



**Department of
Environmental
Protection**

59-17 Junction Boulevard
Flushing, New York
11373-5108

**Christopher O. Ward
Commissioner**

Stuart M. Erdfarb, P.E.
AGENCY CHIEF CONTRACTING OFFICER

Tel (718) 595-3300
Fax (718) 595-3278
STUE@DEP.NYC.GOV

May 7, 2002

William H. Thompson, Jr.
Comptroller
Municipal Building
One Centre Street
New York, New York 10007
ATTN: Stanley Rosanoff

Michael A. Cardozo
Corporation Counsel
59 Maiden Lane
New York, New York 10038
ATTN: Steven Stein Cushman

Re: Declaration of EMERGENCY
Written Determination
Contract ROF-REM2
PIN 82602WTCROF2

Gentlemen:

This letter shall serve as the Written Determination required by §3-06(c)(3) of the Procurement Policy Board Rules ("PPB Rules") for the procurement conducted pursuant to §3-06 of the PPB Rules under a Declaration of EMERGENCY for **ROOFTOP AND FACADE REMEDIATION IN SECTOR TWO IN THE VICINITY OF THE WORLD TRADE CENTER SITE**. (Contract "ROF-REM2"). On March 19, 2002, oral approval was provided by the Comptroller and by the Corporation Counsel. The Declaration of EMERGENCY was signed by former DEP Commissioner Joel A. Miele Sr., P.E. on March 20, 2002. On April 2, 2002, written approval was provided by the Comptroller and by the Corporation Counsel.

The following narrative is provided pursuant to §3-06(e)(3) of the PPB Rules.

Introduction: As a result of the terrorist attacks on September 11, 2001, buildings in the area surrounding the World Trade Center site were damaged and destroyed. In the aftermath of the attacks, in order to minimize further destruction and implications of the attack, various remediation activities were immediately instituted. As a follow-up to such activities performed in October and November, 2001, DEP, in conjunction with the United States Environmental Protection Agency ("EPA") and the New York State Department of Labor ("DOL"), performed site visits at buildings in the surrounding vicinity. Although many buildings were found to be free of debris, the assessments found some buildings containing debris with various dispersal patterns, including isolated debris areas at the perimeters of roofs, at the base of parapet walls and in gutters. Debris was



(718) DEP-HELP

also visible on horizontal surfaces on building facades. This debris, characteristic of debris from the impact of the September 11th attacks, seemed to have reformed into dense caked masses. Samples collected from buildings visited indicated that asbestos-containing material may be present.

DEP, in conjunction with EPA, determined that an expedited clean-up of approximately 250 debris-containing buildings is necessary to protect the health and safety of the public. Such clean-up will require the services of asbestos remediation firms. In order to perform the clean-up work as expeditiously as possible, it was decided to divide the area to be cleaned into three sectors, and therefore, three separate contracts were let. The instant contract, Contract ROF-REM2, is for those buildings included in Sector 2.

Procurement: DEP's Bureau of Environmental Compliance identified fourteen contractors able to perform the scope of work required for the emergency asbestos remediation, and established the following bidder list:

- Benjamin Kurzban & Son Control, Inc.
- Mazzocchi Wrecking, Inc.
- PAL Environmental Safety Corp.
- Hazardous Elimination Corp.
- Asbestos Removal, Corp.
- Safeway Environmental Corp.
- Pinnacle Environmental Corp.
- Fiber Control, Inc.
- Air Tech Lab, Inc.
- Kiss Construction Co., Inc.
- Complete Environmental Services, Inc.
- Empire Control Abatement
- LVI Environmental Services, Inc.
- Trio Asbestos Removal Corp.

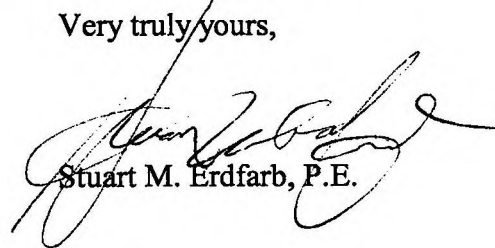
On March 28, 2002, the solicitation documents were provided to the fourteen firms. Nine bids were submitted, and all opened on the April 12, 2002 bid date. The lowest bid, \$1,292,465, was submitted by PAL Environmental Corp. ("PAL"). However, PAL submitted a two page letter containing "clarifications" with its bid. Therefore, PAL's bid was determined to be non-responsive and rejected. Concurrent with the determination of non-responsiveness, pursuant to §2-08(e)(3) of the PPB Rules, the automatic stay of award of the Contract was lifted. **The second lowest bid, \$1,401,000, submitted by Benjamin Kurzban & Son ("Kurzban"), was determined to be the lowest responsive bid.**

A review of the VENDEX database shows one caution for Kurzban from DEP's Environmental Control Board ("ECB"). The violation was due to Kurzban's failure to comply with several regulations at a work-site. Specifically, Kurzban was cited for failure to construct a worker decontamination system, failure to maintain air volume changes, and failure to remove all movable

objects from the work-site. Kurzban acknowledged the violations, paid a fine to ECB, and the matter was closed.

If you require any additional information I may be reached at (718) 595-3300.

Very truly yours,



Stuart M. Erdfarb, P.E.

cc: Ward, Chapin, Hoffer, Fenves, Schiano, Avaltroni, Gilsenan, Smyth, Singleton