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E-Mail guedw@foster.com

April 28, 2011

Mr. Robert Maruska, Chairman
Capital Projects Advisory Review Board
PO Box 45848
Olympia, Washington 98504

Re: Kennewick School District -- Elementary Modernization Project
Response to Appeal of GC/CM Approval

Dear Mr. Maruska:

The undersigned represents Kennewick School District, and the District submits this letter and supporting documents in response to JN Jacobsen & Son, Inc.'s appeal of the 24 March 2011 GC/CM approval issued by CPARB's Project Review Committee for the District's Elementary Modernization project.

Simply put, the PRC made the right decision in approving the District's project for GC/CM contracting, and did so in full compliance with the requirements of RCW 39.10. There is no procedural, substantive, or policy basis to overturn the PRC's well-considered decision in this matter, and the District respectfully requests that the Board confirm the project approval.

I. The PRC Issued Proper Advance Notice Of The Public Hearing.

RCW 39.10.260(2) provides that the PRC "shall publish notice of its public meetings at least twenty days before the meeting in a legal newspaper circulated in the area where the public body seeking certification is located, or where each of the proposed projects under consideration will be constructed. All meeting notices must be posted on the committee's web site."

The PRC fully complied with the notice provisions of RCW 39.10.260. Notice of the 24 March 2011 public hearing was published in the Daily Journal of Commerce ("DJC") on 4 March 2011. A copy of the notice is submitted herewith as **Exhibit 1**. The notice provided all of the information required under subsection (3) of RCW 39.10.260. The DJC is a legal newspaper that circulates in Kennewick, in Benton County, and the surrounding counties via traditional paper subscription (see **Exhibit 2**), through delivery to local construction industry plan centers (see **Exhibit 3**), and through an online subscription to any person with internet access. As illustrated in **Exhibit 4**, the DJC is utilized by nearly every public agency throughout the state of Washington for publication of legal notices. The meeting notice was also posted on the PRC webpage as required.

Jacobsen's assertion of inadequate meeting notice by the PRC is clearly inaccurate. The notice was properly published in the DJC – the legal paper of choice for Washington's construction industry – which most definitely circulates in Kennewick. Indeed, the DJC has featured

additional articles on the District's project (see **Exhibit 5**), highlighting the paper's regular publishing of information of interest to the Kennewick community and its local construction industry.

II. A Public Hearing Was Held In Accordance With RCW 39.10.260(4).

This section of the statute provides that "The committee must allow for public comment on the appropriateness of certification of a public body or on the appropriateness of the use of the proposed contracting procedure and the qualifications of a public body to use the contracting procedure." The PRC did exactly that, conducting an open public hearing on 24 March 2011 at the advertised time and location.

Numerous members of the public were present during the hearing, they were provided full opportunity to provide input. Indeed, several members of the public made comments to the PRC about the District's application. The PRC then took the public comment under advisement and proceeded with deliberations per the statute. The hearing met all statutory requirements, the PRC correctly followed its publicly-announced schedule and procedures, and the public was duly given its say regarding the District's application. Jacobsen's assertion to the contrary is uninformed and incorrect.

III. The Project Fully Qualifies For GC/CM Procurement Under RCW 39.10.340.

In its application package, the District provided detailed information demonstrating the project's eligibility for GC/CM contracting under RCW 39.10.340. The District's presentation during the PRC hearing highlighted the compelling need for and significant benefits of GC/CM contracting for this project, including:

- Complex scheduling and phasing over multiple years for three separate school facilities.
- Only one swing/surge space to accommodate students during construction.
- Any missed completion deadlines will result in substantial cost increases.
- Early site investigations and constructability analysis by GC/CM is needed to mitigate risk of unknown conditions.

A copy of the District's hearing presentation is submitted herewith as **Exhibit 7**. After thorough questioning of the District's project team and subsequent deliberation, the PRC unanimously gave its approval for the use of GC/CM contracting for this project (see **Exhibit 8**). Jacobsen's appeal contains no factual information whatsoever to counter the unanimous decision of the fully-informed and well-studied members of the PRC.

