

**Resolution 2017-18: 158**  
**Authorization to Engage in Settlement Discussions - Phase 1**

**By Board Member Richards**

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 RJSCB approved the award of the general contractor contract to Manning Squires Hennig Co., Inc. (“Manning Squires”) for the School 17 project in Phase I (Resolution 2012-13: 14); and

WHEREAS, the RJSCB entered into a contract with Manning Squires (Resolution 2012-13: 14) dated July 2, 2012 (the “Contract”), to perform the scope of services defined in the contract documents as the general contractor’s scope of work; and

WHEREAS, Manning Squires entered into a subcontract with Homeguard Environmental Services, Inc. (“Homeguard”) for the School 17 project in Phase 1 (the “Subcontract”); and

WHEREAS, in 2014 Homeguard initiated a lawsuit, arising out of the Subcontract, against Manning Squires, Pike, Landon & Rian Enterprises Inc., Gilbane Building Company, Rochester City School District, City of Rochester and the RJSCB, in the State of New York, Supreme Court, County of Monroe Index No. 14-05394 (the “Action”); and

WHEREAS, during the Executive Session of the RJSCB meeting on March 6, 2018, Harter, Secrest and Emery LLP (“HSE”) briefed the board on the status of the Action and the potential next steps in the litigation process; and

WHEREAS, the RJSCB considered the recommendations of HSE and after due deliberation, it determined that it is in the best interest of the RJSCB that it attempt to resolve the Action through settlement discussions.

THEREFORE, BE IT RESOLVED:

1. It is in the best interests of the RJSCB that it attempt to resolve the Action by way of settlement discussions; and
2. HSE is hereby authorized in the name and on behalf of the RJSCB to enter into settlement discussions with Homeguard and the other named parties in the Action and report back the board on the status of those discussions; and
3. The execution and delivery of any such settlement agreements, or other documents, instruments or agreements deemed necessary or advisable in connection therewith, shall require the approval of the RJSCB.

**Second by Board Member Jones**  
**Approved 7-0**