

**Resolution 2011-12: 106**  
**Contract Awards – Franklin High School**

**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 Act authorized up to 13 projects in Phase I of the Rochester Schools Modernization Program (“RSMP”) including a District Wide Technology program which involves technology upgrades and infrastructure work at each of the 12 school projects identified in Phase 1; and

WHEREAS, the RJSCB’s Program Manager, with the advice of Young + Wright Architectural (the “Architect”), Campus Construction Management (the “Construction Manager”), the RJSCB’s general counsel, and the RJSCB’s Independent Compliance Officer, prepared a request for bids (“Request for Bids”) package for the Franklin High School project; and

WHEREAS, the RJSCB previously had authorized the release of the Request for Bids at its monthly meeting on March 12, 2012 (Resolution 2011-12: 83) pending approval of the Board of Education (“BOE”) and the State Education Department of New York (“SED”); and

WHEREAS, the RJSCB received approval of the Franklin High School project by the BOE at their monthly meeting on December 15, 2011 (BOE Resolution 2011-12: 413) and by SED on March 30, 2012; and

WHEREAS, the RJSCB’s Executive Director received bids on May 15, 2012 per the deadline stipulated in the Request for Bids, and those bids were subsequently publicly opened and read aloud at the location stated in the Request for Bids; and

WHEREAS, the Program Manager, Architect, Construction Manager, and Independent Compliance Officer (“ICO”) have reviewed the bids, conducted de-scoping meetings, and concluded that the apparent low bidders for three of the scope of work packages (Mechanical, Electrical, and Plumbing) are also qualified and responsible bidders; and

WHEREAS, on May 17, 2012, the apparent low bidder for the GC scope of work package, Testa Construction Inc., requested to rescind its bid due to a claimed mathematical or transcriptional error; and

WHEREAS, the Executive Director, Program Manager, Architect, Construction Manager, and the RJSCB’s general counsel, met with Testa Construction Inc. and its counsel, on May 24, 2012, and were provided with an explanation of the alleged error together with Testa Construction Inc.’s supporting documentation thereof; and

WHEREAS, Testa Construction Inc. indicated to the RJSCB’s Executive Director during the May 24, 2012 meeting that it could not perform the GC scope of work in accordance with the bid given its alleged error; and

WHEREAS, after receiving some additional materials from Testa Construction Inc. and upon further investigation determined that Testa Construction Inc. had apparently committed a mathematical or transcriptional error in calculating its bid for the Franklin Project; and

WHEREAS, the Program Manager, Construction Manager, and ICO have reviewed the bid proposal from the second bidder for the GC scope of work package, conducted a de-scope meeting with the bidder, and concluded that the second bidder for the GC scope of work package was also a qualified and responsible bidder; and

WHEREAS, at the MWBE and Services Procurement Committee meeting held on May 31, 2012, the RJSCB's Program Manager and ICO reviewed the status of the following proposed contract awards:

<u>Scope of Work</u>	<u>Name of Contractor</u>	<u>Address</u>	<u>Bid Amount (Incl. accepted alternates)</u>
General Contractor	Cucchiara Construction, Inc.	659 Ridge Road Webster, NY 14580	\$3,659,000
Mechanical Contractor	Leo J. Roth Inc.	841 Holt Road Webster, NY 14580	\$355,990
Electrical Contractor	Kaplan Schmidt	50 Saginaw Drive Rochester, NY 14623	\$378,600
Plumbing Contractor	Thurston Dudek	291 David Parkway Ontario, NY 14519	\$131,050

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby acknowledges Testa Construction Inc.'s decision to withdraw its bid for the GC scope of work package associated with the Franklin High School Project given its asserted inadvertent bid calculation error.
2. This resolution does not waive any of the RJSCB's legal rights with regard to Testa Construction Inc.'s bid security.
3. After due deliberation and consideration of the advice from the Program Manager and the ICO, the RJSCB hereby approves the recommendation of the Program Manager that contract awards shall be made to the above named firms and bid amounts to provide all equipment, labor, materials, and plant necessary to execute the scope of work associated with the Franklin High School project in Phase 1 of the RSMP;
4. The Chair is hereby authorized, in the name and on behalf of the RJSCB, to execute and deliver an Agreement (the "Agreement") to each firm named above in substantially the form included in the Request for Bids (dated April 16, 2012) for the Franklin High School project, with such changes as the Chair may approve (his signature thereon being conclusive evidence of such approval) on the advice of the Program Manager and the RJSCB's general counsel; and
5. 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 Member Brown**  
**Approved 6-0 with Member Castro away**