Jacobsen's allegation that the District does not have a qualified project team is flatly wrong. The District's team of staff and consultants has decades of experience in planning and managing hundreds of millions of dollars worth of complex construction projects, including numerous GC/CM projects under RCW 39.10. Mike Purdy is a recognized expert on alternative

procurement contracting in Washington, and the undersigned regularly conducts lectures and training on RCW 39.10 contracting and administration for attorneys and construction professionals. There is simply no basis to contest the considered judgment and collective expertise of the PRC in its analysis of the District's project, and Jacobsen offers no substantive information to justify overturning the PRC's GC/CM approval.

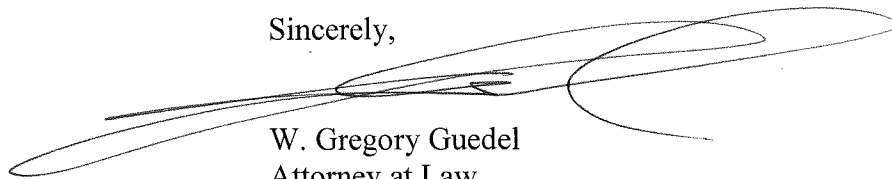
IV. Public Policy Supports Confirming The PRC's Project Approval.

Jacobsen provides no evidence to support its contention that the District's GC/CM procurement will somehow be less effective or efficient than a low-bid procurement. There is a complete lack of substantiation for Jacobsen's allegations, and the appeal provides no basis to scuttle the entire contracting process. If that were allowed, it would cost the District tens of thousands of dollars in additional procurement and administrative costs, along with months of lost project time.

The financial interest of a single construction company should not be placed higher than the educational needs of the District's school children, nor should it outweigh the interest of the taxpayers to have their capital funds used with maximum efficiency. Affirming the PRC's approval of the District's GC/CM procurement will enable the District to deliver solid value for the public's money, along with the top-quality school facilities its students deserve.

The District appreciates the opportunity to present this information, and representatives of the District will be in attendance at the 12 May hearing to make a 10-minute presentation to the Board.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Gregory Guedel', written over a horizontal line.

W. Gregory Guedel
Attorney at Law

Exhibits:

1. 4 March 2011 PRC Hearing Notice
2. DJC Kennewick-area subscriptions
3. DJC construction plan center distributions
4. DJC webpage
5. 11 April 2011 DJC article re: Kennewick SD project
6. Kennewick PRC hearing presentation
7. PRC GC/CM approval notice

Exhibit 1

4 March 2011

PRC

Hearing Notice

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Wednesday, April 20, 2011

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Capital Projects Advisory Review Board

Next PRC Meeting 3/24/11:

CPARB's Project Review Committee (PRC) will be meeting for five (5) GC/CM Project presentations and one (1) DB Project presentation. 9:00am to 5:00pm. Northwest Carpenters Facility, Main Conference Room 2nd Floor, 25120 Pacific Highway South, Kent Washington 98032.

five GC/CM project applications were submitted:

Easter Washington University GC/CM - Patterson Hall

Phase II Kennewick School District GC/CM - Elementary modernization project

Lake Washington school district GC/CM - New building for Alexander Graham Bell elementary

Lake Washington school district GC/CM - New building for Benjamin Rush elementary

Pierce County GC/CM- Chamber Creek Regional Wastewater Treatment Plant

WSU DB- Waller Student Housing

The public may present comments regarding the project approval between 9:05 am and 4:15 pm. Call Robyn Hofstad at (360) 902-7245 or e-mail robyn.hofsta@ga.wa.gov for questions.

Agenda

Welcome and Introduction

Public Comments

Project Application Reviews

Application Review Post Mortem

Adjourn

Check for the latest information and directions at: www.ga.wa.gov/cparb



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Cosecha Court Seasonal Farm Worker Housing Bid Date: May 10

Table with 2 columns: Item Name, Count. Includes New Bid Calls (14), New Consultant Notices (9), New Supply Bids (2).

