



City of Fort Lauderdale • Procurement Services Division
100 N. Andrews Avenue, 619 • Fort Lauderdale, Florida 33301
954-828-5933 Fax 954-828-5576
www.fortlauderdale.gov/purchasing

July 3, 2012

VIA E-mail and U.S. Postal Service
sjt@trippscott.com

Stephanie Toothaker
Tripp Scott
110 SE 6th Street, Fifteenth Floor
Fort Lauderdale, FL 33301

Reference: Protest from F.A. Johnson, ITB #: 423-11009, Storm Structure Service Maintenance Contract

Dear MS Toothaker:

The City received your protest letter dated June 26, 2012, on behalf of F.A. Johnson pertaining to the above referenced Invitation to Bid. The protest letter and required protest fee were received timely, and in accordance with City of Fort Lauderdale ordinance.

The protest argues that 1) A & A Drainage & Vacuum Services, Inc., hereafter A & A, is not properly and legally licensed to perform the necessary work. The only required license to perform this work is a Waste Transporter License issued by Broward County. A & A holds a valid Waste Transporter License, issued by Broward County; number is WT-12-0065. Please see attached. A & A also has a valid Broward County Local Business Tax Receipt. This tax receipt allows A & A to do business in Broward County. A County or State contractor's license is not required to perform this work.

The protest also argues that 2) that A & A does not own a minimum of three permitted trucks, as required by the Bid Specifications. Broward County issued a Waste Transporter License Inventory for A & A showing that A & A is a licensed waste transporter and has three licensed trucks as of June 25, 2012. Please see attached. Within the bid's Technical Specifications the Contractor's Qualifications were listed. Number four stated a minimum three permitted vacuum vehicles that can perform bidded activities. There was not a statement that says that this was a requirement at time of bid submittal. The City will accept compliance by the date of award.



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The protest further argues that 3) because A & A bid two items as \$0.00, F.A. Johnson considers this a NO BID, and therefore makes A & A's entire bid non-responsive. *Harry Pepper & Associates v. city of Cape Coral* is cited as an argument that deviations and variances are grounds for finding a bid non-responsive. At issue in *Harry Pepper* was whether a vendor could be allowed to make material changes to their bid after the bid had been opened. (in the case of *Harry Pepper* the bidder had been allowed to change the brand of pump from what had been originally bid. There have been no changes made by A & A after the bid opening, and their choice to bid \$0.0 on certain line items is a business choice to be made by A & A, and *Harry Pepper* certainly does not support our finding A & A non-responsive for choosing to make that business decision.

Finally, the protest included extensive documentation pertaining to the second low bidder, Envirowaste Services Group, Inc. Since the City intends to award this contract to A & A, it would not be timely for the City to evaluate the second low bidder. That would only be done if the City found A & A either non-responsive or non-responsible.

Staff considers A & A's bid to be in complete compliance with all of City requirements, and therefore finds their bid to be the low, responsive and responsible bid. We therefore deny your protest and will recommend an award to the City Commission A & A Drainage & Vacuum Services, Inc.

Sincerely,

Kirk Buffington, CPPO, C.P.M., MBA
Deputy Director, Finance Department

c: Robert McKenney
File
Paul Bangel, Senior Assistant City Attorney