

Resolution 2016-17: 183
Insurance Requirements Waiver for Building Energy Solutions, Inc.

By Board Member Brown

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, the Amended Act authorized up to 26 projects in Phase 2 of the RSMP including a District Wide Technology program which involves technology upgrades and infrastructure work at several of the possible projects; and

WHEREAS, the District’s Board of Education (“BOE”) has approved the comprehensive Master Plan for Phase 2 (BOE Resolution 2015-16: 630); and

WHEREAS, the Superintendent has identified and confirmed the projects for Phase 2 of the RSMP for which the RJSCB has started design and planning work in advance of the New York State Education Department and New York State Comptroller’s approval of the comprehensive Master Plan for Phase 2; and

WHEREAS, for Phase 2 of the RSMP, the RJSCB established certain insurance coverage limits that needed to be obtained by consultants and subconsultants working on Phase of the RSMP; and

WHEREAS, the RJSCB issued a request for proposals (the “RFP”) for commissioning authority services projects for Phase 2 Schools (Resolution 2016-17: 48); and

WHEREAS, the RJSCB approved the selection of Erdman Anthony as the Commissioning Authority for the Phase 2 projects (Resolution 2016-17: 66); and

WHEREAS, the RJSCB entered into an agreement with Erdman Anthony dated October 17, 2016, entitled Agreement between Board and Architect (the “Agreement”); and

WHEREAS, in connection with the Agreement, Erdman Anthony retained Building Energy Solutions LLC (“BES”) as a subconsultant for the Phase 2 projects; and

WHEREAS, BES has requested a waiver of the requirement that it carry an excess liability insurance policy for its general aggregate and auto liability insurance policies on the basis that such coverage is not warranted by the services it is providing as a subconsultant to Erdman Anthony and that the cost of said insurance is one-quarter of its total subconsulting fee for the Phase 2 projects; and

WHEREAS, BES has provided proof that it meets all of the other insurance requirements for the Phase 2 projects; and

WHEREAS, the M/WBE and Services Procurement Committee (“Committee”) reviewed and discussed the waiver request at its meeting on April 6, 2017, and, after due deliberation, it approved the forwarding of the waiver request to the full Board for its consideration.

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby waives the requirement that BES carry an excess liability insurance policy for its general aggregate and auto liability insurance policies for the Phase 2 projects.

Second by Board Member Benincasa

Approved 6-0 with Member Richards away