



CITY OF  
FORT LAUDERDALE

City Manager's Office

9-18-12  
PUR-5

Deferral  
Request

**Memorandum No: 12-261**

**Date:** September 18, 2012

**To:** Honorable Mayor and Commissioners

**From:** Lee R. Feldman, ICMA-CM, City Manager *L.R. Feldman*

**Re:** Tripp Scott request for deferral of agenda Item PUR-5, Invitation to Bid (ITB) 423-11009

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On September 14, 2012 attorney Stephanie Toothaker, on behalf of F. A. Johnson, Inc., requested the City Commission defer the award for 423-11009, Storm Structure Service Maintenance, Commission Memo number 12-2053, Agenda Item PUR-5, September 18, 2012.

**BACKGROUND**

On June 26, 2012 the City received a protest from attorney Stephanie Toothaker on behalf of F. A. Johnson, Inc. The protest listed two major issues against the low bidder, A&A Drainage and Vacuum Services, Inc. (A&A). The first being that A&A was not properly licensed and the second that they did not own the number of trucks required in the bid specifications. The City physically inspected A&A's trucks and they do own the three that are required. There were no licensing requirements in the bid, so on July 3, 2012 the Deputy Director of Finance Department sent a letter to Stephanie Toothaker denying F. A. Johnson's protest. On July 17, 2012 Mr. David Burgueno, Chief Investigator issued a list of what he thought the licensing requirements were for this contract. (Exhibit 1) Given that information staff proceeded with a possible award recommendation to F. A. Johnson, Inc. It was our intent to recommend an award to their firm after we evaluated the second low bidder. F. A. Johnson also claimed that the second low bidder was non-responsive. On August 8, 2012 the City received a letter from Astley Stone, Vice Chair, Broward County Central Examining Board of Engineered Construction Trades. (Exhibit 2) The Board met along with the County Attorney and determined that there are no licenses required to perform the services listed in the City's ITB. Therefore, City staff stopped pursuing an award to F. A. Johnson, Inc. as the City could now award to the low responsive and responsible bidder.

On August 28, 2012 attorney Stephanie Toothaker submitted a letter to the City Commission appealing the City's decision to deny F. A. Johnson, Inc.'s protest. Other than questioning A&A's worker's compensation insurance, there were no new grounds for the protest raised. A&A has provided the City with their worker's compensation insurance and it was reviewed and approved by Risk Management.

As required, Procurement forwarded the recommendation for award to the Commission to be voted on September 18, 2012.

The City has followed each requirement for recommending an award to the low bidder. The protest was received and responded to in a timely manner. The low bidder A&A Drainage and Vacuum Services, Inc. has met all of the requirements of the bid with an initial estimated cost savings of \$179,790 annually to the City.

The bid quantities were based on the operational need to maintain the new storm water valves in accordance with the manufacturer's recommendations and the Commission's request to be more proactive with storm water maintenance. Previous bid pricing was used to determine an estimate which would conform to the allotted budget. The projected savings will allow for infrastructure to be addressed in a shorter period of time.

Mr. John Herbst, City Auditor reviewed the concerns raised by F. A. Johnson, Inc. and has determined that the low bidder cannot be deemed non-responsive for not having a contractor's license, since one is not required for the work contemplated in the ITB.

### **RECOMMENDATION**

The September 14, 2012 letter from Stephanie Toothaker provided no new information pertaining to this award. I therefore, recommend the City Commission consider this item as presented on the September 18, 2012 agenda.

Attachment(s) EX 1 - Broward County License Requirements dated 07/17/12  
EX 2 - Broward County letter rescinding the license requirements dated  
08/08/12

C: Stanley D. Hawthorne, Assistant City Manager  
Susanne M. Torriente, Assistant City Manager  
Harry A. Stewart, City Attorney  
Jonda K. Joseph, City Clerk  
John C. Herbst, City Auditor  
Chaz Adams, Public Information Manager



INVESTIGATIONS & ENFORCEMENT SERVICES (IES)  
PERMITTING LICENSING AND CONSUMER PROTECTION DIVISION  
1 North University Drive, Building B ~ Plantation, FL 33324-2038 ~ Phone (954) 765-4400

DATE: July 17, 2012  
FOR: LICENSE REQUIREMENTS  
FROM: DAVID BURGUENO, CHIEF INVESTIGATOR  
CONTRACTOR LICENSING & ENFORCEMENT UNIT  
SUBJECT: **STORM STRUCTURE SERVICE MAINTENANCE  
(ANNUAL CONTRACT) ITB # 423-11009**

The licensing requirement for the above referenced project contractor or subcontractor must possess one (1) of the following licenses and State Registration (if applicable), and provide such to County is as follows:

STATE: CERTIFIED GENERAL CONTRACTOR; OR  
CERTIFIED PLUMBING CONTRACTOR; OR  
CERTIFIED UNDEGROUND UTILITY AND EXCAVATION CONTRACTOR; OR

**BROWARD COUNTY:**

CERTIFIED BUILDING CONTRACTOR CLASS "A"; OR  
(MUST BE REGISTERED WITH THE STATE)

CENTRAL MASTER PLUMBER; OR  
(MUST BE REGISTERED WITH THE STATE)

GENERAL ENGINEERED CONSTRUCTION BUILDER; OR

PRIMARY PIPELINES (WATER, SEWER, DRAINAGE)—CLASS "A"

Please note that all work not within the scope of the above contractor should be completed by a licensed subcontractor. All contractors must have current liability insurance and workers compensation, or proof of exemption from workers compensation.

Should you have further inquiry please contact me at 954-765-4400



ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT  
Permitting, Licensing and Consumer Protection  
1 North University Drive, Box 302, Plantation, Florida 33324, 954-765-4400, Fax 954-765-4574

August 8, 2012

To Whom It May Concern:

The Broward County Central Examining Board of Engineered Construction Trades was contacted regarding the need for a license for certain services for cleaning and video inspections of storm drains. This correspondence is in reference to a request for a letter clarifying licensing.

At this time there are no existing licensing requirements to clean and video inspect storm drains, where no construction is to be performed. However, where any type of construction including repair, modification or addition to an existing system is to be performed an appropriate license would be required.

As a point of information, the Broward County Engineering Licensing Board is in the process of rewriting the Engineering Construction element of Broward County Chapter 9. These revisions will include licensing provisions for performing cleaning, video inspection and sewer rehabilitation methods.

Very truly yours,

A handwritten signature in black ink, appearing to read "Astley Stone", written over a horizontal line.

Astley Stone, Vice Chair

Broward County Central Examining Board of Engineered Construction Trades