

Resolution 2019-20: 69

Construction Change Directive to Manning Squires Hennig (Flower City School 54)

By Board Member Thomas Richards

WHEREAS, the Rochester School Facilities Modernization Program Act (“the 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 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, for Phase 2 of the RSMP, the RJSCB intends to undertake 14 projects for the design, reconstruction, or rehabilitation of existing school buildings for their continued use by the District (collectively, the “Phase 2 Projects”), which have been further defined as Phase 2a, Phase 2b, Phase 2c and Phase 2d, plus a DWT project at each of the Phase 2 school buildings; and

WHEREAS, the Flower City School No. 54 project (“School 54”) is one of the projects included in Phase 2d of the RSMP as provide in the Phase 2 Master Plan; and

WHEREAS, the RJSCB approved the award of the general contractor contract to Manning Squires Hennig (“MSH”) for the School 54 project in Phase 2d (Resolution 2018-19: 155); and

WHEREAS, the RJSCB entered into a contract with MSH (Resolution 2018-19:155) dated April 8, 2019 (the “Contract”), to perform the scope of services defined in the contract documents as the general contractor’s scope of work; and

WHEREAS, during the execution of the scheduled second floor work, it was discovered that the second floor was constructed with asbestos containing materials (“ACM”) that given the present conditions must be abated; and

WHEREAS, the ACM abatement on the second floor of School 54 must be performed under NYS Department of Labor Rule 56 Abatement Protocols (the “Abatement Work”); and

WHEREAS, the first phase (“First Phase”) of the Abatement Work would include the preparation, final cleaning and tear down and the second phase (“Second Phase”) of the Abatement Work would include ACM removal and encapsulation; and

WHEREAS, the Program Manager is negotiating a cost proposal with MSH for the Abatement Work, which the Program Manager believes will not exceed \$750,000.00 (\$238,000.00 for First Phase and \$512,000.00 for Second Phase); and

WHEREAS, project work on the second floor of School 54 has ceased until the Abatement Work is completed resulting in delays in the School 54 project schedule; and

WHEREAS, to reduce further delays in the School 54 project schedule and potential schedule recovery costs, the Abatement Work must be completed as soon as possible; and

WHEREAS, the Program Manager thereafter recommended to the RJSCB that a construction change directive with a not-to-exceed sum of \$750,000.00 should be issued to MSH to undertake the Abatement Work pending the Board's approval of a change order amending MSH's Contract; and

WHEREAS, the Board considered and discussed the Program Manager's recommendation at its December 9, 2019 meeting and after due deliberation, it approved the request to authorize the issuance of a construction change directive to allow the Abatement Work to proceed subject to the approval of a change order by the Board.

THEREFORE, BE IT RESOLVED:

1. The RJSCB Chair is hereby authorized, in the name and on behalf of the RJSCB, to execute a construction change directive for the Abatement Work that is consistent with this approval and in an acceptable form to the RJSCB Chair upon the advice of the Program Manager and the RJSCB's general counsel.

Second by Board Member Jesse Dudley
Adopted 4-0