

Office Use ONLY

Date Received: _____

Case No: _____



Professional Standards/Human Rights Section
Broward County Governmental Center
115 South Andrews Avenue, Suite 427, Fort Lauderdale, FL 33301
Phone: 954-357-6500 TTY: 954-357-7888 Fax: 954-357-7889

CONE OF SILENCE COMPLAINT FORM

Last Name: Goldstein First Name: Joseph Middle Initial: M
Home Ph. #: _____ Work Ph. #: 954.847.3837 Cell Ph. #: 954.478.1603
Home Address: 591 NW 110th Avenue Apt./Unit #: _____
City: Plantation State: FL Zip Code: 33324
Company Name: Shutts & Bowen LLP Phone number: 954.847.3837
Department/Division: _____
Address: 201 East Las Olas Blvd., Suite 2200 Room#/Unit: _____
City: Fort Lauderdale State: FL Zip Code: 33301
Email: jgoldstein@shutts.com

I believe that the following Vendor has violated the Broward County Cone of Silence Ordinance:

Company Name: Chen Moore & Associates, Inc.
Name and Position/Title of the Vendor's Authorized Contact Person: Peter Moore, President
Department/Division: _____ Phone number: 954.730.0707
Address: 500 W Cypress Creek Road, Suite 630 Room#/Unit: _____
City: Fort Lauderdale State: FL Zip Code: 33309
Email: lbarron@chenmoore.com

I believe that the following Vendor's Representative violated the Broward County Cone of Silence Ordinance:

☐ Same as above

Company Name: Chen Moore & Associates Phone number: _____
Name and Position/Title: Vincent Locigno, P.E. and Amy Navarro, Engineer - Civil, and Peter Moore
Address: 500 W Cypress Creek Road, Suite 600 Room#/Unit: _____
City: Fort Lauderdale State: FL Zip Code: 33309
Email: vlocigno@chenmoore.com and anavarro@chenmoore.com

What solicitation does the alleged violation of Broward County's Cone of Silence pertain to? (Please provide supplemental documentation):

PNC2128678P1-01-01 Engineering Services - District 3A System Fire Flow Improvements

What was the opening date of the solicitation? (Please provide supplemental documentation)

September 16, 2024

What relationship does the vendor have as relates to the solicitation? (Please provide documentation)

☐ Potential Vendor

☐ Awarded Vendor

☒ Other: Recommended awarded Vendor

Was the vendor responsive? ☐ Yes ☒ No (all being challenged by our client in bid protest)

Was the vendor responsible? ☐ Yes ☒ No

Was the vendor the lowest bidder? ☐ Yes ☒ No

Was a contract award made? ☐ Yes ☒ No

What is the current status of the solicitation? Pending bid protest to Purchasing Director as to Final Ranking

When was the restricted communication received? Please indicate date and time, if possible.

Dewatering Plan, dated October 18, 2024

Please state the specific language of the Cone of Silence Ordinance which you believe was violated:

Sec. 1-266(b) and (c) prohibits communications "relating to a Competitive Solicitation, at any point during . . . [upon advertisement of the Competitive Solicitation up to the Board make the final award or approves the contract] between any of the following persons: (b)(1) Any person or entity, including a Vendor or Vendor's Representative that seeks a contract, award, recommendation . . . in connection with the Competitive Solicitation; and (2) Any of the following: . . . County Staff."

Sec. 1-266(a) - "County Staff means employees of the County, regardless of their role or participation (if any) in the Competitive Solicitation. . .

In order to complete your complaint form, please provide the following information.
If additional space is needed, please add an additional sheet.

Please provide a detailed narrative of the violation in the space provided below. Include all pertinent details.

Please see the attached letter

Is there evidence that can be examined or documentation which can be reviewed? ☒ Yes ☐ No
If yes, please describe the evidence and where it can be found, if known.

Please see the attached letter and attachments

Are there witnesses to the improper activity? ☒ Yes ☐ No

If yes, please identify any witnesses by name and provide any contact information you may have in the space below.

Name	Address	Home/Cell Phone	Work Phone	If County employee, please provide division and position
David Sheehan, P.E.,	1 N University Dr., Mailbox 201, Plantation FL 33324		954.519.1439	Resilient Environment Dep't Env. Permitting Div.

NOTE: Please provide the names of who is/was on the Evaluation or Selection Committee with the complaint form.
Gerald Soto Fernandez; Carlos Garcia; Claude Gentile;

By signing this document, I declare that I have completed this form in good faith and my answers and statements contained herewith are true and correct based on my current knowledge.

