

HE BUILDERS

COMMERCIAL & GOVERNMENT CONTRACTING

March 28, 2022

VIA E-MAIL

Ms. Mary Kleinpeter-Zamora
Procurement Administrator
Procurement Services, City of Fort Lauderdale
100 N. Andrews Avenue Fort Lauderdale, FL 33301
mkleinpeter-zamora@fortlauderdale.gov

Re: Bid #12616-423 - DC Alexander Park Improvement Project

Dear Ms. Kleinpeter-Zamora:

As you know, Home Express, Corp. dba HE Builders ("HEB") is one of three bidders who, on February 28, 2022, submitted a response to Bid #12616-423 - DC Alexander Park Improvement Project ("ITB"). Unfortunately, after submitting its bid, HEB realized that it made a significant error in calculating several items in its bid, resulting in its total bid price being \$1,643,109.00 below the project's actual cost. This error would result in a significant financial hardship to HEB if compelled to perform the contract at the bid price. Therefore, according to the provisions in Section 2-177 of the City of Fort Lauderdale Code, HEB is submitting this letter to respectfully request that the City allow it to withdraw its bid and return the bid security.

HEB understands that under Florida law, a bid may be rescinded when the following conditions are met: (a) the bidder acted in good faith in submitting the bid; (b) in preparing the bid, there was an error of such magnitude that enforcement of the bid would work severe hardship upon the bidder; (c) the error was not a result of gross negligence or willful inattention; (d) the error was discovered and communicated to the agency before the bid was accepted. State Board of Control v. Clutter Construction Corporation, 139 So.2d 153, 154 (Fla. 1st DCA 1962). We believe that the facts, in this case, meet the criteria provided under the law.

First, HEB submitted its bid in good faith by complying with all the requirements of the City, including providing a bid security in the amount of 5% of bid amount. Moreover, in this case, the error accounts for as much as 32% of HEB's total bid. The error – and its magnitude – is also evident when comparing HEB's bid to the bid of the other respondents. HEB's bid is \$2,225,976.00 lower than the bid submitted by the next lowest bidder and almost half of the bid submitted by the third bidder. Based on the large discrepancy in the bid amounts, the enforcement of HEB's bid would result in HEB taking a significant net loss on the project and suffering a substantial financial hardship. Given the magnitude of the mistake, it would be impossible for HEB to complete the project successfully. Third, while HEB takes great care in ensuring its bids are accurate, in this case, HEB

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erroneously calculated the amounts for several items resulting in the discrepancy we highlight in this letter. Finally, the City became aware of this issue timely, before contract award. HEB first brought this issue to the City's attention during a meeting held on March 18, 2022, and is formalizing its notification and request to withdraw by way of this letter.

For the above reasons, HEB respectfully requests that the City allow HEB to withdraw its bid and return HEB's bid bond.

Sincerely,



Matias Otero, President of Home Express Corp