



Finance and Administrative Services Department

PURCHASING DIVISION

115 S. Andrews Avenue, Room 212 • Fort Lauderdale, Florida 33301 • 954-357-6066 • FAX 954-357-8535

Via Email Transmittal

April 8, 2025

Joseph M. Goldstein, Partner
Janiel A. Morgan, Associate
Shutts & Bowen LLP
201 East Las Olas Blvd, Suite 2200
Fort Lauderdale, FL 33301

Re: Protest to Recommendation of Ranking - Request for Proposals (RFP) PNC2128678P1,
Engineering Services for District 3A System Fire Flow Improvements

Dear Mr. Goldstein:

The Broward County Purchasing Division ("Purchasing") is in receipt of your firm's timely protest dated February 12, 2025 (Exhibit 1) on behalf of your client, Thompson & Associates, Inc., Civil Engineering (T&A), in protest to the final recommendation of ranking posted on the Purchasing Division website from February 5 - 12, 2025. Chen Moore and Associates, Inc. (CMA) received the highest scores by the Evaluation Committee and is the first-ranked firm for this procurement. The required protest filing fee in the amount of \$5,000 was received.

After performing due diligence in reviewing all protests assertions, the solicitation requirements, and County procurement processes followed, the protest is respectfully denied, based on the following responses to each protest assertion.

Assertion No. 1 EC's Improper Consideration of False or Misleading Information

- a) **Team Lead Darren Badore's Position and Experience**
- b) **Project Experience and Cost Savings**
- c) **Representations about T&A**

County's response to Assertion No.'s 1.a and 1.b:

At the time of ranking, the Evaluation Committee (EC) was in possession of the advertised solicitation, including all requirements, vendor proposals, and staff analysis of vendor proposals, including vendor reference verifications. Furthermore, at the time of ranking, all vendor presentations had been viewed by the EC. CMA's proposal included its proposed team with individual bios, licenses, educational degrees, and relevant experience on similar projects. CMA's proposal included a bio for Mr. Badore indicating he held an associate degree in mechanical engineering and listed relevant experience on similar projects. CMA's proposal and presentation identified Darren Badore as a Construction Manager.

At any committee meeting, the EC and the Project Manager may ask questions, request clarification, or require additional information of any vendor's submittal or presentation. The EC participated in a question-and-answer session. During the question-and-answer session, the EC posed questions to CMA and the Project Manager clarified CMA's claim about obtaining dewatering permits. The EC is charged with the responsibility of identifying what is necessary to award full points to each Evaluation Criteria, considering key factors of the project, determining how well each proposal supports the scope of work, and deciding the necessary and desired outcomes.

At the time of ranking, the EC was in possession of the vendors' proposal and presentation materials and had listened to the vendors' oral presentations and participated in questions and answers.

Accordingly, these assertions are therefore denied.

Joseph M. Goldstein, Partner, Janiel A. Morgan, Associate, Shutts & Bowen LLP
Protest Response - RFP No. PNC2128678P1, Engineering Services for District 3A System Fire
Flow Improvements
April 8, 2025
Page 2 of 4

County's Response to Assertion No. 1.c:

As stated above, at the time of the ranking, the EC was in possession of the advertised solicitation, including all requirements, vendor proposals, and staff analysis of vendor proposals, including vendor reference verifications, and Purchasing Division responsiveness recommendations.

On October 11, 2024, all proposing firms were provided an advance draft of the Director of Purchasing Memorandum and related attachments and supporting documentation (packet). During a 48-hour timeframe, all proposing firms had the opportunity to clarify any information that was included in the draft memo packet.

On October 15, 2024, during the 48-hour review period of the draft Director of Purchasing Memorandum packet, CMA responded challenging the reported payment amounts and associated points – allocated to both firms – for the Volume of Previous Work (paid) Evaluation and Tiebreaker Criterion.

T & A did not provide a response to the draft Director of Purchasing Memorandum packet.

In response to CMA's correspondence of October 15, 2024, a review of the reported payments (Prime and County Business Enterprise (CBE)) revealed a variance. On October 17, 2024, the Office of Economic and Small Business Development (OESBD) provided a revised memorandum updating the amounts paid by CMA to CBE firms.