Printed Name: _____ Sign and Date: _____

Please return completed form to the Broward County Professional Standards/Human Rights Section



JOSEPH M. GOLDSTEIN
PARTNER, BOARD CERTIFIED IN BUSINESS
LITIGATION
Shutts & Bowen LLP
201 East Las Olas Blvd.
Suite 2200
Fort Lauderdale, FL 33301
DIRECT (954) 847-3837
EMAIL JGoldstein@shutts.com

February 26, 2025

VIA HAND DELIVERY

Broward County Professional Standards Section
115 S Andrews Ave Ste 212
Fort Lauderdale, FL 33301

**Re: RFP PNC2128678P1 - Engineering Services for District 3A System Fire Flow
Improvements Cone of Silence Violation Complaint Additional Sheet**

To Whom it May Concern:

Shutts & Bowen LLP represents Thompson & Associates, Inc., Civil Engineering ("T&A") regarding RFP PNC2128678P1, Engineering Services District 3A System Fire Flow Improvements (the "RFP"). T&A is a local engineering company and Broward County certified CBE firm specializing in large utility projects with a long history of successfully completing projects for Broward County. T&A submits this narrative as an additional sheet to accompany its Cone of Silence Complaint pertaining to the RFP, and states the following as its grounds:

A. Summary

Chen Moore & Associates, Inc. ("CMA"), the recommended awardee as the first-ranked vendor for RFP PNC2128678P1, attached hereto as **Exhibit A**, through its employees, Amy Navarro and Vincent Locigno, PE, violated the Broward County Cone of Silence Ordinance 2022-11 by submitting a Dewatering Plan regarding District 3A System Fire Flow Improvements, falsely implying that it had already been awarded civil engineering services for this pending competitive procurement. *See* correspondence between CMA Staff and County staff attached hereto as **Exhibit B**.

B. Broward County Cone of Silence Ordinance

Pursuant to Section 1-266 of the Broward County Code of Ordinances ("County Code"), *Cone of Silence* means a prohibition on certain communication between certain persons regarding a particular competitive solicitation. *See* Sec. 1-266(a). As such the "Cone of Silence" applies to RFP PNC2128678P1 as a competitive procurement process. Per Sec. 1-266(c), the Cone of Silence shall begin upon advertisement of the Competitive Solicitation, and shall terminate the earliest of the following: the time the Board of County Commissioners ("Board") or other award authority (i) makes final award or approves the contract for the Competitive Solicitation, (ii) rejects all bids or responses to the Competitive Solicitation, or (iii) takes other action that ends the Competitive Solicitation.

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1. *Prohibited Communication*

Sec. 1-266(b) provides that a Cone of Silence shall be in effect for all communications, oral or written, relating to a Competitive Solicitation at any point between the advertisement of the Competitive Solicitation and either the time the Board of County Commissioners or other award authority (i) makes final award or approves the contract for the Competitive Solicitation, (ii) rejects all bids or responses to the Competitive Solicitation, or (iii) takes other action that ends the Competitive Solicitation, between any of the following persons:

- (1) Any person or entity, including a Vendor or Vendor's Representative, that seeks a contract, award, recommendation, or approval for the Competitive Solicitation, or is subject to being evaluated, or having its response evaluated, in connection with the Competitive Solicitation; and
- (2) Any of the following: a Commissioner Office, County Staff, or a member of the Evaluation Committee for the Competitive Solicitation.

C. **Cone of Silence Violation Narrative**

CMA, the purported first-ranked awarded vendor for the RFP, has violated the Broward County Cone of Silence Ordinance through its employees Amy Navarro and Vincent Locigno, P.E. by communicating in writing with County Staff, including David J. Sheehan, P.E., Broward County Environmental Permitting Division. (We note that Mr. Sheehan's approval letter was directed to CMA President Peter Moore, P.E., but we have not seen if Mr. Moore had any communications, whether oral or written, with County Staff.)

