



RESOLUTION 20-361

Resolution Authorizing (1) the Withdrawal of Bid Submitted by S. Brothers, Inc. and (2) Award of Construction Contract to Earle Asphalt Company for Reconstruction of Bank Street and Nassau Street (NJSH RT. 27) Streetscape (Bayard Lane to Bank Street) in an Amount not to Exceed \$1,440,013.13

WHEREAS, in response to a duly advertised Notice to Bidders under the New Jersey Local Public Contracts Law, *N.J.S.A. 40A:11- 1 et seq.*, on October 21, 2020 Princeton received the following three (3) bids for the Reconstruction of Bank Street and Nassau Street (NJSH RT. 27) Streetscape (Bayard Lane to Bank Street):

1. \$1,080,462.41 by S. Brothers Inc., South River, New Jersey
2. \$1,440,013.13 by Earle Asphalt Company, Farmingdale, New Jersey
3. \$1,768,727.63 by Z. Brothers Concrete Contractors, Sayreville, New Jersey; and

WHEREAS, by letter dated October 26, 2020 (and supplemented on November 2, 2020), apparent low bidder S. Brothers, Inc. requested permission to withdraw its October 21, 2020 bid due to a material error in bidding on this project and based on its use of electronic plans in preparing its bid; and

WHEREAS, as explained in S. Brothers' request, it mistakenly bid \$35.00 per LF for granite curb, when the bid amount should have been \$90.00 per LF to ensure compliance with Princeton's specifications, which error amounts to a \$67,430.00 difference in price; and

WHEREAS, in accordance with N.J.S.A. 40A:11-23.3, the Municipal Attorney's office, in consultation with the Engineer, has reviewed S. Brothers, Inc.'s withdrawal request and recommends that Council approve same based on the following:

1. S. Brothers, Inc.'s mistake relates to a material feature of the bid, which accounts for significant error in pricing and overall cost; and
2. If S. Brothers, Inc. was required to move forward despite its mistake, it would be unreasonable; and
3. S. Brothers, Inc.'s mistake was made despite its reasonable care in preparing its bid; and
4. S. Brothers, Inc. is able to get relief by way of withdrawing the bid without serious prejudice to Princeton, except for the loss of the bargain to Princeton; and

WHEREAS, the Council has reviewed the Municipal Attorney's Office's recommendation and finds that there are grounds to accept S. Brothers, Inc.'s withdrawal request based on the foregoing reasons; and

WHEREAS, the Engineer has reviewed Earle Asphalt Company's bid and recommends that the contract be awarded to Earle Asphalt Company as the lowest responsible bidder; and

WHEREAS, the Municipal Attorney's Office has reviewed the bid submitted by Earle Asphalt Company and finds that its submission is in compliance with the bidding requirements for same; and

WHEREAS, Princeton has appropriated funds for this capital project which include the receipt of the New Jersey Department of Transportation Fiscal Year 2017 Municipal Aid Grant in the amount of \$214,937.00; and

WHEREAS, Princeton has appropriated sufficient funds for this project in capital accounts 04-215-15-007-076-349 (\$418,435.00), 04-215-16-020-076-352 (\$144,792.18), and 04-

215-17-032-089-301 (\$876,785.95) as certified by Sandra Webb, Chief Financial Officer; and

WHEREAS, Princeton wishes to award a contract to undertake and complete said work to the aforementioned lowest responsible bidder.

NOW, THEREFORE, BE IT RESOLVED by the Princeton Council in the Municipality of Princeton as follows:

1. Based on the reasons set forth in the foregoing “Whereas” clauses, Princeton hereby grants S. Brothers, Inc.’s request to withdraw its bid for work comprising the Improvements to Bank Street.


2. The Mayor and Clerk are hereby authorized and directed to enter into an agreement with Earle Asphalt Company for a sum not to exceed \$1,440,013.13; to undertake and complete Reconstruction of Bank Street and Nassau Street (NJSH RT. 27) Streetscape (Bayard Lane to Bank Street), all in accordance with the terms and conditions with the Bid Documents which are on file in the office of the Clerk.

3. The award of this contract is being made subject to the review, approval and concurrence by the New Jersey Department of Transportation in accordance with said Department’s Municipal Aid Grant Program.

4. A certified true copy of this Resolution shall be furnished upon its adoption to the New Jersey Department of Transportation, Earle Asphalt Company and S. Brothers, Inc.

Councilperson	Absent	Present	1 st	2 nd	Yea	Nay	Abstain	Disqualified
Mr. Cohen		X			X			
Ms. Fraga		X			X			
Ms. Niedergang		X		X	X			
Ms. Pirone Lambros		X	X		X			
Ms. Sacks		X			X			
Mr. Williamson		X			X			
Mayor Lempert		X						

I, Delores A. Williams, Municipal Clerk of Princeton, do hereby certify that the above is a true copy of a resolution adopted by the Mayor and Council of Princeton at a meeting held November 9, 2020.



Delores A. Williams
Delores A. Williams, Municipal Clerk

ATTACHMENTS:

- Bank Street Award Recommendation (DOCX)
- 20-10-26 S. Brothers Withdrawal of Bid (PDF)
- 20-11-02 S. Brothers Withdrawl Letter Clarification Letter (PDF)
- Bank Street Bid Tabulation (PDF)
- Bank Street Construction Contract (DOCX)