

72325

TO: Board of Acquisition and Contract

FROM: Hugh J. Greechan, Jr., P.E.
Commissioner of Public Works and Transportation

DATE: October 29, 2019

SUBJECT: Resolution to Award to the Second Low Bidder
Contract No. 19-523
Roof Replacement
Coachman Family Center
123 East Post Road
White Plains, New York

Contractor: Icon Contracting Group Inc.
Amount: \$888,550.00

On October 2, 2019 the County of Westchester ("County") received and opened nine (9) bids for Contract No. 19-523 for Roof Replacement, Coachman Family Center, 123 East Post Road, White Plains, New York, whereby GTS Construction Corp. submitted the apparent low bid in the amount of \$767,000.00. However, on October 4, 2019, the apparent low bidder, GTS Construction Corp., 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, GTS Construction Corp. informed the County that incorrect calculations in preparing their bid for the new roof cost estimate resulted in an error in the amount of \$90,000.00.

Pursuant to New York General Municipal Law Section 103(11), a bid may be withdrawn by a bidder after a showing of the following: (1) the mistake is known or made known to the awarding officer, board or agency prior to the awarding of the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from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and (5) it is possible to place the public agency, board, officer, or subdivision in status quo ante.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 GTS Construction Corp.'s bid to verify the validity of this error and has determined that GTS Construction Corp. has met all of the criteria set forth in GML Section 103(11), and thus, can withdraw its bid of \$767,000.00. 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, GTS Construction Corp. may withdraw its bid.

Therefore, it is requested that the bid submitted by GTS Construction Corp. be deemed withdrawn and that Contract No. 19-523 be awarded to the apparent second low bidder, Icon Contracting Group Inc., in the amount of \$888,550.00.

The bids were reviewed by the Department and it was determined that Icon Contracting Group Inc. submitted the low bid in the amount of \$888,550.00.

The low bidder has been investigated and it has been found that Icon Contracting Group Inc.:

- 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 maintain the weather tightness of the building.

This contract is in the public's best interest because it will extend the life of the existing structure.

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. 19-523 be awarded to Icon Contracting Group Inc. in the amount of \$888,550.00.

This Resolution has been reviewed by the Law Department.

APPROVED BOARD OF ACQUISITION & CONTRACT - 11/14/2019 - LISA MARIJAJ, SECRETARY

RESOLUTION

CONTRACT NO. 19-523

Upon communication from the Commissioner of Public Works and Transportation,

WHEREAS, on October 2, 2019, nine (9) bids were received and opened by the County of Westchester (“County”) for Contract No. 19-523 for Roof Replacement, Coachman Family Center, 123 East Post Road, White Plains, New York; and

WHEREAS, the apparent low bidder, GTS Construction Corp. made an unintentional omission of a substantial quantity of labor and materials, and therefore has requested that its bid proposal of \$767,000.00 be withdrawn in accordance with New York General Municipal Law Section 103(11); and

WHEREAS, the apparent second lowest bidder, Icon Contracting Group Inc., complied with all bid specifications; now, therefore, be it

RESOLVED, that it has been determined that GTS Construction Corp.’s bid error meets all of the criteria set forth in New York General Municipal Law Section 103(11), and that GTS Construction Corp. be permitted to withdraw its bid submitted on October 2, 2019 for Contract No. 19-523 in the amount of \$767,000.00; and be it further

RESOLVED, that Contract No. 19-523 for Roof Replacement, Coachman Family Center, 123 East Post Road, White Plains, New York be and is hereby awarded by the County to Icon Contracting Group Inc., 500 Mamaroneck Avenue, Suite 320, Harrison, New York 10528, in the amount of \$888,550.00; 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
	320	22	BSS1403C	6210-99	BA #167-2016	\$888,550.00

Budget Funding Year(s): 2019 **Start Date:** December 1, 2019 **End Date:** September 30, 2021
(must match resolution)

Funding Source: **Tax Dollars** 100% County

State Aid _____

\$888,550.00 **Federal Aid** _____

(must match resolution)

Other _____