



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

November 21, 2025

Belseri L. Comerford, President  
Southern Underground Industries, Inc.  
794 South Military Trail  
Deerfield Beach, FL 33442

Re: Protest to Recommendation for Award – Bid No. PNC2130531C1, Regional Effluent and Reuse Solutions Bid Pack No. 2

Dear Mr. Comerford:

The Broward County Purchasing Division (“Purchasing”) is in receipt of your firm’s timely protest letter dated and received on October 22, 2025, (Exhibit 1) in protest to the Recommendation for Award posted on the Purchasing Division website from October 15 - 22, 2025. R.P. Utility & Excavation Corp., d/b/a RPU. RPU, as the low bidder determined responsive and responsible, was recommended for award for this procurement. The required protest filing fee in the amount of \$5,000 was received.

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

**Protest Assertion No. 1: RPU does not meet the experience requirements of:**

- a) **Installation of a minimum of 50,000 total linear feet of Ductile Iron Pipe 24 inches or larger as of the date of the solicitation and**
- b) **Constructed at least three (3) force main projects of similar size and complexity in an urban environment.**

**County’s Response to Assertion No. 1.a) and 1.b):**

The solicitation specified (Specifications and Requirements, Section 01110, Summary of Work, Part 1 – General, Sub-Section 1.03, Notice to Bidders) the lead construction firm must have a minimum of five (5) years of total industry experience, and successfully installed a minimum of 50,000 total linear feet of Ductile Iron Pipe (DIP) 24-inches or larger, and must have constructed at least three (3) force main projects of similar size and complexity in an urban environment.

In response to the bids received, as part of the responsibility review, Broward County reviewed the bid submittal from RPU. Broward County requested supporting documentation from RPU to ensure compliance with the solicitation requirements for experience. RPU submitted documentation demonstrating it meets the minimum experience requirements outlined in the solicitation, including documentation indicating compliance with the successful installation of the minimum required feet and diameter of DIP and the construction of three main projects of similar size and complexity in an urban environment.

Belseri L. Comerford, President, Southern Underground Industries, Inc.  
Protest to Recommendation for Award Bid No. PNC2130531C1, Regional Effluent and  
Reuse Solutions Bid Pack No. 2  
November 21, 2025  
Page 2 of 3

Per Instructions to Vendor, Section 11. Qualification of Vendors, the County reserves the right to determine whether a vendor's evidence of ability to perform is satisfactory. Moreover, Section 21.40(b)(4) of the Procurement Code expressly authorizes the County to request and rely on supplemental documentation when assessing vendor responsibility. Based on the documentation submitted, RPU was found to meet the minimum experience requirements.

Accordingly, this assertion is therefore denied.

**Protest Assertion No. 2 – RPU cannot be found to be a responsible bidder based on lack of requisite experience.**

**County's Response to Assertion No. 2:**

A responsible vendor is one that the County determines has the capability to fully perform the requirements of the solicitation, together with the integrity and reliability necessary to ensure good-faith performance, consistent with Section 21.40(b) of the Procurement Code.

RPU was evaluated in accordance with these standards and was determined to be responsible based on compliance, demonstrated qualifications, and experience. The County has not changed the criteria. The County requested and received supporting documentation to ensure RPU's compliance with the solicitation requirements for experience. The documentation demonstrates that RPU meets the minimum experience criteria outlined in the solicitation.

Consistent with Section 21.23(b) of the Procurement Code, the County evaluated RPU solely on the criteria published in the solicitation.

Accordingly, this assertion is therefore denied.

**Protest Assertion No. 3 – RPU's bid was not responsive to the requirement of installation of over 50,000 linear feet of Ductile Iron Pipe.**

**County's Response to Assertion No. 3:**

A responsive vendor is one whose submission meets all requirements of the solicitation, as determined by the Director of Purchasing under Section 21.40(a) of the Procurement Code.

RPU's bid was reviewed and determined to be responsive, having met all requirements of the solicitation, including the experience criteria.

Accordingly, this assertion is therefore denied.

Belseri L. Comerford, President, Southern Underground Industries, Inc.  
Protest to Recommendation for Award Bid No. PNC2130531C1, Regional Effluent and  
Reuse Solutions Bid Pack No. 2  
November 21, 2025  
Page 3 of 3

## **Conclusion**

In conclusion, upon careful consideration of all protest assertions in response to the Recommendation for Award, and in consultation with the Office of the County Attorney, the protest filed is hereby denied. The recommendation for award for Bid No. PNC2130531C1, Regional Effluent and Reuse Solutions Bid Pack No. 2 shall remain as originally indicated.