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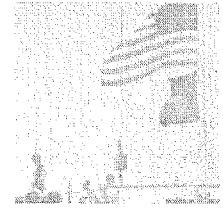
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Exhibit 2

DJC Kennewick-area subscriptions

Greg Guedel

From: Mike Purdy [mikepurdy54@gmail.com]
Sent: Tuesday, April 12, 2011 6:33 PM
To: David Robison; Greg Guedel; Doug Carl
Subject: Fwd: Kennewick, Pasco and Richland DJC subscribers

FYI from the Daily Journal of Commerce documenting that the paper is circulated in the Tri-Cities.

Best regards,
Mike

Michael E. Purdy Associates, LLC
(206) 762-2699 (office)
(206) 295-1464 (cell)

Sent from my iPhone

Begin forwarded message:

From: Jeff Mosely <jeff.mosely@djc.com>
Date: April 12, 2011 4:59:38 PM PDT
To: "mpurdy@mpurdy.com" <mpurdy@mpurdy.com>
Subject: Kennewick, Pasco and Richland DJC subscribers

A quick search of the database shows 22 print subscriptions where the mailing address lists the city as either Kennewick, Pasco or Richland.

There are a few more paid online subscriptions for those cities and a couple of print subscriptions in Prosser.

Jeff Mosely

Manager-Public Notices

Seattle Daily Journal of Commerce



Seattle DJC advertising agreement.

Exhibit 3

**DJC
construction
plan center
distributions**

Greg Guedel

From: David Robison [drobison@strategic-cm.com]
Sent: Wednesday, April 13, 2011 9:18 AM
To: Greg Guedel; doug.carl@ksd.org
Cc: mpurdy@mpurdy.com
Subject: Fwd: DJC-Builders Exchange - Spokane

>>> "Project Information" <ProjectInfo@plancenter.net> 4/13/2011 9:14 AM >>>
Mr. Robison;

This email is to let you know that the Spokane Regional Plan Center subscribes to the Daily Journal of Commerce.

Thank you for your interest.

Jenny Martin, Construction Reporter

Spokane Regional Plan Center

209 N Havana St, Spokane WA 99202

PO Box 2968, Spokane WA 99220

P 509.328.9600 F 509.328.7279

plancenter.net

Don't forget - we are now located at 209 N Havana!

Greg Guedel

From: David Robison [drobison@strategic-cm.com]
Sent: Wednesday, April 13, 2011 9:17 AM
To: Greg Guedel; doug.carl@ksd.org
Cc: mpurdy@mpurdy.com
Subject: Fwd:

Greg, Doug & Mike,

Here is an email directly from the Tri Cities Construction Council, I have email's coming from the other exchanges as well.

Question: Do we know if the builder who is protesting is even a member of the Builders Exchange,?

David

David L. Robison, CCM,
LEED AP, Principal
Strategic Construction Management, Inc.
1030 N. Center Parkway
Kennewick, Washington 99336
Voice: 509-737-0072
Fax: 509-222-2223
Email: drobison@strategic-cm.com

www.strategic-cm.com

>>> "Shannon A. Merriman" <shannonam@owt.com> 4/13/2011 9:05 AM >>>
Good Morning David

Per our phone conversation this morning, we do subscribe and post the DJC (Daily Journal of Commerce) in our Plan Room. If you need anything else please contact me.

Thank You

Shannon Merriman

Tri-City Construction Council

20 E. Kennewick Ave.

Kennewick, WA 99336

(509)582-7424

(509)582-6815 - fax

shannonam@owt.com

Exhibit 4

DJC
webpage

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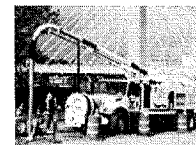
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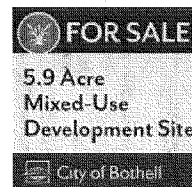
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Snohomish County
Snohomish County Fire District 1
Snohomish County PUD No. 1
Soos Creek Water and Sewer District
Sound Transit
South Seattle Community College
South Whatcom Fire Authority
Southwest Suburban Sewer District
Spokane County
Spokane Public Schools
Squaxin Island Tribe
State of Washington
Stillaguamish Tribe
Sumner School District
Sun Country Maintenance Association
Swinomish Housing Authority
Tacoma School District
Tall Timber Ranch
The Evergreen State College
Thurston County
Thurston Regional Planning Council
Town of Eatonville
Town of Friday Harbor
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Exhibit 5

