



**Via Email: [wsalim@mmsslaw.com](mailto:wsalim@mmsslaw.com) &  
Certified Mail - Return Receipt Requested**

May 31, 2019

Mr. William G. Salim Jr.  
Moskowitz, Mandell, Salim & Simowitz, P.A.  
800 Corporate Drive, Suite 500  
Fort Lauderdale, Florida 33334

**RE: Response to Bid Protest Received May 28, 2019  
Request for Proposal (“RFP”) 12252-496 Phase II Las Olas Blvd. Force Main  
Replacement**

Dear Mr. Salim:

The City of Fort Lauderdale, Florida (“City”) is in receipt of the Letter of Protest of Award by your firm on behalf of David Mancini & Sons, Inc. (“DMSI”) regarding the subject solicitation.

City staff has reviewed your correspondence and the purpose of this letter is to respond to your concerns, item by item.

Your first two bulleted points (1-2) appear to summarize the events of the RFP and evaluations.

Bullet 3 states in part: *“On or about May 9, 2019, the shortlisted proposers, including both DMSI and Murphy, were requested to make presentations to the Evaluation Committee. Thereafter, the Evaluation Committee scored the proposals of DMSI, Man-Con, Inc. and Murphy Pipeline Contractors, Inc. (MPCI). A true and correct copy of the scoring matrix of the scoring matrix of the Evaluation committee dated May 20, 2019 is attached hereto as Exhibit “A.””*

**Response: The Evaluation Committee ranked the presentations after May 9<sup>th</sup>, not the proposals. Upon the submission of 5 proposals, the Evaluation Committee ranked the submissions to determine the top 3 ranked proposers. Those 3 proposers were then shortlisted (reducing the field of eligible proposers to 3 instead of 5) and the Evaluation Committee then ranked the shortlisted presentations. Please note your self-admitted assertion that the scoring matrix of the Evaluation Committee dated May 20, 2019 is true and correct.**

Bullet 4, you present several concerns as follows: *“For reasons unknown, DMSI scored lowest in its references....no response has yet been received in response to the public records request.”*

Response: For DMSI, the original proposal evaluation scored on references was 0.65. For the presentation phase, DMSI scored 0.4. DMSI scored better on references for the presentation phase than in the proposal evaluation phase. There was no protest made during the shortlisting phase despite the reference score being worse at that time. In either case, the references only attribute to a 5% weight factor of the total scoring. Further it is to be noted that the scoring is not based on affirmative or negative score but a comparative score to the other proposers. This means that even proposers with good references can score lower than someone else with great references.

In further response to the reference scoring the following determinants were used:

- DMSI used City personnel as reference. According to Solicitation 12252-496; Section 4.2.5 Reference: “Note: Do not include City of Fort Lauderdale work or staff references as a demonstration of your capabilities. The Committee is interested in details of work experience and references other than the City of Fort Lauderdale.”
- DMSI offered Past References Bruce Mowery, City of Miami Beach; Mike Alvarez, City of Miami Beach; and Hasan Rizvi, City of N. Miami Beach – all who are no longer employed by the respective agencies.
- DMSI used Luis Soto, City of Miami Beach as a reference. – Mr. Soto received the email reference request but chose not to participate.

The reference letters & email history labelled as Composite Exhibit "C" was not considered as they were submitted after the evaluation period. Further, they were derived directly from the proposer and not independently from the City.

The public records request was submitted to the City less than 2 business days before the protest and therefore it is unreasonable to consider the lack of response anything other than an acceptable response which takes time to gather the requested information.

Continuing with bullet 5, your letter states: *“DMSI created its own scoring chart which is attached as Exhibit “D”. Had the Evaluation Committee properly scored price based on the actual prices submitted....DMSI would have been number one.”*

Response: Please note your self-admitted assertion in bullet 3 that the scoring matrix of the Evaluation Committee dated May 20, 2019 is true and correct. David Mancini & Sons, Inc. was ranked No. 1 on pricing; See Exhibit “A” of your protest letter. Had the City followed the formulary of the suggested Exhibit “D” of your protest letter, the City would be ranking a pool of 3 shortlisted firms against a proposing pool of 5, therefore scoring punitively and with bias against the other two shortlisted firms.

All scores from the proposal evaluation phase (ranking 1-5) were used to create the shortlist. All scores from the presentation evaluation phase (ranking 1-3) were used to create the recommended award. Arbitrarily and capriciously applying a 4 or 5 when there were only 3 shortlisted firms would exhibit bias.

Bullet 6 states: “...Removing references from consideration shows DMSI would also



be first in the bottom chart on Exhibit "D."

**Response: The City cannot arbitrarily decide to remove an evaluation criteria based on the negative implications to a vendor even if that vendor has the lowest price.**

Bullet 7 continues "By not correctly ranking the proposals, the City will spend nearly \$300,000.00 more than the price bid by DMSI. Indeed, why the RFP process was utilized versus a straight low-price invitation to bid is arguably an open question. Yet, Exhibit "D" as portrayed by DMSI applies the express criteria of the RFP, Section 5.1. Under either scenario, DMSI would have had the lowest final score.

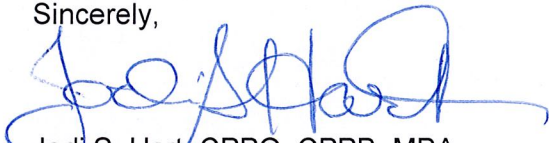
**Response: Please refer to the City's response under Bullet 3-6 regarding the scoring of references, the legitimacy of Exhibit "D" of your protest letter, and the true and correctness of the ranking. According to the City's Procurement Ordinance 2-178(c)(3), The Chief Procurement Officer shall have the following duties, responsibilities, authorizations and accountabilities including to determine the conditions and procedures for the use of source selections methods..."**

Bullet 8 states "However, that is not what happened and it appears the Evaluation Committee erroneously applied the evaluation criteria in their scoring. Thus, MPC I gets recommended despite its huge cost. How and why is unexplainable other than the Evaluation Committee made a mistake, a huge one that will cost the City over \$279,000 in additional monies. In disregarding the RFP's Evaluation Criteria, and by virtue of what appears to be mathematical error, DMSI has been relegated to second place."

**Response: The City notes DMSI was the lowest ranked (best ranked) firm after the proposal evaluation process. However, after the presentation evaluation which covered greater information than the original proposal evaluation but the same heading and weight, DMSI was ranked appropriately in second place and not due to a mathematical error:**

As such, the City maintains that MPC I has scored the lowest final ranking score and is therefore appropriately being recommended for award. Pursuant to Section 2-182(c)(1) of the City's Code of Ordinances, this letter is to serve as the Chief Procurement Officer's written decision to deny the Bid Protest submitted by Moskowitz, Mandell, Salim & Simowitz, P.A. on behalf of David Mancini & Sons, Inc.

Sincerely,



Jodi S. Hart, CPPO, CPPB, MBA  
Chief Procurement Officer

C: Kirk Buffington, Director of Finance  
Linda Logan-Short, Chief Financial Officer  
Alain E. Boileau, City Attorney