

36363

TO: Board of Acquisition and Contract

FROM: Jay T. Pisco, P.E.
Commissioner of Public Works and Transportation

DATE: October 9, 2013

SUBJECT: Resolution to Award to the Second Low Bidder
Contract No. **13-506**
Rehabilitation of Taxiway A
Westchester County Airport
Towns of Harrison and North Castle and Village of Rye Brook, New York
Contractor: Morano Brothers Corp.
Amount: \$5,601,541.75

On July 17, 2013, seven (7) bids were received and opened for Contract No. 13-506 for Rehabilitation of Taxiway A, Westchester County Airport, Towns of Harrison and North Castle and Village of Rye Brook, New York, whereby ECCO III Enterprises, Inc. submitted the apparent low bid in the amount of \$5,414,786.08. However, on July 18, 2013, the apparent low bidder, ECCO III Enterprises, Inc., notified the County that it had made an unintentional omission of a substantial quantity of labor and materials and requested to withdraw its bid. Specifically, ECCO III Enterprises, Inc. informed the County that incorrect calculations on its itemized proposal sheet resulted in errors in its final tabulations for unit prices for the Mobilization/Demobilization and Temporary Construction bid item resulting in an error in the amount of \$980,213.92.

Pursuant to New York General Municipal Law Section 103(11), a bid may be withdrawn by a bidder after a showing of the following: (1) the mistake is known or made known to the awarding officer, board or agency prior to the awarding of the contract or within three days after the opening of the bid, whichever period is shorter; and (2) the price bid was based on an error of such magnitude that enforcement would be unconscionable; and (3) the bid was submitted in good faith and the bidder submits credible evidence that the mistake was a clerical error as opposed to a judgment error; and (4) the error in the bid is actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, material, goods or services made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and (5) it is possible to place the public agency, board, officer, or subdivision in status quo ante.

The Department of Public Works and Transportation has performed a detailed analysis of ECCO III Enterprises, Inc.'s bid to verify the validity of this error and has determined that ECCO III Enterprises, Inc. has met all of the criteria set forth in GML Section 103(11), and thus, can withdraw its bid of \$5,414,786.08. The Department of Law has concurred, that based on the Department's determination that all the criteria set forth in GML Section 103(11) have been met, ECCO III Enterprises, Inc. may withdraw its bid.

Therefore, it is requested that the bid submitted by ECCO III Enterprises, Inc. be deemed withdrawn and that Contract No. 13-506 be awarded to the apparent second low bidder, Morano Brothers Corp. in the amount of \$5,601,541.75.

Morano Brothers Corp. has been investigated and it has been found that Morano Brothers Corp.:

- Performed satisfactory work in the past for the County.
 Past experience has been investigated and found satisfactory.

Funds for this project are available in the:

- Capital Budget
 Non-Recurring Budget
 Operating Budget

The objective of this contract is to replace substandard areas of asphalt paving.

This contract is in the public's best interest because it will promote the health and safety of the general public by ensuring that the Airport meets FAA standards, thus addressing the County Executive's priority area: Safety and Security (SS). There are no energy or environmental components associated with this project.

The Department will track scheduling and accomplishments by the contractor and perform on-site inspections to ensure the successful completion of this project.

Payment for this entire contract will be made from Federal Aviation Administration Funds and the Airport Special Revenue Fund, not the County General Fund and will not impact the County tax levy.

It is my recommendation that Contract No. 13-506 be awarded to Morano Brothers Corp. in the amount of \$5,601,541.75.

This Resolution has been reviewed by the Law Department.

APPROVED BOARD OF ACQUISITION & CONTRACT - 10/24/2013 - JOMARY VIEIRA, SECRETARY

