



## Legislation Text

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File #: 17-2002, Version: 1

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**Dept/ Agency:** Water and Sewer Utilities

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Type of Service:** Professional Services Contract

**Purpose:** Engineering Services for Construction Phase of South Street and Adam Street Area Drainage Improvements

**Entity Name:** Michael Baker International, Inc.

**Entity Address:** 100 Airside Drive, Moon Township, Pennsylvania 15108-2783

**Contract Amount:** Amount not to exceed \$517,430.09

**Funding Source:** Department of Water and Sewer Utilities Budget

**Contract Period:** Upon Execution of the Contract and terminate at the completion of construction as per N.J.S.A. 40a:11-15(9)

**Contract Basis:** ( ) Bid ( ) State Vendor (X) Prof. Ser. ( ) EUS

( ) Fair & Open (X) No Reportable Contributions ( ) RFP ( ) RFQ

( ) Private Sale ( ) Grant ( ) Sub-recipient ( ) n/a

**Additional Information:**

**WHEREAS**, the City of Newark, Department of Water and Sewer Utilities requires professional construction phase engineering services for the South Street and Adam Street Area Drainage Improvements project; and

**WHEREAS**, Michael Baker International, Inc., 100 Airside Drive, Moon Township, Pennsylvania 15108-2783, submitted a proposal on September 14, 2017 to provide construction phase engineering services for the South Street and Adam Street Area Drainage Improvements; and

**WHEREAS**, Michael Baker International's proposal also included a pump station design, submission of a Plans Specification and Estimate(PS&E) and the New Jersey Environmental Infrastructure Trust (NJEIT) documentation that could not be completed under the original design contract for South Street and Adams Street Drainage Improvements, because the original contract expired; and

**WHEREAS**, the City wishes to enter into an agreement with Michael Baker International, Inc., 100 Airside Drive, Moon Township, Pennsylvania 15108-2783, to provide construction phase engineering services for South Street and Adam Street Area Drainage Improvements, in an amount not to exceed Five Hundred Seventeen Thousand Four Hundred Thirty Dollars and Nine Cents (\$517,430.09); and

**WHEREAS**, the Local Public Contracts Law N.J.S.A. 40A:11-5(1)(a) requires that notice of award of contracts for "Professional Services" without competitive bidding be published in a local newspaper; and

**WHEREAS**, this contract is for an amount over \$17,500.00 and is being awarded as a non-fair and open contract pursuant to N.J.S.A. 19:44A-20.5; and

**WHEREAS**, Michael Baker International, Inc. has completed and submitted a Business Entity Disclosure Certificate which certifies that Michael Baker International, Inc., has not made any reportable contributions to a political or candidates committee in the City of Newark in the previous one year, and that the contract will prohibit Michael Baker International, Inc., from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Municipal Council adopted the Contractor Pay-to-Play Reform Ordinance, R.O. 2:4-22C, which forbids the award of a contract to a Business Entity, as defined therein, which has made or solicited political contributions to Newark Municipal Candidates, office holders having ultimate responsibility for the award of a contract; candidate committees of the aforementioned candidates; and political or political party committees of the City of Newark or County of Essex; and continuing political committees or political action committees regularly engaged in the support of the City of Newark municipal or County of Essex elections; and certain other political party or candidate committees, in excess of certain thresholds.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Municipal Council hereby authorizes the Mayor and/or his designee, the Director of the Department of Water and Sewer Utilities, to accept the proposal from Michael Baker International, Inc., and to execute an agreement with Michael Baker International, Inc., 100 Airside Drive, Moon Township, Pennsylvania 15108-2783, to provide construction phase engineering services to the City of Newark, Department of Water and Sewer Utilities, for South Street and Adam Street Area Drainage Improvements, in an amount not to exceed Five Hundred Seventeen Thousand Four Hundred Thirty Dollars and Nine Cents (\$517,430.09), upon execution of the contract and terminate at the completion of construction project as per N.J.S.A. 40a:11-15(9).
2. Pursuant to N.J.A.C. 5:30-5.5, Temporary Budget, attached hereto is a partial Certification of Funds issued by the Director of Finance of the City of Newark which states that funds in an amount of \$25,000.00 are available in the 2018 Budget, Business Unit NW038, Department ID 800, Division/Project 8003, Account # 71280. The Director of the Department of Water and Sewer Utilities shall file a copy of the Certification of Funds along with the original Resolution and the executed Contract in the Office of the City Clerk. The remainder of \$492,430.09 in funding for this contract will be subject to appropriation in the 2018 Municipal Budget and funds will be certified prior to services being provided by the Contractor and the contract shall be subject to the availability and appropriation of sufficient funds in accordance with N.J.A.C. 5:30-5.5(c) and N.J.A.C. 5:30-5.5(d).
3. This contract is being awarded pursuant to the non-fair and open procedures of the State Pay-to-Play Law (N.J.S.A. 19:44A-20.5) and pursuant to the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-5(1)(a)(i)) and is in compliance with the City's Contractor Pay-to-Play Reform Ordinance, R.O. 2:4-22C.
4. This contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a)(i) of the Local Public Contracts Law, because the performance of the service required must be performed by a person (or persons) licensed to

practice a recognized engineering profession by the State of New Jersey, whose performance required knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study, as distinguished from general academic instruction.

5. The Director of the Department of Water and Sewer Utilities shall file a copy of the fully executed contract in the Office of the City Clerk and it shall be made available for public inspection.
6. A copy of the Business Entity Disclosure Certification shall be placed on file in the Office of the City Clerk.
7. Michael Baker International, Inc., has completed and submitted a Business Entity Disclosure Certificate, which shall be placed on file in the City Clerk's Office by the Director of the Department of Water and Sewer Utilities, certifying that Michael Baker International, Inc., has not made any reportable contributions to a political or candidate committee in the City of Newark in the previous one year, and that the contract will prohibit Michael Baker International, Inc. from making any reportable contributions through the term of the contract.
8. There shall be no amendment of this contract without prior approval of the Municipal Council.
9. There shall be no advance payment on this contract in accordance with N.J.S.A. 40A:5-16.
10. A notice of this action shall be published in the newspaper authorized by law to publish a legal advertisement and as required by law within 10 days of its passage.

### **STATEMENT**

This resolution authorizes the Mayor and/or his designee, the Director of the Department of Water and Sewer Utilities, to accept the proposal and execute an agreement with, Michael Baker International, Inc., 100 Airside Drive, Moon Township, Pennsylvania 15108-2783, to provide construction phase engineering services to the City of Newark, Department of Water and Sewer Utilities, for South Street and Adam Street Area Drainage Improvements, for a total amount not to exceed Five Hundred Seventeen Thousand Four Hundred Thirty Dollars and Nine Cents (\$517,430.09), upon execution of the contract and terminate at the completion of construction as per N.J.S.A. 40a:11-15(9).