

34795

TO: Board of Acquisition and Contract

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

DATE: July 2, 2013

SUBJECT: Resolution to Award to the Second Low Bidder
Contract No. **13-518**
Stormwater Management and Wetland Restoration
At the Intersection of Fisher Lane and Bronx River Parkway
Town of Greenburgh, New York
Contractor: Landi Contracting, Inc. (**WBE**)
Amount: \$769,250.00

On May 29, 2013, five (5) bids were received and opened for Contract No. 13-518 for Stormwater Management and Wetland Restoration at the Intersection of Fisher Lane and Bronx River Parkway, Town of Greenburgh, New York, whereby Abbott & Price, Inc. submitted the apparent low bid in the amount of \$506,682.00. However, on May 30, 2013, 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. informed the County that incorrect calculations on its summary worksheet resulted in errors in its final tabulations for unit prices for Clearing & Grubbing, Unclassified Excavation & Disposal, and Plant Establishment resulting in an error in the amount of \$143,000.00.

Pursuant to New York General Municipal Law Section 103(11), a bid may be withdrawn by a bidder after a showing of the following: (1) the mistake is known or made known to the awarding officer, board or agency prior to the awarding of the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from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and (5) it is possible to place the public agency, board, officer, or subdivision in status quo ante.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 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 \$506,682.00. 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. 13-518 be awarded to the apparent second low bidder, Landi Contracting, Inc. in the amount of \$769,250.00.

Landi Contracting, Inc. has been investigated and it has been found that Landi Contracting, 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 stabilize the streambank on the Bronx River, using a combination of structural and bioengineering techniques along with restoration of the existing freshwater wetland.

This contract is in the public's best interest because it will provide an environmental benefit by reducing flooding and erosion, thus addressing the County Executive's priority area: Health and the Environment (HE).

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. 13-518 be awarded to Landi Contracting, Inc. in the amount of \$769,250.00.

This Resolution has been reviewed by the Law Department.

APPROVED BOARD OF ACQUISITION & CONTRACTS 07/25/2013 - JOMARY VIEIRA, SECRETARY

RESOLUTION

CONTRACT NO. 13-518

Upon communication from the Commissioner of Public Works and Transportation,

WHEREAS, on May 29, 2013, five (5) bids were received and opened for Contract 13-518 for Stormwater Management and Wetland Restoration at the Intersection of Fisher Lane and Bronx River Parkway, Town of Greenburgh, 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 \$506,682.00 be withdrawn in accordance with New York General Municipal Law Section 103(11); and

WHEREAS, the apparent second lowest bidder, Landi Contracting, Inc., 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 May 29, 2013 for Contract 13-518 in the amount of \$506,682.00; and be it further

RESOLVED, that Contract No. 13-518 for Stormwater Management and Wetland Restoration at the Intersection of Fisher Lane and Bronx River Parkway, Town of Greenburgh, New York be and is hereby awarded to Landi Contracting, Inc., 13 Bradhurst Avenue, Hawthorne, New York 10532, in the amount of \$769,250.00; and be it further

RESOLVED, that this Agreement 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	Trust Account	Dollars
	318	19	BPL2302C	6210-99		\$769,250.00

Budget Funding Year(s) 2013
(must match resolution)

Start Date: August 8, 2013

End Date: August 7, 2017

Funding Source: Tax Dollars 100% County

**Contractor Federal I.D. No./
Social Security No.:** _____

State Aid _____

\$769,250.00
(must match resolution)

Federal Aid _____

Vendor No.: _____

Other _____

Encumbrance No.: _____