

RESOLUTION

WHEREAS, the Township Council of the Township of West Orange previously awarded a contract for the Restoration of the Ginny Duenkel Pool Improvements in the amount of \$439,800.00 to CFM Construction, Inc., 5 Bay Street, Stirling, New Jersey, 07980 by Resolution No. 11-23 dated January 10, 2023; and

WHEREAS, the awarded contract consisted of the removal and replacement of the plaster surface, and replacing existing drains; and

WHEREAS, subsequent to the award the Township determined the Pool's electrical system was in need of substantial and extensive improvements for compliance with minimum electrical code requirements; and

WHEREAS, these detected deficiencies require immediate improvements in excess of the previously awarded contract; and

WHEREAS, the electrical improvements will conflict with the work associated with the pool plastering; and

WHEREAS, the electrical improvements will proceed on an emergency basis to allow for the Pool's opening for the Memorial Day weekend; and

WHEREAS, the Township also desires to install underwater lighting in the main pool; and

WHEREAS, these lighting improvements need to be performed in conjunction with the plastering of the pool surface and the drain work; and

WHEREAS, the issuance of a Change Order for this work will violate the Local Public Contracts Law as it is a significant change to the scope of the work and the resulting increase will be well in excess of 20 percent of the awarded contract which is the threshold for change orders; and

WHEREAS, letting a separate contract for the lighting will potentially cause delays and conflicts in the performance of the work between two contractors; and

WHEREAS, it is the intent of the Township, subject to CFM Construction, Inc., agreeing to the Township rescinding the award to the contract for pool plastering and drainage improvements to bid a project that combines pool replastering, drainage improvements, underwater lighting for the main pool and non-emergency electrical improvements into one contract; and

WHEREAS, CFM Construction, Inc. has agreed to the rescinding of the contract award; and

WHEREAS, CFM Construction, Inc. will not seek any damages for the rescinding of this contract provided all the project Performance and Payment Bonds are returned to their Bond Company with an explanation for rescinding the contract by March 31, 2023;

WHEREAS, the terms to rescind the award presented by CFM Construction, Inc., are acceptable to the Township's Administration; and

WHEREAS, the Township's Administration recommends the rescinding of the contract to CFM Construction, Inc., awarded by Resolution No. 11-23 dated January 10, 2023; and

WHEREAS, the Township Council concurs in the foregoing.

NOW, THEREFORE BE IT RESOLVED by the Municipal Council of the Township of West Orange that Resolution No. 11-23 dated January 10, 2023 which awarded a contract to CFM Construction, Inc. for the project Restoration of the Ginny Duenkel Pool Improvements, West Orange, N.J. is hereby rescinded.

BE IT FURTHER RESOLVED that the Performance and Payment Bonds submitted by CFM Construction, Inc., for this project be returned prior to March 31, 2023.

Karen J. Carnevale, RMC, Municipal Clerk

Tammy Williams, Council President

Adopted: March 21, 2023