



**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Greg Chavarria, City Manager

**DATE:** September 19, 2023

**TITLE:** Motion Denying Protest submitted by Hammerhead Aquatics on the  
Recommendation to Award Invitation to Bid No. 141, for Aquatic Program  
Management- Sunrise Middle Pool (Rebid) to Park Swim International, LLC-  
**(Commission District 1)**

---

**Recommendation**

Staff recommends the City Commission deny the protest submitted by Hammerhead Aquatics on the Recommendation to Award Invitation to Bid No. 141, for Aquatic Program Management- Sunrise Middle Pool (Rebid) to Park Swim International, LLC.

**Background**

The Procurement Services Division issued Invitation to Bid (Event) No. 141, for Aquatic Program Management- Sunrise Middle Pool (Rebid) to allow bidders to compete for a Revenue-Based Service Agreement. Bidders were required to bid no less than the minimum annual guarantee (MAG) amount of \$18,000. Services to be provided by the recommended bidder include swim classes, swim team practices, community recreational use and specialty instruction and clinics. The pool at Sunrise Middle School is jointly operated by the School Board of Broward County and the City.

Park Swim International, LLC, (Park Swim) was the only bidder to submit a bid electronically in the City's on-line strategic sourcing system. Park Swim's bid met the solicitation requirements and is deemed a responsive and responsible bidder with a MAG amount of \$18,000. A Notice of Intent to Award the solicitation to Park Swim was posted.

Soon after the award posting, Hammerhead Aquatics submitted a protest alleging that the City's on-line strategic sourcing platform and electronic bid system (on-line bidding system) was flawed. Hammerhead Aquatics stated that it "assumed" that its bid was completed and sent. Hammerhead further claimed that it attempted to contact the City's procurement agent of record to ensure receipt of their bid.

However, the City's on-line bidding system records all electronic responses submitted. The system data clearly shows two potential bidders failed to submit a bid electronically into the Infor System (Exhibit 3). Hammerhead Aquatics is one of the two non-bidders.

The other non-bidder acknowledged in writing that it never submitted a bid (Exhibit 4). This additional information provided by the other non-bidder validates the accuracy of the recording of bid responses submitted and not submitted into the Infor System.

Additionally, Hammerhead Aquatics contends it was relying on the City's procurement agent of record on confirming receipt of the bid, despite the fact that the Invitation for Bid, Section 1.4, states that the "*City shall not be responsible for a Bidder's inability to submit a bid by the end date and time for any reason, including issues arising from the use of the City's on-line strategic sourcing platform....and it is the sole responsibility of the Bidder to ensure that their bid is submitted electronically through the City's on-line strategic platform no later than the time and date specified in this solicitation.*"

Moreover, this solicitation is a rebid, because during the first Invitation to Bid (ITB), Hammerhead submitted two separate bids. A bid of \$1,000 was submitted in the correct section and another bid of \$2,500 was incorrectly submitted in the system. Hammerhead, then claimed it intended to submit the higher amount. Instead of deeming Hammerhead non-responsive for failure to bid the guaranteed amount of \$1,500 and not following the bid instructions upon submitting its bid, the City decided to reject all bids to afford Hammerhead and other potential bidders another opportunity. Once again, during the second ITB, Hammerhead Aquatics failed to adhere to the solicitation requirements.

Staff recommends the City Commission affirm the Chief Procurement Officer's decision to deny Hammerhead's protest since it failed to demonstrate the City's failure to comply with the City's procurement ordinance or any applicable law pursuant to the City of Fort Lauderdale's Procurement Ordinance, Section 2-182(b)(1).

### **Strategic Connections**

This item is a *2022 Top Commission Priority*, advancing the Infrastructure and Resilience initiative.

This item supports the *Press Play Fort Lauderdale 2024 Strategic Plan*, specifically advancing:

- The Infrastructure Focus Area
- Goal 1: Build a sustainable and resilient community
- Objective: Proactively maintain our water, wastewater, stormwater, road, and bridge infrastructure

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Ready*.

This item supports the *Advance Fort Lauderdale 2040 Comprehensive Plan* specifically advancing:

- The Infrastructure Focus Area
- The Sanitary Sewer, Water & Stormwater Element
- Goal 3: Develop and maintain an adequate water supply, treatment and distribution system, which meets the existing and projected needs of the service area in an efficient, economical, and environmentally sensitive manner.

**Related CAM**

23-0893

**Attachments**

Exhibit 1 - Notice of Intent to Award

Exhibit 2 - Hammerhead Aquatics Notice of Protest

Exhibit 3 - Chief Procurement Officer Response to Protest

Exhibit 4 - Non-Bid Submission Written Acknowledgement

Exhibit 5 - Hammerhead Aquatics Appeal to Denial of Protest

---

Prepared by: Glenn Marcos, Chief Procurement Officer/Assistant Director, Finance  
Heather Rose, Senior Procurement Specialist, Finance  
Matthew Eaton, Senior Administrative Assistant, Finance

Department Director: Phil Thornburg, Parks and Recreation  
Linda Short, Finance