

Resolution 2017-18: 24
EBE Goals Waiver for Mark Cerrone Contract (School 1/15)

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, for the Rochester Schools Modernization Program ("RSMP"), the Board implemented a Diversity Plan to create effective processes to increase the purchase of goods and services from diverse businesses and workforce members; and

WHEREAS, in the RSMP Phase 2 Diversity Plan, the Board established participation goals for Eligible Business Enterprises ("EBEs") as follows: MBE: 17% of each contract; WBE: 10% of each contract; DBE: 3% of each contract; and SBE: 3% of each contract; and

WHEREAS, the RJSCB approved the award of the demolition and abatement contractor contract to Mark Cerrone, Inc. ("Mark Cerrone") for the Children's School of Rochester ("School 1/15") project in Phase 2 of the RSMP (Resolution 2016-17:229); and

WHEREAS, the RJSCB entered into a contract with Mark Cerrone (Resolution 2016-17:229) dated June 16, 2017 (the "Contract"), to perform the scope of services defined in the contract documents as the demolition and abatement contractor's scope of work; and

WHEREAS, the Contract requires Mark Cerrone to comply with the requirements for EBE participation set forth in the Phase 2 Diversity Plan; and

WHEREAS, Mark Cerrone has requested a waiver of the EBE participation requirements set forth under the Contract due to its stated inability to meet the EBE goals based upon a WBE subcontract losing its certification mid-project; and

WHEREAS, pursuant to Section 004331 of the Specifications for the School 1/15 project, the Independent Compliance Officer ("ICO") has the discretion to waive the requirement to meet the EBE goals; and

WHEREAS, Mark Cerrone has certified that it has taken every good faith effort to promote EBE participation set forth under the Contract; and

WHEREAS, the ICO has reviewed Mark Cerrone's waiver request and has determined that it has adequately demonstrated its good faith efforts to promote EBE participation and meet the EBE goals; and

WHEREAS, the ICO has exercised its discretion to waive Mark Cerrone's requirement to meet the EBE goals; and

WHEREAS, the ICO has recommended to the M/WBE and Services Procurement Committee (the "Committee") that Mark Cerrone's request for an EBE goal waiver should be granted; and

WHEREAS, the Committee considered and discussed the Independent Compliance Officer's recommendation at its August 3, 2017 meeting and after due deliberation, it approved the request to grant the EBE goal waiver to Mark Cerrone.

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby grants Mark Cerrone's waiver of the WBE goal requirement established in the Contract between the RJSCB and Mark Cerrone dated June 16, 2017.

Second by Board Member Jones

Approved 4-0 with Vice Chair Schmidt and Members Cruz and Richards away