While we understand this is not the conclusion you seek, we do hope the above information and clarifications address each of the concerns asserted. The County is always sensitive to, and recognizes the time and effort involved in submitting a bid and we sincerely appreciate your participation in this procurement. We look forward to considering future projects.

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: 2025.11.21  
16:24:24 -05'00'

Robert E. Gleason, Director  
Purchasing Division

Attachments:

Exhibit 1 - Letter of protest dated October 22, 2025

REG/ccs/no

c: Alan Garcia, Director, Water and Wastewater Services Division  
Sabrina Baglieri, Construction Project Manager, Water and Wastewater Services  
Division  
Constance Mangan, Assistant Director, Purchasing Division  
Christine Shorey, Senior Purchasing Manager, Purchasing Division  
Nancy Olesen, Purchasing Assistant Manager, Purchasing Division  
Ricardo Abraham, 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).**

**BROWARD COUNTY, FLORIDA**

SOUTHERN UNDERGROUND INDUSTRIES, INC.,

Protester/Petitioner,  
v.

BROWARD COUNTY, FLORIDA,

Respondent.

---

**FORMAL PROTEST AND REQUEST FOR HEARING**

Pursuant to Broward County Code of Ordinances Section 21.65 through 21.72, the Bid Specifications and applicable Florida law, Petitioner Southern Underground Industries, Inc. (“Southern Underground”) submits this Formal Protest and Request for Hearing regarding the Recommendation for Award of the contract regarding Broward County Bid No. PNC2129131C1, BCWWS Project No. 105643, Regional Effluent and Reuse Solutions, Bid Pack No. 2, as follows.

**Name and Address of Protestor**

The name and address of the protestor is Southern Underground Industries, Inc., 794 South Military Trail, Deerfield Beach, Florida 33442.

**Parties**

Broward County, Florida (“County”) is a governmental entity in the State of Florida that issued the bid package at issue. Southern Underground is a contractor that performs construction work in Florida, including the type of work at issue in the subject bid.

**Standing**

Southern Underground has standing under County Ordinance 21.65 and applicable Florida law because it is the lowest responsive and responsible bidder who submitted the

competitive bid that the County found to be the second low bid and who is aggrieved in connection with the pending award of the contract. The Purchasing Recommendation for Award shows that the contract is to be awarded to R.P. Utility & Excavation Corp. d/b/a RPU ("RPU"). That finding is in error because RPU does not possess the requisite level of experience required by the bid documents. A copy of the Purchasing Recommendation for Award is attached hereto as Exhibit "A."

**Statement of Grounds and Facts and Legal Basis for the Protest**

**I. Southern Underground Meets the Experience Requirements and RPU Does not Meet the Experience Requirements.**

The specifications set forth certain requirements as to the relevant experience mandated for the successful bidder, and Southern Underground meets those requirements. The experience requirement at issue in this bid protest is found at Part 1, Section 1.01 (A), Notice to Bidders in the bid solicitation. That experience is required to consist of successful installation of a minimum of 50,000 total linear feet of Ductile Iron Pipe 24 inches or larger as of the date of the solicitation as well as having constructed at least three (3) force main projects of similar size and complexity in an urban environment. A copy of Southern Underground's bid is attached as Exhibit "B."

While Southern Underground meets the experience requirements as demonstrated by the experience it listed, Southern Underground contends, on information and belief, that the low bidder, RPU, does not meet the requirement for experience in installing at least 50,000 total linear feet of Ductile Iron Pipe 24 inches or larger. Southern Underground has submitted a public records request to confirm the experience information that the County possesses, and upon which it relied to recommend award of the Contract to RPU. Pursuant to County

Ordinance, Southern Underground will furnish additional information from the County when that is obtained.

## **II. Southern Underground's Bid is Responsible and RPU's Bid is Not Responsible**

Analysis of bidder responsibility proves that Southern Underground is a responsible bidder. Florida law holds that the determination of a responsible bidder vests public authorities with some limited discretionary power to “pass upon the honesty and integrity of the bidder necessary to a faithful performance of the subcontract—upon his skill and business judgment, his experience and facilities for carrying out the contract, his previous conduct under other contracts, and the quality of his previous work . . . .” *Engineering Contractors Association of South Florida, Inc. v. Broward County*, 789 So. 2d 445, 451 (Fla. 4<sup>th</sup> DCA 2001). As discussed herein, any such discretion must be exercised in a manner that avoids arbitrary and capricious results.

