

**RESOLUTION NO. 2009-293**

**RESOLUTION** OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY, AWARDED CONTRACT FOR THE CONSTRUCTION OF THE FUEL **STORAGE/DISPENSING** FACILITY AT THE BARNEGAT **TOWNSHIP PUBLIC** WORKS FACILITY TO T. SLACK ENVIRONMENTAL SERVICES, INC.

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey (hereinafter referred to as the "Township") has solicited bids for the construction of the Fuel Storage/Dispensing Facility at the Barnegat Public Works Facility (hereinafter referred to as the "Project"); and

WHEREAS, the bids have been solicited by the Township in conformance with the provisions of the New Jersey Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.*; and

WHEREAS, six (6) bids have been received by the Township as follows:

- |    |   |              |
|----|---|--------------|
| 1. | T. Slack Environmental:<br>Kenilworth, NJ | \$477,874.00 |
| 2. | TTI Environmental:<br>Moorestown, NJ      | \$521,481.00 |
| 3. | Oxford Engineering:<br>Camden, NJ         | \$551,900.00 |
| 4. | A&J Construction:<br>Farmingdale, NJ      | \$564,654.00 |
| 5. | MiBo Construction Co.:<br>Atco, NJ        | \$673,425.00 |
| 6. | Aurora Environmental:<br>Union Beach, NJ  | \$759,420.00 |

WHEREAS, an issue has arisen because the second lowest bidder, TTI Environmental, has indicated that it did not receive Addendum No. 1 which was issued on March 16, 2009; and

WHEREAS, it appears that Addendum No. 1 was no more than an indication that painting of the stainless steel island form with white epoxy paint would not be required, and

also included a detail of the concrete slab for "Tank Typical Section" in order to provide the bidders additional information as to the full extent of the concrete pad that was expected as part of the bid process; and

**WHEREAS**, it appears that the original bid documentation included a concrete slab detail for areas throughout the project, and Addendum No. 1 provided a more extensive, detailed, and expensive concrete slab to be located solely under the tank area, but the less extensive and expensive concrete slab detail for the remainder of the Project would remain in effect for the other areas; and

**WHEREAS**, the second lowest bidder, TTI Environmental, provided a bid which was \$44,000.00 more than the bid from the apparent lowest responsible bidder, T. Slack Environmental Services, Inc., and if TTI Environmental had received Addendum No. 1 calling for a more expensive and extensive concrete slab under the pump island, it is without question that the bid submitted by TTI Environmental would have been greater than the bid of \$521,481.00, and therefore the disparity between the bid from T. Slack Environmental Services, Inc., and TTI Environmental would have been greater than the aforementioned \$44,000.00; and

**WHEREAS**, the Township has been advised by the Township Solicitor that the failure to provide Addendum No. 1 to TTI Environmental, Inc., was inadvertent, but did not provide any unjust or material benefit to any of the other bidders. In fact had TTI Environmental, Inc., received Addendum No. 1 its bid would undoubtedly and without question been more than the submitted bid of \$521,481.00; and

**WHEREAS**, the Township has been advised that the defect in the bid solicitation process by not forwarding to TTI Environmental, Inc., Addendum No. 1 is immaterial, not one which prejudiced the bid submitted by TTI Environmental, and did not provide any unjust

advantage to any of the bidders, and therefore must be deemed an immaterial bid which can and should be waived by the Township in awarding this contract; and

**WHEREAS**, the bid submitted by the apparent lowest responsible bidder, T. Slack Environmental Services, Inc., has been found to be acceptable as to form and content by the Township's professional staff, and is in accordance with the Township's budgetary constraints:

**NOW, THEREFORE, BE IT RESOLVED**, this 20th day of April, 2009 by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

1. The Township accepts the recommendations of its professional staff and awards the contract for this Project to T. Slack Environmental Services, Inc., for and consideration of \$477,874.00.

2. The Township accepts the recommendations of its professional staff and finds that the failure by the Township to provide Addendum No. 1 to the second lowest bidder, TTI Environmental, Inc., is an immaterial defect in the bid process which did not provide any unjust advantage to any of the other bidders, including T. Slack Environmental Services, Inc. Therefore it is an immaterial defect in the bid process which can and should be waived by the Township. Had TTI Environmental, Inc., received Addendum No. 1 its bid would have been larger than the bid received of \$521,481.00.

3: The Township authorizes and directs the Mayor, Township Clerk, and Township Administrator to execute any and all necessary documents in order to implement the intent of this resolution.

4. A certified copy of this resolution shall be forwarded by the Township Clerk to the following:

(a) Honorable Jeffrey Melchiondo, Mayor;

- (b) David Breeden, Administrator;
- (c) Kathleen Janeski, CFO;
- (d) Remington & Vernick, Attn: Wayne R. McVicar, P.E.
- (e) Jerry J. Dasti, Esq.; and
- (f) T. Slack Environmental Services, Inc.

**CERTIFICATION**

I certify that the foregoing Resolution was duly adopted by the Township of Barnegat at a meeting held on April 20, 2009, a quorum being present and voting in the majority.

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**KATHLEEN T. WEST**, Township Clerk

Prepared by:

**DASTI, MURPHY, McGUCKIN, ULAKY,**  
**CHERKOS & CONNORS** Forked River,  
New Jersey 08731

JJD/gj/Barnegat Resolutions 2009[GL-17982]  
Fuel Storage/Dispensing Facility-DPW[GL-18184]

**DASTI, MURPHY,**  
**McGUCKIN. ULAKY,**  
**"CHERKOS & CONNORS**  
COUNSELLORS AT LAW  
620 WEST LACEY ROAD  
P O BOX 1057  
-FORKED RIVER N J 08731

**CERTIFICATION OF AVAILABILITY OF FUNDS**

I, KATHLEEN JANESKI, Chief Financial Officer for the Township of Barnegat, do hereby certify that adequate funds are available for a contract with T. Slack Environmental Services, Inc., for the construction of the Fuel Storage/Dispensing Facility at the Barnegat Public Works Facility project in the amount of \$477,874.00.

The funds which are available for this contract are found in the following line item appropriations or ordinances:

  
KATHLEEN JANESKI

JJD/gj/Barnegat Resolutions 2009[GL-17982]  
Fuel Storage/Dispensing Facility-DPW[GL-18184]

**DASTI, MURPHY.**  
**McGUICKIN, ULAKY.**  
**CHERKOS & CONNORS**  
COUNSELLORS AT LAW 620  
WEST LACEY ROAD  
P O BOX 1057  
FORKED RIVER NJ 08731