11 April 2011

DJC article re:

Kennewick

SD project



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April 11, 2011

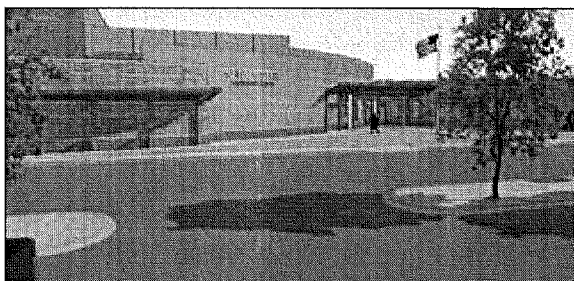
Kennewick upgrading three schools

By JOURNAL STAFF

The Kennewick School District will expand and modernize three elementary schools, all built in the early 1980s.

Construction for all three projects is expected to cost up to \$22.5 million.

The district is seeking a general contractor/construction manager. Proposals are due April 15.



[enlarge]

Work will take three years, allowing a year for each school.

First up is Sunset View Elementary, which is shown above. The 42,000-square-foot building has 567 students in kindergarten through fifth grade. Groundbreaking is slated to begin by Aug. 22.

Sunset View will receive new heating and cooling systems, including new ductwork and rooftop units. Finishes throughout the schools will be replaced.

Two additions totaling 8,600 square feet are planned, including a new kitchen and gym. Three kindergarten classrooms will be added as well as storage and administrative space.

The additions, like the rest of the building, will have concrete masonry-unit exteriors. Canopies, sun shades and metal panels will be added.

The parking lot will get a new fire lane and an extended bus drop-off lane. New concrete will be installed for sidewalks and play areas, and some new landscaping is planned.

Work at the other two schools will take place the following years. Cascade Elementary begins in 2012, and Lincoln Elementary begins in 2013. All three schools, built with the same plans, will receive similar upgrades.

The projects are part of a \$68 million program approved by voters in 2009.

Madsen Mitchell Evenson and Conrad of Spokane is the architect for the projects. Other team members are Sherry Pratt Van Voorhis, landscape architect; Meier Enterprises, civil engineer; DCI Engineers, structural engineer; Meulink Engineers, mechanical engineer; DEI Electrical Consultants, electrical engineer; and FP Engineering, fire protection.

A public notice for the RFP appeared in the DJC March 28.

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Exhibit 6

Kennewick PRC hearing presentation



GC/CM Application

Kennewick Elementary Modernization Project

Application for Project Approval to Use the General
Contractor/Construction Manager (GC/CM) Alternative Contracting Procedure
Project Review Committee Meeting
March 24, 2011

Introduction of Project Team

David Bond—Superintendent, Kennewick School District

Doug Carl— Project Manager, Kennewick School District

Doug Mitchell— Architect, Madsen Mitchell Evenson & Conrad,
Architects

Heidi Pierce—Project Manager, Madsen Mitchell Evenson &
Conrad, Architects

David Robison—Construction Manager, Strategic Construction
Management, Inc.

Mike Purdy—GC/CM Procurement and Contracting,
Michael E. Purdy Associates, LLC

Greg Guedel—Legal Review, Foster Pepper, PLLC



Agenda

- Project Description
- Project Overview
 - Objectives
 - Budget
 - Schedule
- Meets RCW 39.10 Project Criteria
- Stable Funding for Project
- A Strong Project Team—Org Chart
- Project Review Committee Questions & Responses
- Summary
- Additional Questions from PRC



Project Description

Project Description

- All three schools are virtually the same and each will require
 - Asbestos abatement
 - Modernization of existing facilities
 - Demolition and removal of interiors of all schools and complete replacement of all mechanical, electrical and plumbing systems
 - All new finishes, including floors, ceilings, doors, hardware
 - A new card key access security control systems at the building entrance
 - ADA compliance requirements
 - An addition of 8,613 square feet per school, which will add:
 - Additional Conference, counseling, storage and support services
 - A multi-purpose room
- There is only one building available for the Swing/Surge space.



