those invoices to the District for payment directly to each firm; and

WHEREAS, the District will maintain the official accounting records for Phase 2 of the RSMP; and

WHEREAS, Capital Markets, Clark Patterson, and Seeler have submitted written proposals for services which have been reviewed and analyzed by the Program Manager; and

WHEREAS, at the MWBE and Services Procurement Committee (“Committee”) meeting on December 10, 2015, the Program Manager recommended that the proposals be accepted and that the services of Capital Market Advisors, Clark Patterson Lee, and Seeler Engineering be extended for Phase 2; and

WHEREAS, the Committee discussed the Program Manager’s recommendation at its meeting on December 10, 2015 and no action was taken at that time pending further discussion with the full Board, and it was also discussed whether the bond underwriting services for Phase 2 should be secured by a request for proposals (“RFP”);

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby approves the Program Manager’s recommendation that the services of Capital Market Advisors, Clark Patterson Lee, and Seeler Engineering be extended in Phase 2 based upon the finding that the extensions are in the public interest for the reasons set forth above; and
2. The RJSCB hereby approves the issuance of an Agreement to Capital Market Advisors to provide Financial Advisor services as a part of Phase 2 of the RSMP; and
3. The RJSCB hereby approves the issuance of an Agreement to Clark Patterson Lee to provide SEQRA consulting services as a part of Phase 2 of the RSMP; and
4. The RJSCB hereby approves the issuance of an Agreement to Seeler Engineering to provide Project Labor Agreement consulting services as a part of Phase 2 of the RSMP; and
5. The Chair is hereby authorized, in the name and on behalf of the RJSCB, to execute and deliver the Agreements to the firms named above, with such changes as the Chair may approve on the advice of the Program Manager and the RJSCB’s general counsel; and
6. The RJSCB hereby authorizes the issuance of an RFP for bond underwriting services for Phase 2.

Second by Board Member Benincasa
Approved 6-0