1. *Timeline of Events*

On August 15, 2024, the RFP was issued. *See Ex. A.* Per section 1-266 of the County Code the Cone of Silence went in effect upon the advertisement of the RFP. On September 9, 2024, vendor proposal submittals for the RFP were due to the County. Dated October 18, 2024, CMA submitted a Dewatering Plan for District 3A System Fire Flow Improvements, a pending Competitive Procurement, signed and sealed by CMA employee, Vincent Locigno, P.E.. *See Ex. B.* Included within that Plan was an e-mail dated October 8, 2024, from Amy Navarro, CMA employee, contacted County staff, David Sheehan, seeking information for a contaminated site shown near Griffin Road and I-95 on the Courtyard Marriot Parcel, which ended up being included within CMA's Dewaterin Plan. *Id.* On October 9, 2024, County permitting staff, David Sheehan responded to Amy Navarro. *Id.* Valuable and detailed permitting information was sent to CMA regarding contaminated site historical data specifically for this project. On November 1, 2024, the County issued an approval for dewatering to CMA for Project ID 24285042, the project advertised in the RFP, attached hereto as **Exhibit C**. On November 4, 2024, Peter Moore, P.E., of CMA submitted to the County communication agreeing to the terms and conditions of the Dewatering Plan Approval Letter, see attached as **Exhibit D**. On November 5, 2024, County staff met for the presentations and ranking of firms for the RFP. In its written presentation on page 27 of 57, CMA

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included the dewatering letter of approval highlighting that it was approved, though obtained in violation of the Cone of Silence. CMA's written presentation is attached hereto as **Exhibit E**. The inclusion of this approval status is important because as previously mentioned the permitting information was valuable as contaminated site historical data specifically for this project was included.

2. *Language of Cone of Silence Ordinance Violated*

Per the County's Cone of Silence Ordinance:

"[A] Cone of Silence shall be in effect for *all communications*, oral *or written*, relating to a Competitive Solicitation at any point between the advertisement of the Competitive Solicitation and either the time the Board of County Commissioners or other award authority (i) makes final award or approves the contract for the Competitive Solicitation, (ii) rejects all bids or responses to the Competitive Solicitation, or (iii) takes other action that ends the Competitive Solicitation."

Section 1-266(b), County Code.

The Ordinance further provides the following persons as prohibited from communicating with each other whether orally or through writing relating to a competitive solicitation between the date the solicitation is advertised and the date a county award authority takes an action that awards or ends the solicitation:

"**Any person** or entity, **including a Vendor or Vendor's Representative**, that seeks a contract, award, recommendation, or approval for the Competitive Solicitation, or is subject to being evaluated, or having its response evaluated, in connection with the Competitive Solicitation; and ... **[a]ny** of the following: a Commissioner Office, **County Staff**, or a member of the Evaluation Committee for the Competitive Solicitation"

Id.

Based on the Ordinance's clearly detailed prohibited communication provisions, the contact between CMA employees, Amy Navarro and Vincent Locigno, P.E., and principal Peter Moore, P.E., vendor representatives, and County staff, between the advertisement of the RFP (a competitive solicitation) and the time the Board of County Commissioners or other award authority makes a final award or approves the contract for the RFP, is a clear violation of the Cone of Silence.

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3. *Unfair Competitive Advantage*

By contacting Broward County staff and coordinating their permitting questions while the Cone Of Silence was in effect, CMA gained a significant and unfair advantage over T&A because they were able to gain clear direction from Broward County staff on exactly how to move forward with the permitting process, as well as receive specific direction and insight on the dewatering permitting effort that is required for this project. T&A complied with the Cone of Silence ordinance and relied solely upon our experience obtaining dewatering permits on similar projects in Broward County when completing our RFP submittal and presentation to the Evaluation Committee.

The appropriate and typical timeline for submitting all permits for a project, including the dewatering permit, occurs at the 90% design phase. At this point in the design, the horizontal and vertical locations of the proposed infrastructure are known, and all comments from BCWWS staff have been adequately addressed. The dewatering permit is typically one of the shortest timeframes (normally 30 to 45 days) compared to other long-lead permits, as proven by CMA's ability to attain it in roughly 6 weeks. There is absolutely no reason to submit for a dewatering permit before a contract has been awarded unless that firm wants to gain a significant and unfair advantage over its competitor in order to win a contract from the County.

Furthermore, CMA does not have the authority to represent BCWWS and transmit signed and sealed calculations and specific project information to a permitting agency on behalf of BCWWS because they were not yet awarded the contract.

In addition, at no time did CMA disclose to County permitting staff that the submitted request for a permit was for a conceptual design related to an RFP that was not yet awarded. In fact, to the contrary, on page 2 of the CMA letter to Broward County staff dated October 18, 2024, CMA states, "***Chen Moore and Associates (CMA) will be delivering civil engineering services for Broward County on the District 3A System Fire Flow Improvements project.***". This statement is misleading, untrue, and an egregious attempt to gain a competitive advantage over T&A in the solicitation process.

