

85410

TO: Board of Acquisition and Contract

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

DATE: June 1, 2021

SUBJECT: Resolution to Award to the Second Low Bidder
Contract No. 20-525
LED Lighting Upgrade
Mount Kisco District Office
25 Moore Avenue
Mount Kisco, New York

Contractor: RLJ Electric Corporation
Amount: \$366,000.00

On May 12, 2021 the County of Westchester ("County") received and opened seven (7) bids for Contract No. 20-525 for LED Lighting Upgrade, Mount Kisco District Office, 25 Moore Avenue, Mount Kisco, New York, whereby D&M Electrical Contracting, Inc. submitted the apparent low bid in the amount of \$267,899.00. However, on May 13, 2021, the apparent low bidder, D&M Electrical Contracting, Inc., notified the County that it had made an unintentional omission of a substantial quantity of labor manhours and requested to withdraw its bid. Specifically, D&M Electrical Contracting, Inc. informed the County that a mathematical error in its estimating software resulted in an error in a labor category in the amount of \$90,447.00.

Pursuant to New York General Municipal Law Section 103(11), a bid may be withdrawn by a bidder after a showing of the following: (1) the mistake is known or made known to the awarding officer, board or agency prior to the awarding of the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from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and (5) it is possible to place the public agency, board, officer, or subdivision in status quo ante.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 D&M Electrical Contracting, Inc.'s bid to verify the validity of this error and has determined that D&M Electrical Contracting, Inc. has met all of the criteria set forth in GML Section 103(11), and thus, can withdraw its bid of \$267,899.00. 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, D&M Electrical Contracting, Inc. may withdraw its bid.

June 1, 2021

Therefore, it is requested that the bid submitted by D&M Electrical Contracting, Inc. be deemed withdrawn and that Contract No. 20-525 be awarded to the apparent second low bidder, RLJ Electric Corporation in the amount of \$366,000.00.

The bids were reviewed by the Department and it was determined that RLJ Electric Corporation submitted the low bid in the amount of \$366,000.00.

The low bidder has been investigated and it has been found that RLJ Electric Corporation:

- 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 ceiling and lighting system.

This contract is in the public's best interest because it will provide an energy saving lighting system at the Mount Kisco District Office.

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. 20-525 be awarded to RLJ Electric Corporation in the amount of \$366,000.00.

This Resolution has been reviewed by the Law Department.

RESOLUTION

CONTRACT NO. 20-525

Upon communication from the Commissioner of Public Works and Transportation,

WHEREAS, on May 12, 2021, seven (7) bids were received and opened by the County of Westchester (“County”) for Contract No. 20-525 for LED Lighting Upgrade, Mount Kisco District Office, 25 Moore Avenue, Mount Kisco, New York; and

WHEREAS, the apparent low bidder, D&M Electrical Contracting, Inc. made an unintentional omission of a substantial quantity of labor manhours, and therefore has requested that its bid proposal of \$267,899.00 be withdrawn in accordance with New York General Municipal Law Section 103(11); and

WHEREAS, the apparent second lowest bidder, RLJ Electric Corporation complied with all bid specifications; now, therefore, be it

RESOLVED, that it has been determined that D&M Electrical Contracting, Inc.’s bid error meets all of the criteria set forth in New York General Municipal Law Section 103(11), and that D&M Electrical Contracting, Inc. be permitted to withdraw its bid submitted on May 12, 2021 for Contract No. 20-525 in the amount of \$267,899.00; and be it further

RESOLVED, that Contract No. 20-525 for LED Lighting Upgrade, Mount Kisco District Office, 25 Moore Avenue, Mount Kisco, New York be and is hereby awarded by the County to RLJ Electric Corporation, 860 Washington Street, Peekskill, New York 10566, in the amount of \$366,000.00; 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
	346	46	B077E01C	6210-99	BA #334-2016	\$366,000.00

Budget Funding Year(s): 2021 **Start Date:** July 8, 2021 **End Date:** April 7, 2023
(must match resolution)

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

State Aid _____

\$366,000.00 **Federal Aid** _____
(must match resolution)

Other _____