

51817

TO: Board of Acquisition and Contract

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

DATE: April 19, 2016

SUBJECT: Resolution to Award to the Second Low Bidder
Contract No. 12-507
Mechanical Upgrades
143 Grand Street
White Plains, New York

Contractor: Sun-Dance Energy Contractors Inc. d/b/a Markley Mechanical
Amount: \$518,555.00

Subcontractor(s): Naber Electric Corp.

On March 16, 2016, five (5) bids were received and opened for Contract No. 12-507 for Mechanical Upgrades, 143 Grand Street, White Plains, New York, whereby Abbott & Price, Inc. submitted the apparent low bid in the amount of \$278,000.00. However, on March 17, 2016, the apparent low bidder, Abbott & Price, 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, Abbott & Price, Inc. omitted from their bid the entire cost for the boiler control system. The total amount of the omission was \$93,500.00.

Pursuant to New York General Municipal Law Section 103(11), a bid may be withdrawn by a bidder after a showing of the following: (1) the mistake is known or made known to the awarding officer, board or agency prior to the awarding of the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from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and (5) it is possible to place the public agency, board, officer, or subdivision in status quo ante.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 (the "Department") has performed a detailed analysis of Abbott & Price, Inc.'s bid to verify the validity of this error and has determined that Abbott & Price, Inc. has met all of the criteria set forth in GML Section 103(11), and thus, can withdraw its bid of \$278,000.00. 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, Abbott & Price, Inc. may withdraw its bid.

Therefore, it is requested that the bid submitted by Abbott & Price, Inc. be deemed withdrawn and that Contract No. 12-507 be awarded to the new low bidder, Sun-Dance Energy Contractors Inc. d/b/a Markley Mechanical in the amount of \$518,555.00.

The bids were reviewed by the Department and it was determined that Sun-Dance Energy Contractors Inc. d/b/a Markley Mechanical submitted the low bid in the amount of \$518,555.00, and has proposed the utilization of the following subcontractor: Naber Electric Corp. (Electrical Work), 1025 Saw Mill River Road, Yonkers, New York 10710.

The low bidder has been investigated and it has been found that Sun-Dance Energy Contractors Inc. d/b/a Markley Mechanical:

- 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 upgrade the existing heating system.

This contract is in the public's best interest because it will promote the health and safety of the general public by utilizing high efficiency gas fired boilers while providing an energy savings by reducing energy consumption.

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

It is my recommendation that Contract No. 12-507 be awarded to Sun-Dance Energy Contractors Inc. d/b/a Markley Mechanical in the amount of \$518,555.00.

APPROVED BOARD OF ACQUISITIONS CONTRACT - 05/19/2016 - LISA MRINA, SECRETARY

RESOLUTION

CONTRACT NO. 12-507

Upon communication from the Commissioner of Public Works and Transportation,

WHEREAS, on March 16, 2016, five (5) bids were received and opened for Contract No. 12-507 for Mechanical Upgrades, 143 Grand Street, White Plains, New York; and

WHEREAS, the apparent low bidder, Abbott & Price, Inc. made an unintentional omission of a substantial quantity of labor and materials, and therefore has requested that its bid proposal of \$278,000.00 be withdrawn in accordance with New York General Municipal Law Section 103(11); and

WHEREAS, the apparent second lowest bidder, Sun-Dance Energy Contractors Inc. d/b/a Markley Mechanical complied with all bid specifications; now, therefore, be it

RESOLVED, that it has been determined that Abbott & Price, Inc.'s bid error meets all of the criteria set forth in New York General Municipal Law Section 103(11), and that Abbott & Price, Inc. be permitted to withdraw its bid submitted on March 16, 2016 for Contract No. 12-507 in the amount of \$278,000.00; and be it further

RESOLVED, that Contract No. 12-507 for Mechanical Upgrades, 143 Grand Street, White Plains, New York, be and is hereby awarded to Sun-Dance Energy Contractors Inc. d/b/a Markley Mechanical, 424 Central Avenue, Peekskill, New York 10566, in the amount of \$518,555.00; and be it further

RESOLVED, that the use of the following subcontractor also be approved: Naber Electric Corp. (Electrical Work), 1025 Saw Mill River Road, Yonkers, New York 10710; and be it further

RESOLVED, that this contract is subject to County appropriations; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized and empowered to execute any and all documents necessary or appropriate to effectuate the purposes hereof.

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Bond Act No.	Dollars
	346	46	B003403C	6210-99	BA #234-2007	\$518,555.00

Budget Funding Year(s): 2016
(must match resolution)

Start Date: May 26, 2016

End Date: March 25, 2018

Funding Source: Tax Dollars 100% County

State Aid _____

\$518,555.00 Federal Aid _____
(must match resolution)

Other _____