SALEM COUNTY IMPROVEMENT AUTHORITY

RESOLUTION No. 2016-

April 21, 2016

RESOLUTION REJECTING ALL BIDS RECEIVED IN RESPONSE TO THE REQUEST FOR BIDS TO PROVIDE LABOR, MATERIAL AND EQUIPMENT NECESSARY FOR LANDFILL EXPANSION – CELL 11 CONSTRUCTION AND REQUIRING RE-BIDDING

WHEREAS, the Salem County Improvement Authority has a need to acquire the services of a qualified construction company for the Solid Waste Division pursuant to the provisions of N.J.S.A. 40A:11-1 et. seq. for the construction of Cell 11 of the landfill; and

WHEREAS, the Authority advertised and provided specifications for the scope of the work and the requirements of the bid proposals for a bid opening that occurred on April 1, 2016; and

WHEREAS, the bid submission checklist required by N.J.S.A. 40A:11-23.1(b) stated that failure to submit a certified financial statement “may be cause for the bid to be rejected” and also stated that it was required with submission of the bid, but the certified financial statement was not included in the narrative body of the bid specifications as one of the items required to be submitted; and

WHEREAS, the Authority finds that the certified financial statement was an item that was material to its consideration of a contractor’s bid because it was a submission required by the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust as a condition of the funding of the project and approving the award of the bid; and

WHEREAS, bids were opened publicly on April 1, 2016, and the bidder submitting the lowest bid was Wyndham Construction Company, LLC of Turnersville, NJ in the amount of $5,421,000 and the bidder submitting the second-lowest bid was C. Abbonizio Contractors, Inc., of Sewell, NJ with a bid of $5,657,020; and

WHEREAS, Wyndham Construction Company, LLC did not submit a certified financial statement with its bid; and

WHEREAS, the bid submitted by C. Abbonizio Contractors, Inc. did contain a financial statement and complied with the bid specifications in all respects that were required and material to the Authority; and

WHEREAS, Wyndham Construction Company, LLC has protested the rejection of its bid and any award to C. Abbonizio Contractors, Inc. due to alleged inconsistencies and ambiguity in the bid specifications detailed in letters dated April 8, 2016 and April 15, 2016, both of which have been considered by the Authority Board; and
WHEREAS, upon review of all five bids submitted, the Authority has determined that there is significant inconsistency in the response of all bidders to the certified financial statement submission requirement in that two bidders (including the lowest bidder) indicated on the checklist that they submitted a certified financial statement but did not submit any financial statement; one bidder submitted a financial statement that contained no signature by an auditor or CPA; one bidder did not indicate on the checklist that it submitted a certified financial statement and did not provide a financial statement, but did provide a notice of DOT classification of a range financial capability; and Abbonizio, the second-lowest bidder, was the only bidder that submitted a financial statement containing the signed opinion of an auditor; and

WHEREAS, the difference in the bid between the lowest bidder that would be rejected due to the absence of a certified financial statement and the second-lowest bidder that provided a financial statement was $236,020, and the Authority considers the difference in price to be a substantial difference; and

WHEREAS, the Authority has determined after a review of all bids submitted and after considering the arguments submitted by Wyndham Construction Company, LLC, that the inconsistencies in the bid specifications likely misled bidders or were sufficiently unclear that they impeded competition among the bidders and therefore violated the purposes of the public bidding statute; and

WHEREAS, if a contract was awarded to the second lowest bidder the lack of fair competition in the bidding process would result in substantial added cost to the Authority, which is a public entity; and

WHEREAS, Wyndham Construction Company, LLC has stated an intent to litigate an award of a contract to C. Abbonizio Contractors, Inc., and C. Abbonizio Contractors, Inc., has stated an intent to litigate an award of a contract to Wyndham Construction Company, LLC or the rejection of all bids and a re-bid of the project; and

WHEREAS, on advice of the Authority solicitor, the Authority may reject all bids and re-bid the project in accordance with N.J.S.A. 40A:11-13.2(c) where it finds that the purposes or provisions or both of the Local Public Contracts Law are being violated; and

WHEREAS, the capacity of the landfill is diminishing to the extent that the continued operation of the landfill would be jeopardized by not soliciting bids immediately;

NOW THEREFORE, BE IT RESOLVED by the Salem County Improvement Authority Board as follows:

1. All bids opened on April 1, 2016 to provide labor, material and equipment for Landfill Expansion – Cell 11 Construction are hereby rejected.

2. The cell 11 bid solicitation package shall be revised to clarify the requirement of a certified financial statement and all other required bid submission documents.
3. The executive director and/or Authority engineer is hereby authorized to advertise the solicitation of bids for cell 11 construction in accordance with the local public contracts law as soon as authority to do so is granted by the DEP and/or NJEIT.

ATTEST:

Cordy Taylor, Alternate Secretary

Robert Widdifield, Chairman

April 21, 2016
Date

CERTIFICATION

I hereby certify the above to be a true copy of a resolution adopted by the Salem County Improvement Authority Board at a special meeting held April 21, 2016.

Cordy Taylor, Alternate Secretary