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TO: Board of Acquisition and Contract

FROM: Vincent F. Kopicki, P.E.
Commissioner of Public Works and Transportation

DATE: August 22, 2017

SUBJECT: Resolution to Award to the Second Low Bidder
Contract No. **16-524**
Playground Site Work Rehabilitation
Saxon Woods Park
Village of Scarsdale and City of White Plains, New York
Contractor: Peter J. Landi, Inc.
Amount: \$769,460.00

On July 19, 2017, eight (8) bids were received and opened for Contract No. 16-524 for Playground Site Work Rehabilitation, Saxon Woods Park, Village of Scarsdale and City of White Plains, New York, whereby Avanti Building Construction Corp. submitted the apparent low bid in the amount of \$729,059.00. However, on July 21, 2017, the apparent low bidder, Avanti Building 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, Avanti Building Construction Corp. informed the County that incorrect calculations in preparing their bid for the playground equipment resulted in an error in the amount of \$40,401.00.

Pursuant to New York General Municipal Law Section 103(11), a bid may be withdrawn by a bidder after a showing of the following: (1) the mistake is known or made known to the awarding officer, board or agency prior to the awarding of the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from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and (5) it is possible to place the public agency, board, officer, or subdivision in status quo ante.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 Avanti Building Construction Corp.'s bid to verify the validity of this error and has determined that Avanti Building Construction Corp. has met all of the criteria set forth in GML Section 103(11), and thus, can withdraw its bid of \$729,059.00. 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, Avanti Building Construction Corp. may withdraw its bid.

Therefore, it is requested that the bid submitted by Avanti Building Construction Corp. be deemed withdrawn and that Contract No. 16-524 be awarded to the apparent second low bidder, Peter J. Landi, Inc. in the amount of \$769,460.00.

The bids were reviewed by the Department and it was determined that Peter J. Landi, Inc. submitted the low bid in the amount of \$769,460.00.

The low bidder has been investigated and it has been found that Peter J. Landi, 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 upgrade the two existing playgrounds.

This contract is in the public's best interest because it will promote the health and safety of the general public by improving these two playgrounds to meet current State and Health Department codes and standards.

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. 16-524 be awarded to Peter J. Landi, Inc. in the amount of \$769,460.00.

This Resolution has been reviewed by the Law Department.

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/14/2017 - LISA MARIJAJ, SECRETARY

RESOLUTION

CONTRACT NO. 16-524

Upon communication from the Commissioner of Public Works and Transportation,

WHEREAS, on July 19, 2017, eight (8) bids were received and opened for Contract No. 16-524 for Playground Site Work Rehabilitation, Saxon Woods Park, Village of Scarsdale and City of White Plains, New York; and

WHEREAS, the apparent low bidder, Avanti Building Construction Corp., made an unintentional omission of a substantial quantity of labor and materials, and therefore has requested that its bid proposal of \$729,059.00 be withdrawn in accordance with New York General Municipal Law Section 103(11); and

WHEREAS, the apparent second lowest bidder, Peter J. Landi, Inc., complied with all bid specifications; now, therefore, be it

RESOLVED, that it has been determined that Avanti Building Construction Corp.'s bid error meets all of the criteria set forth in New York General Municipal Law Section 103(11), and that Avanti Building Construction Corp. be permitted to withdraw its bid submitted on July 19, 2017 for Contract No. 16-524 in the amount of \$729,059.00; and be it further

RESOLVED, that Contract No. 16-524 for Playground Site Work Rehabilitation, Saxon Woods Park, Village of Scarsdale and City of White Plains, New York be and is hereby awarded to Peter J. Landi, Inc., 13 Bradhurst Avenue, Hawthorne, New York 10532, in the amount of \$769,460.00; 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
	372	42	RSW0101C	6210-99	BA #79-2017	\$769,460.00

Budget Funding Year(s): 2017 **Start Date:** September 28, 2017 **End Date:** November 27, 2019
 (must match resolution)

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

State Aid _____

\$769,460.00 **Federal Aid** _____

(must match resolution)

Other _____