The seminal case on these bidding issues is *Liberty County v. Baxter's Asphalt & Concrete, Inc.*, 421 So. 2d 505, 507 (Fla. 1982). That case held that public bidding is intended to protect the public against collusive contracts and to ensure fair competition between all bidders on an equal footing. *Id.*

Because Southern Underground meets the bid requirements, there is no dispute that Southern Underground is a responsible bidder with the required experience with prior work. In contrast, based on information and belief, RPU lacks the requisite experience. As such, RPU cannot be found to be a responsible bidder.

Florida law holds that the County's failure to follow its own bid requirements renders the bid award arbitrary. In the public procurement and funding context, an arbitrary decision is one that is not governed by a fixed rule or standard, or one where the public entity fails to follow its own standards. See *Youth Crime Watch of America v. Dep't. of Health and Rehabilitative Servs.*, 619 So. 2d 405, 406 (Fla. 3d DCA 1993); *Procacci v. Dep't. of Health and Rehabilitative Servs.*, 603 So. 2d 1299, 1300 (Fla. 1<sup>st</sup> DCA 1992). Here the proposed award, as evidenced by the published Notice of Intent to Award, was not based on the standards established by the County, instead awarding the bid to a bidder who lacked the requisite experience.

A public entity cannot modify or change the criteria for bid award after the bids are submitted in a manner that favors one bidder over the other bidders. See *Central Florida Equip. Rentals of Dade County, Inc. v. Lowell Dunn Co.*, 586 So.2d 1171 (Fla. 3d DCA 1991); *City of Opa-Locka v. Trustees of the Plumbing Industry Promotion Fund*, 193 So.2d 29 (Fla. 3d DCA 1966); *City of Miami Beach v. Klinger*, 179 So.2d 864, 866 (Fla. 3d DCA 1965). Here the County has shown its intent to arbitrarily change the criteria to disregard experience requirement that Southern Underground proved that it met in a manner that improperly favors RPU over Southern Underground. That is not allowed.

An arbitrary decision, in the context of public procurement, is an action not governed by a fixed rule or standard. See *Youth Crime Watch of America*, 691 So.2d at 406. Courts have determined that a public owner's failure to follow its own bid evaluation procedure is arbitrary. See *Procacci*, 603 So.2d at 1300.

Indeed, the entire purpose of competitive bidding is avoiding favoritism by creating a fair, impartial evaluation process that "levels the field" by imposing the same standards on each bidder, without later imposing additional unstated standards or preferences on certain

bidders and without changing those standards. See *Engineering Contr. Association of South Florida v. Broward County*, 789 So. 2d 445, 451 (Fla. 4<sup>th</sup> DCA 2001); *Klinger*, 179 So. 2d at 866. Where the apparent low bidder is nonresponsive or non-responsible, then the second low bidder is deemed the low bidder entitled to the award of the contract. See *Greenhut Constr. Co. v. Henry A. Knott, Inc.*, 247 So.2d 517 (Fla. 1<sup>st</sup> DCA 1971).

The bid documents here require a particular level of experience to be met by the successful bidder. Here Southern Underground meets the required level of experience and should be awarded the contract because the only bidder that submitted a lower bid is not qualified. The County's action in deviating from its own standards is the very definition of arbitrary and capricious and must not stand.

### **III. Southern Underground's Bid is Responsive.**

Southern Underground's bid was responsive and, by contrast, RPU's bid was not responsive.

Florida Statutes Section 255.248(6) defines a responsive bid as one which "conforms in all material respects to the solicitation." Southern Underground's bid conforms in all material respects to the solicitation, including the requirement for experience including the installation of over 50,000 linear feet of Ductile Iron Pipe. In contrast, RPU does not have the requisite experience and therefore its bid must be considered non-responsive.

The Florida Supreme Court, in determining whether or not a bid deviation is material (thus rendering the bid non-responsive), has set forth the following two-pronged test:

. . . first, whether the effect of a waiver would be to deprive the municipality of its assurance that the contract would be entered into, performed and guaranteed according to its specified requirements, and second, *whether it is of such a nature that its waiver would adversely affect competitive bidding by placing a bidder in a*

*position of advantage over other bidders or by otherwise undermining the necessary common standard of competition.*

*Robinson Electr. Co. v. Dade County*, 417 So.2d 1032, 1034 (Fla. 1982) (Emphasis supplied).