CMA also presented plans, calculations, and site information based on a conceptual design. During Phase I – Preliminary Design, which contains land survey, geotechnical testing, and utility designation and coordination, information may be discovered regarding the existing site conditions, which alters the schematic design, rendering the permit issued by the County useless. As per Conditions 1 and 2 of the permits, dewatering has been approved and limited to the information presented by CMA. If any design changes are required to the conceptual design, CMA wastes the valuable time of Broward County permitting staff by reviewing a permit application for a project that has not even been awarded.

Contrary to CMA's unethical, dishonest, and unfair approach to this RFP, T&A followed every requirement of the procurement process and fully respected Broward County's Cone of Silence Ordinance.

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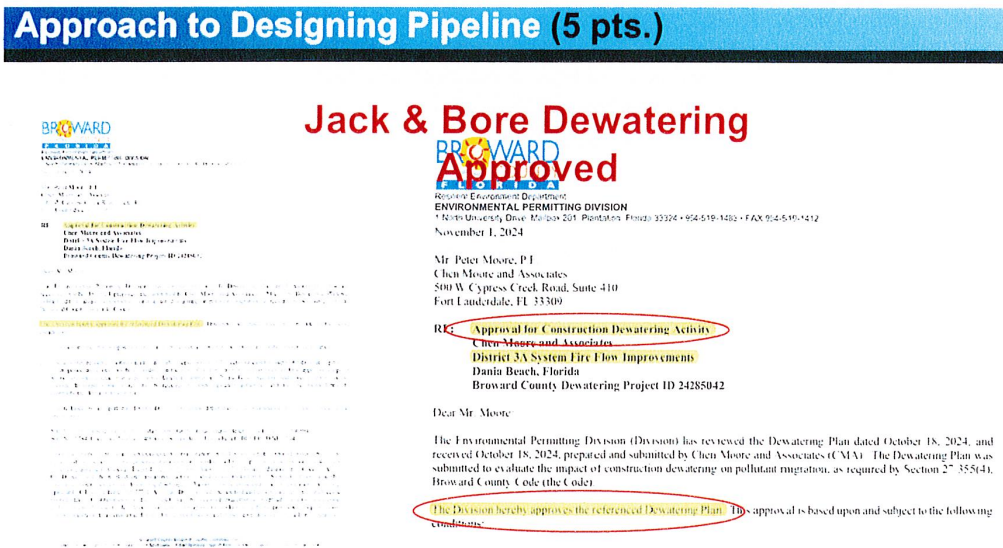
4. *Evidence*

Exhibit B – Written communications between CMA and County Staff during the Cone of Silence period.

Exhibit C – November 1, 2024 Approval for Construction Dewatering Activity Letter

Exhibit D – CMA Cone of Silence communications with County Staff

Exhibit E – Excerpt of Chen Moore & Associate's Presentation using Prohibited Communication



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Peter Moore, P.E.
Chen Moore and Associates
November 1, 2024
Dewatering Project ID 24285042
Page 3 of 3

I, Peter Moore, do hereby agree to the terms and conditions of the Dewatering Plan Approval Letter, as specified in the preceding pages 1 and 2 and in the Code (for and on behalf of Company, signed by an authorized representative).

[Signature]
Signature and title:

STATE OF Florida
COUNTY OF Broward

Subscribed and sworn to (or affirmed) before me, by means ☐ physical presence or ☐ online notarization of this day.

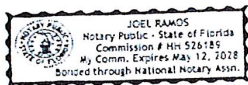
November 4, 2024
Date

by Peter Moore, who (Check one):

☒ is personally known to me OR

☐ has produced [Signature] as identification.

[Signature] Commission No. 526199
(Signature of Notary)



(SEAL ABOVE)

(Name of Notary typed, printed or stamped)

5. *Witnesses*

County Employee: David Sheehan, P.E., Broward County Environmental Permitting Division

Vendor Representatives: Amy Navarro, Vincent Locigno, P.E., and Peter Moore, P.E.

6. *Evaluation/Selection Committee Members*

The Evaluation Committee members were (1) Gerald Soto Fernandez, (2) Carlos Garcia, and (3) Claude Gentile.

Sincerely,

Shutts & Bowen LLP

Joseph M. Goldstein

Joseph M. Goldstein
Janeil A. Morgan

cc: Robert Gleason, Director of Purchasing
Broward County Purchasing Division
115 S Andrews Ave Ste 212
Fort Lauderdale, FL 33301