

BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 13-219

RESOLUTION AWARDING BID FOR ALUMINUM BLEACHER FOR COUNT BASIE FIELD

Mr. Zipprich offered the following resolution and moved its adoption:

WHEREAS after the required legal advertising was published, sealed bids were received on September 17, 2013 by the Borough of Red Bank in accordance with *N.J.S.A. 40A:11-1 et seq.*, "Local Public Contracts Law" for an Aluminum Bleacher at Count Basie Field;

WHEREAS, the apparent low bidder was Louis Barbato Landscaping, Inc. and

WHEREAS, the bid specifications were based upon a specific manufacturer; and

WHEREAS, the bid specifications provided products of other manufacturers meeting the specifications may be accepted. However, the specifications required that any such other manufacturer had to be approved prior to the bidding in accordance with a process contained that required that the information on the other manufacturer be submitted to the Borough seven (7) days prior to the bid date for evaluation and approval by the Borough; and

WHEREAS, the apparent low bidder's bids documents identified a manufacturer different from the one contained in the specifications, but failed to submit the required information contained in the specifications seven (7) days prior to the bid date to obtain the required approval; and

WHEREAS, the apparent low bidder's bid also contained the following non conformities from the required bid specifications:

- Overall unit is more than 6' longer than the specified unit.
- Front aisle way is only 4'-6" instead of specified 4'-11 9/16".
- Provided unit has more seats than specified unit.
- Layout of ADA seating does not match the specified unit.
- No installation, foundation, or anchoring information provided.
- The materials for the structural supports are smaller than those specified, though the design loads are equal to the specified unit.
- Given the poor quality of the provided drawing, it is not possible to determine if the chain link fencing meets the specification requirements.
- Provided unit does not have powder coated riser boards per specification.
- Decking is not specifically noted to be a fully closed system, though end caps are provided.

WHEREAS, the Local Public Contracts Law, *N.J.S.A. 40A:11-1, et seq.*, provides that Borough must make an award to the lowest responsible and responsive bidder; and

WHEREAS, case law construing the Local Public Contracts Law indicates that a bidder is a responsive bidder if its bid conforms in all material respects to the terms and conditions, specifications, legal requirements and other provisions of the request; and

WHEREAS, the Borough Council hereby determines that, Louis Barbato Landscaping, Inc. has submitted a bid that does not conform to the bid specifications due to the failure to: (1) submit the required information to the Borough on the other manufacturer seven (7) days prior to the bid date, (2) the other no conformities noted herein, all of which constitute material defects in the bid requiring its rejection; and

WHEREAS, the lowest responsible and responsive bidder for the Aluminum Bleacher is therefore Dant Clayton Corp., 1500 Bernheim Lane, Louisville, KY 40210; and

WHEREAS, the Borough's Administrator and Qualified Purchasing Agent has recommended that a contract be awarded to Dant Clayton Corp. for an amount not to exceed \$54,215; and

WHEREAS, a certification of availability of funds has been provided by the Borough's Chief Financial Officer; and

WHEREAS, the Borough Attorney has reviewed the bids and finds that that bid of the Dant Clayton Corp. complies with all statutory requirements;

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Red Bank that:

1. The bid of Louis Barbato Landscaping Inc. for an Aluminum Bleacher at Count Basie Field is hereby rejected as it is not a responsible and responsive bidder as defined by the Local Public Contracts Law and case law governing the definition of responsible and responsive bidder as outlined above.

2. A contract shall be and is hereby authorized with Dant Clayton Corp. as the lowest responsible and responsive bidder for the Aluminum Bleacher at Count Basie Field in an amount not to exceed \$54,215.

3. The Purchasing Agent is authorized to return the contract document fee and bid bonds to those qualified bidders who are entitled to a refund in accordance with the bid specifications.

5. The Mayor and Clerk are authorized and requested to sign and deliver these contracts on behalf of the Borough of Red Bank.

Seconded by Mr. DuPont and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Ms. Lewis	(x)	()	()	()
Mr. Zipprich	(x)	()	()	()
Mr. DuPont	(x)	()	()	()
Ms. Horgan	(x)	()	()	()
Ms. Lee	(x)	()	()	()
Mr. Murphy	(x)	()	()	()

Dated: October 9, 2013

I hereby certify the above to be a true copy of a resolution adopted by the Council of the Borough of Red Bank, in the County of Monmouth, at a meeting held on October 9, 2013.

Pamela Borghi, Municipal Clerk