Here, the waiver of the very material experience requirement places RPU in a position of advantage over the other bidders that undermines the necessary common standard of competition by ignoring that experience requirement. Thus, the second prong of the test rendering a bid non-responsive mandates that RPU's bid must be set aside, with award made to the second highest bidder, Southern Underground.

The first prong of the test also bars the award. Due to RPU's lacking the requisite level of experience, the County will have no assurance that the contract will be "performed and guaranteed according to its specified requirements." The experience requirement provides the assurance that the work will be performed and guaranteed according to its specified requirements, and this award lacks such assurance.

In *Tropabest Foods, Inc. v. Department of General Servs.*, 493 So.2d 50 (Fla. 1<sup>st</sup> DCA 1986), the Court distinguished a material deviation in a bid from a minor bid deviation that is waivable. The Court held that a deviation from the Invitation to Bid is material "if it gives the bidder a substantial advantage over the other bidders and thereby restricts or stifles competition." The Court also cited to Rule 13A-1.02(9) of the Florida Administrative Code which states that a minor irregularity is "a variation which 'does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders or does not adversely impact the interests of the agency.'" That rule is persuasive in this matter because one bidder is given an unfair advantage and the award adversely impacts the County.

The award to RPU is contrary to the County's own bid requirements and as such is arbitrary and capricious. The award should instead be made to Southern Underground.

**Conclusion**

Southern Underground meets the experience requirements of the bid documents, and Southern Underground is the lowest responsive and responsible bidder. The Recommendation for Award should be voided, and the contract should be awarded to the lowest responsive and responsible bidder, which is Southern Underground.

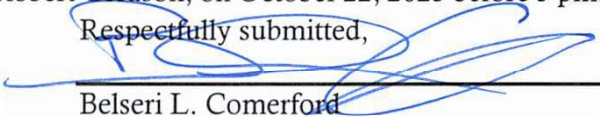
**Relief Requested**

Southern Underground requests that the Recommendation for Award to RPU be voided, and the award be made to Southern Underground instead as the lowest responsive and responsible bidder. Southern Underground requests a hearing and all rights set forth in the County ordinances.

**CERTIFICATE OF FILING AND SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing together with a Certified Check payable to Broward County has been furnished via Hand Delivery to Broward County's Director of Purchasing, Robert Gleason, on October 22, 2025 before 5 pm.

Respectfully submitted,



---

Belseri L. Comerford  
President  
Southern Underground Industries, Inc.  
794 South Military Trail  
Deerfield Beach, Florida 33442

MENU



.org

LANGUAGE



Purchasing

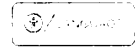
# Recommendation for Award

[Broward.org](#) > [Purchasing](#)

Less than 1 min read - Updated May 28, 2024



.org



Search

Solicitation Number	Solicitation Title	Recommended Vendor	Recommended Amount	Rejected Vendors	Posted Date	Release Date
PNC2130531C1	Regional Effluent and Reuse Solutions Bid Pack No. 2	R.P. Utility & Excavation Corp d/b/a RPU	Fixed Award Amount is \$16,017,549.80		2025/10/15	2025/10/22

Showing 1 to 1 of 1 entries

## Recommendations to Director of Purchasing

Search

Solicitation Number	Solicitation Title	Recommended Vendor	Recommended Amount	Rejected Vendors	Posted Date	Release Date
OPN2130342B2	Liquid Carbon Dioxide and Monthly Rental Storage Tanks	CARLON INC. dba BROWARD NELSON FOUNTAIN SERVICE	Initial Two-year Award Amount: \$141,760.00 Potential Five-Year Award Amount: \$354,400.		2025/10/15	2025/10/23

Showing 1 to 1 of 1 entries

## Notice of Intent

Search

Solicitation Number	Solicitation Title	Recommended Vendor	Recommended Amount	Posted Date	Release Date
---------------------	--------------------	--------------------	--------------------	-------------	--------------

No data available in table

MENU



LANGUAGE  / LANGUAGE 

SITMAP 

[Public Records Request](#)

[Contact Us](#)

[Report a Complaint](#)

[Terms of Use](#)

[Accessibility Statement](#)

[Subscribe](#) 

