

Resolution 2016-17: 160
Amendment #4 to JT Securities, Inc. Agreement

By Board Member Brown

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, in September 2012, as a result of repeated vandalism at the School 17 project site, the Rochester Schools Modernization Program ("RSMP") Phase I Program Manager recommended and the RJSCB approved that the Construction Manager for the School 17 project, The Pike Company ("Pike"), hire security guard services for after hours, weekend and holiday coverage (Resolution 2012-13: 31); and

WHEREAS, thereafter, the District requested that all RSMP projects include security guard services for after hours, weekends, and holiday coverage for those projects where the school buildings have been vacated for construction or are located in areas that either have a history of or are considered more vulnerable to vandalism; and

WHEREAS, the cost for security services for the RSMP were later identified by the Program Manager as a "program wide expense" and the method of paying for these services through the Construction Manager's contract did not lend itself easily to separation and tracking of these program costs; and

WHEREAS, based upon the Program Manager's recommendation, the RJSCB MWBE and Services Procurement Committee (the "Committee"), at its meeting on November 29, 2012, decided to contract directly with the security guard services firm; and

WHEREAS, in December 2012, the RJSCB approved that the Construction Manager for the School 58 project, LeChase Construction ("LeChase"), hire security guard services for the School 58 project site for a period of 90 days (Resolution 2012-13: 72) in order to provide the RJSCB time to prepare a contract directly with the security services firms; and

WHEREAS, Pike and LeChase each solicited proposals for these services for the School 17 and School 58 projects respectively; and

WHEREAS, in March 2013, the RJSCB approved Resolution 2012-13: 122 to authorize the Board to directly hire the security services firms for projects that were under construction at the time including the School 17, School 50 and School 58 projects and it then entered into an agreement with JT Securities, Inc. d/b/a Blackhawk Security and Investigation ("JT Securities") dated March 5, 2013 (the "Agreement"); and

WHEREAS, due to the schedule extension of the School 58 project, it became necessary to extend the services of JT Securities to provide additional security coverage at the School 58 project site; and

WHEREAS, the change in the schedule for the School 58 project resulted in a total increased cost of not-to-exceed \$100,000 under Amendment No. 1 (Resolution 2014-15: 3) and this was later extended in Amendment No. 2 (Resolution 2014-15: 123); and

WHEREAS, it has come to the attention of the RJSCB that the hourly rate that was being charged by JT Securities and paid to its employees for the work under the Agreement and Amendment No. 1 was not correct and that a higher rate should have been charged and paid; and

WHEREAS, the Program Manager has requested that JT Securities compile its certified payroll information for the RJSCB to show the correct amounts that are due for the applicable pay periods under the Agreement and Amendment No. 1; and

WHEREAS, based on the advice and recommendation of the Program Manager, the RJSCB approved an amendment to the Agreement in a not-to-exceed amount of \$100,000 subject to JT Securities providing a) the certified payroll information and b) the executed certification forms and proof of payment to the employees, all in an acceptable form per the Program Manager and the RJSCB (Resolution 2014-15: 132); and

WHEREAS, on November 24, 2014, Amendment No. 3 to the Agreement was executed by the Board and JT Securities; and

WHEREAS, the Program Manager has undertaken numerous efforts for more than eighteen months to obtain the certified payroll information and proof of payment from JT Securities but JT Securities has not provided all of the required information or the certifications of payment; and

WHEREAS, the RJSCB at its regular monthly meeting on February 6, 2017, considered and discussed JT Securities' failure to comply with the terms of the Agreement as amended by Amendment No. 3 and, after due deliberation, established February 24, 2017 as the deadline by which JT Securities must provide the required information and certifications failing which the RJSCB will close the Agreement without further payment; and

WHEREAS, by letter dated February 6, 2017, the RJSCB Chair once again requested the necessary information and certifications from JT Securities and further advised JT Securities that if such information was not provided by February 24, 2017, the Agreement would be closed without further payment; and

WHEREAS, JT Securities did not provide the required information and certifications to the RJSCB by the February 24, 2017 deadline; and

WHEREAS, the MWBE and Services Procurement Committee considered and discussed JT Securities' failure to provide the required information and certifications at its March 2, 2017 meeting and after due deliberation, it approved the closing of the Agreement and amending the Agreement to credit the amount of \$109,463.00 back to the RSMP.

THEREFORE, BE IT RESOLVED:

1. The proposed amendment to the Agreement between the RJSCB and JT Securities, Inc. dated March 5, 2013, as set forth above is hereby approved, decreasing the total amount of the Agreement by the sum of \$109,463.00; 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 RJSCB's general counsel.

Second by Board Member Jones

Approved 6-0 with Member Schmidt away