

51195

TO: Board of Acquisition and Contract

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

DATE: February 23, 2016

SUBJECT: Resolution to Award to the Second Low Bidder
Contract No. **14-501**
Relocation of Sanitary Sewer Line
Playland Park Bathhouse
Blind Brook Sewer District
Rye, New York

Contractor: Casale Construction Services, Inc. (WBE)
Amount: \$1,380,235.00

On January 20, 2016, nine (9) bids were received and opened for Contract No. 14-501 for Relocation of Sanitary Sewer Line, Playland Park Bathhouse, Blind Brook Sewer District, Rye, New York, whereby Papitto Construction Co., Inc. submitted the apparent low bid in the amount of \$1,197,280.00. However, on January 22, 2016, the apparent low bidder, Papitto Construction Co., 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, Papitto Construction Co., Inc. made a mathematical error in calculating the amount of rock drilling required. The total amount of the omission was \$205,400.00.

Pursuant to New York General Municipal Law Section 103(11), a bid may be withdrawn by a bidder after a showing of the following: (1) the mistake is known or made known to the awarding officer, board or agency prior to the awarding of the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from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and (5) it is possible to place the public agency, board, officer, or subdivision in status quo ante.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 Papitto Construction Co., Inc.'s bid to verify the validity of this error and has determined that Papitto Construction Co., Inc. has met all of the criteria set forth in GML Section 103(11), and thus, can withdraw its bid of \$1,197,280.00. 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, Papitto Construction Co., Inc. may withdraw its bid.

Therefore, it is requested that the bid submitted by Papitto Construction Co., Inc. be deemed withdrawn and that Contract No. 14-501 be awarded to the apparent second low bidder, Casale Construction Services, Inc. in the amount of \$1,380,235.00.

February 23, 2016

The bids were reviewed by the Department and it was determined that Casale Construction Services, Inc. submitted the low bid in the amount of \$1,380,235.00.

The low bidder has been investigated and it has been found that Casale Construction Services, 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 mitigate the risk of building issues within the Bathhouse by removing from service the sanitary sewer and to facilitate easier access for maintenance, inspection and repairs for the new sanitary sewer.

This contract is in the public's best interest because it will remove from service an existing sanitary sewer located under the floor of the Playland Park Bathhouse and it will ensure that the operation of the new relocated sanitary sewer is safe and environmentally compliant, thereby enhancing the health and general welfare of the residents of Westchester County. The existing location of the sanitary sewer below the Bathhouse floor makes the sewer difficult to access for maintenance and repair.

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. 14-501 be awarded to Casale Construction Services, Inc. in the amount of \$1,380,235.00, subject to appropriations.

RESOLUTION

CONTRACT NO. 14-501

Upon communication from the Commissioner of Public Works and Transportation,

WHEREAS, on January 20, 2016, nine (9) bids were received and opened for Contract 14-501 for Relocation of Sanitary Sewer Line, Playland Park Bathhouse, Blind Brook Sewer District, Rye, New York; and

WHEREAS, the apparent low bidder, Papitto Construction Co., Inc. made an unintentional omission of a substantial quantity of labor and materials, and therefore has requested that its bid proposal of \$1,197,280.00 be withdrawn in accordance with New York General Municipal Law Section 103(11); and

WHEREAS, the apparent second lowest bidder, Casale Construction Services, Inc. complied with all bid specifications; now, therefore, be it

RESOLVED, that it has been determined that Papitto Construction Co., Inc.'s bid error meets all of the criteria set forth in New York General Municipal Law Section 103(11), and that Papitto Construction Co., Inc. be permitted to withdraw its bid submitted on January 20, 2016 for Contract 14-501 in the amount of \$1,197,280.00; and be it further

RESOLVED, that Contract No. 14-501, for Relocation of Sanitary Sewer Line, Playland Park Bathhouse, Blind Brook Sewer District, Rye, New York be and is hereby awarded to Casale Construction Services, Inc., 551 Main Avenue, Wyncantskill, New York 12198, in the amount of \$1,380,235.00; 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
	322	60	SBB8503S	6210-99	BA #131-2015	\$1,380,235.00

Budget Funding Year(s) 2016

(must match resolution)

Start Date: April 1, 2016

End Date: July 31, 2018

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

State Aid _____

\$1,380,235.00 **Federal Aid** _____

(must match resolution)

Other _____