On October 24, 2024, the EC was provided with the final Director of Purchasing Memorandum packet, dated October 22, 2024, which included CMA's correspondence dated October 15, 2024, and the revised OESBD review memorandum dated October 17, 2024. It is customary that correspondence received during the 48-hour review is included in the final Director of Purchasing Memorandum packet. Also on October 24, 2024, the final Director of Purchasing Memorandum packet was posted to the Broward County Purchasing Division RLI/RFP Repository website. As customary, the publicly posted packet included CMA's correspondence dated October 15, 2024.

During the November 5, 2024, EC meeting, the EC was informed that a further review of the amounts paid by CMA to CBEs resulted in a revised OESBD memorandum dated November 5, 2024, which necessitated an update to the final Director of Purchasing Memorandum packet dated October 22, 2024. During the November 5, 2024, EC meeting, the EC was provided a copy of the updated final Director of Purchasing Memorandum packet dated November 5, 2024. The update included the revised OESBD memo and revision to the Responsiveness and Responsibility Matrix, Volume of Previous Work section. Specifically, the amount paid to CBE firms and the allocated scores.

At the time of the ranking, the EC was in possession of all necessary material to proceed with the scoring and ranking of proposing firms.

Accordingly, this assertion is therefore denied.

Assertion No. 2 – Failure to Notify Evaluation Committee of Project Approach Amendments

County's Response to Assertion No. 2:

In accordance with the solicitation, vendors determined to be both responsive and responsible to the solicitation requirements and/or shortlisted had an opportunity to make an oral presentation to the EC on the vendor's project approach and ability to perform.

As previously stated, at any EC meeting, the EC Members may ask questions, request clarifications, or require additional information of any vendor's submittal or proposal. Vendor's answers may impact evaluation (and scoring, if applicable).

Joseph M. Goldstein, Partner, Janiel A. Morgan, Associate, Shutts & Bowen LLP
Protest Response - RFP No. PNC2128678P1, Engineering Services for District 3A System Fire
Flow Improvements
April 8, 2025
Page 3 of 4

Additionally, CMA's Project Manager also informed the EC of the significance of completing the benthic survey within the June 1 to September 30 window, as recommended by the regulatory agency for permits, leading to a potential time savings. During CMA's presentation, they made the EC aware there are multiple methods for the pipeline routing and installation at the various crossings and, depending on the method(s) chosen, approval from the applicable regulatory agency would be required. Depending on the pipeline routing and installation method chosen and approved, there may be a cost reduction to the construction project estimate.

At the time of ranking, the EC was in possession of the CMA proposal together with their presentation and all questions and answers provided throughout the session.

Accordingly, this protest assertion is therefore denied.

Assertion No. 3 – County's Evaluation Process was Skewed

County's Response to Assertion No. 3:

CMA's pipeline routing and installation method does not violate the requirements of the solicitation. CMA's project approach was reviewed and evaluated by each EC member. None of the EC members raised an issue with CMA's project approach. The evaluation process was conducted in accordance with the established evaluation criteria. CMA was determined to meet the necessary qualifications and provided a proposal and presentation that aligned with the project's requirements.

Accordingly, this protest assertion is therefore denied.

Assertion No. 4 – Public Records and Cone of Silence Violations

County's Response to Assertion No. 4:

The Professional Standards Section was provided the Cone of Silence Complaint Form and a copy of the related documentation from the protest. On April 3, 2025, the Professional Standards Section issued a Report and Notice of Determination (Case No. 25-0007-PS_PS). The determination was that Chen Moore and Associates, Inc. did not violate Section 1-266 of the Broward County Code because its President, Peter Moore, did not engage in prohibited communication with county staff, regarding Request for Proposals PNC2128678P1, Engineering Services for District 3A System Fire Flow Improvements (Exhibit 2).

In conclusion and following careful consideration of all protest assertions for the final recommendation of ranking, a thorough review of the findings and conclusions within the finalized Report and Notice of Determination by the Professional Standards Section, and after consultation with the Office of the County Attorney, the protest filed is hereby denied. The final recommendation of ranking for RFP No. PNC2128678P1, Engineering Services for District 3A System Fire Flow Improvements shall remain as originally indicated by the Evaluation Committee.

While we understand this is not the conclusion you seek, we hope the above information and clarifications are helpful in addressing each of the concerns asserted. The County is always sensitive to, and recognizes the time and effort involved in submitting a proposal and we sincerely appreciate T&A's participation in this procurement. We look forward to considering future proposals.

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Protest Response - RFP No. PNC2128678P1, Engineering Services for District 3A System Fire
Flow Improvements
April 8, 2025
Page 4 of 4

For your information, in accordance with Broward County Procurement Code, Section 21.72, a protester may appeal the Director of Purchasing's protest denial. A written appeal must be accompanied by an original appeal bond (attachment) and received by the Director of Purchasing within ten (10) days after the date of this determination. Please refer to Part XII of the Procurement Code for additional details and requirements.

Respectfully,

**Robert
Gleason**

Digitally signed by
Robert Gleason
Date: 2025.04.08
09:43:28 -04'00'

Robert E. Gleason, Director
Purchasing Division

REG/cs/sl

Attachment:

Exhibit 1 - Letter of protest dated February 12, 2025

Exhibit 2 – PSS Report and Notice of Determination letter dated April 3, 2025

c: Alan Garcia, Director, Water and Wastewater Services Division
Sabrina Baglieri, Manager, Construction Project, Water and Wastewater Services Engineering
Division (Project Manager)
Constance Mangan, Assistant Director, Purchasing Division
Christine Shorey, Senior Purchasing Manager, Purchasing Division
Nancy Olesen, Purchasing Assistant Manager, Purchasing Division
Fernando Amuchastegui, Senior Assistant County Attorney, Office of County Attorney
Sara Cohen, Assistant County Attorney, Office of County Attorney

BROWARD COUNTY
PROCUREMENT PROTEST APPEAL BOND

Bond Number: _____

Contract Number: _____

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____ a (mark one) ☐ corporation, ☐ partnership, ☐ proprietorship, organized and existing under the laws of the State of _____, and having its principal place of business at _____, as **PRINCIPAL**; and _____, a surety company, organized under the laws of the State of _____, duly authorized to do business in the State of Florida, whose principal place of business is _____, as **SURETY**, are held and firmly bound unto BROWARD COUNTY, as **OBLIGEE**, in an amount equal to one percent (1%) of the estimated contract amount [as defined in Subsection 21.84(a) of the Broward County Procurement Code] or \$10,000, whichever is less; except that if the estimated contract amount is less than \$250,000, the bond amount shall be \$2,500. The bond shall be conditioned upon payment of all costs and fees awarded to the County pursuant to subsection 21.88(e) of the Broward County Procurement Code, for the payment of which sum we, as Principal and Surety, bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THIS BOND is issued to comply with Section 21.88 of the Broward County Procurement Code. The above-named Principal has initiated an appeal of the Purchasing Director's determination on Principal's administrative protest regarding the Obligee's decision or intended decision pertaining to (mark one) ☐ Bid, ☐ RLI, ☐ RFP ☐ other solicitation, Number _____ submitted by _____. Said appeal is conditioned upon the posting of the bond at the time of filing the formal written request for hearing before a hearing officer.

NOW, THEREFORE, the condition of this Bond is that if the hearing officer denies the appeal, the Principal shall pay all costs and fees awarded to the County pursuant to subsection 21.88(e) of the Broward County Procurement Code, then the obligation shall be null and void; otherwise it shall remain in full force and effect

The Obligee may bring an action to a court of competent jurisdiction on this bond for the amount of such liability, including all costs and attorneys' fees.

PRINCIPAL: _____

BY: _____

(Print name and title)

ATTEST: _____

(CORPORATE SEAL)

(Print name and title)

(CORPORATE SEAL)

SURETY: _____

BY: _____

(Print name and title)

Florida Resident Agent _____

(Note: Power of Attorney showing authority of Surety's agent or Attorney in Fact must be attached).