



Administrative Services Committee Meeting Commission Chamber- 1/11/2010- 12:35 PM

ADMINISTRATIVE SERVICES

1. Consider the 09-139 Henry Brigham Community Center – Ammar ☐ [Attachments](#)
Construction Bid Appeal.
2. Motion to consider bid protest of Tran Construction on ITB 09-155- Task ☐ [Attachments](#)
Order for Water and Sewer System Repairs & Installation and to Award bid
to lowest qualified bidder.
3. Approve setting Qualifying Fees for 2010 Local Offices. ☐ [Attachments](#)

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Administrative Services Committee Meeting
1/11/2010 12:35 PM
Bid Protest

Department: Procurement

Caption: Consider the 09-139 Henry Brigham Community Center – Ammar Construction Bid Appeal.

Background: John Garcia, Attorney at Law on behalf of Ammar Construction, has filed a formal protest and appeal regarding the 09-139 Henry Brigham Community Center bid by Ammar Construction and the letter rescinding his Notice of Award which was issued by the Housing and Community Development Department. Ammar Construction was deemed as non-compliant and was sent a letter on September 11, 2009. The submittal was non-compliant due to the Subcontractor's Affidavit was not completed properly. The vendor also received an award letter from the Housing and Community Development Department on September 15, 2009. On September 29, 2009, the Housing and Community Development Department issued a notice to rescinding the Notice of Award.

Analysis: On August 25, 2009, bid Item 09-139 was opened. Five (5) bid packages were received. At the bid opening three (3) bid amounts were read aloud with two (2) being deemed as non-compliant. Under future review by the Procurement Department, all bid packages were deemed as non-compliant. The non-compliant letter to Ammar was faxed and mailed on September 11, 2009 stating that the subcontractors Affidavit form was not properly dated and was therefore considered as non-compliant. On September 15, 2009, we received a protest from Ammar in reference to his non-compliance status. The Procurement Department responded on September 19, 2009 stating that a review of the files and stated that after a review of the submittal, the Procurement Department had no choice but to stand by the initial decision to deem his submittal as non-compliant. It was also noted in the letter that all submittals were deemed as non-compliant and that the item was be rebid by the Housing and Community Development Department at a later date and that his company would received notice of the rebid. He was also given the option to appeal to the Administrator. On October 1, 2009 Mr. Ammar submitted a request to pursue his protest further. On October 28, 2009 our office received a copy of a letter from John Garcia, legal representative for Ammar requesting an update on the protest status of Ammar. The Law Department responded to the letter on behalf of the Administrator. The Law Department stated that since none of the bidders on the project were deemed compliant and because it is often the best interest of Augusta-Richmond Count to readvertise bids where non or very few bidders are compliant, this project is being re-bid. It also stated that the Administrator agrees with the Procurement Department and finds that Ammar Constructions' bid was properly rejected and non-compliant. On December 1, 2009, our office received a letter dated November 24, 2009, from John Garcia, Attorney at

Item # 1

Law to submit a formal protest and appeal to the Augusta-Richmond County Board of Commissions on behalf of Ammar Construction.

Financial Impact: None

Alternatives: None

Recommendation: None

**Funds are Available in
the Following
Accounts:**

REVIEWED AND APPROVED BY:

**Finance.
Law.
Administrator.
Clerk of Commission**

Bid Item #09-139
Henry Brigham Community Center for Housing & Community Development
for the City of Augusta - Housing and Community Development Department
Bid Opening Date: Tuesday, August 25, 2009 @ 3:00 p.m.

1

Vendors	Turner Mechanical, Inc 1347 Atomic Road Beech Island, SC 29842	Pinnacle USA DBA Artistic Concrete P. O. Box 7221 Athens, GA 30604	Sitec 217 Fairfield St N.E. Aiken, SC 29803	Jebb Boggus Const. 118 N Belair Rd Ste 1 Evans, GA 30809	Contract Management 1827 Killingsworth Rd. Augusta, GA 30904	L-J Inc. 220 Stoneridge Dr Columbia, SC 29210	Ammar Construction P. O. Box 1877 Evans, GA 30809
Statement of Non-Discrimination				✓	✓		✓
Conflict of Interest				✓	✓		✓
Bid Form					✓		✓
Contractor Affidavit & Agreement				No ✓ E-Verify	✓		✓
Subcontractor Affidavit				✓	✓		✓
Non-Collusion Affidavit of Bidder/Offeror				✓	✓		✓
Non-Collusion Affidavit of Subcontractor				✓	✓		✓
Local Small Business					✓		✓
Good Faith Effort							
Local Small Business							
Subcontractor/Supplier Utilization Plan					✓		✓
Addendum 1				✓	✓		✓
Bid Bond				✓	✓		✓
Bid Price				MC	\$42,000.00		\$37,000.00

Bid Item #09-139 Henry Brigham Community Center for Housing & Community Development for the City of Augusta - Housing and Community Development Department Bid Opening Date: Tuesday, August 25, 2009 @ 3:00 p.m.									
Vendors	Horizon Construction P. O. Box 798 Evans, GA 30809	J & B Construction 3550 Gordon Highway Grovetown, GA 30813	Quality Storm Water 437 Cambridge Circle Martinez, GA 30907	Tran Construction 3855 Red Oak Court Martinez, GA 30907					
Statement of Non-Discrimination	✓			✓					
Conflict of Interest	✓			✓					
Bid Form	✓								
Contractor Affidavit & Agreement	✓			✓					
Subcontractor Affidavit	✓			✓					
Non-Collusion Affidavit of Bidder/Offeror	✓			✓					
Non-Collusion Affidavit of Subcontractor	✓			✓					
Local Small Business Good Faith Effort	✓			✓					
Local Small Business Subcontractor/Supplier Utilization Plan	✓			✓					
Addendum 1	✓			Did Not Acknowledge					
Bid Bond	✓			✓					
Bid Price	\$38,750.00								

Item # 1

Bid Item #09-139

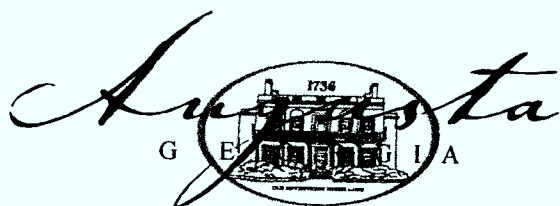
**Henry Brigham Community Center for Housing & Community Development
for the City of Augusta - Housing and Community Development Department
Bid Opening Date: Tuesday, August 25, 2009 @ 3:00 p.m.**

1

Vendors	Turner Mechanical, Inc 1347 Atomic Road Beech Island, SC 29842	Pinnacle USA DBA Artistic Concrete P. O. Box 7221 Athens, GA 30604	Stec 217 Fairfield St N.E. Aiken, SC 29803	Jebb Bogus Const. 118 N Belair Rd Ste 1 Evans, GA 30809	Contract Management 1827 Killingsworth Rd. Augusta, GA 30904	L-J Inc. 220 Stoneridge Dr Columbia, SC 29210	Ammar Construction P. O. Box 1877 Evans, GA 30809
Statement of Non-Discrimination				Yes	Yes		Yes
Conflict of Interest				Yes	Yes		Yes
Bid Form				Yes	Yes		Yes
Contractor Affidavit & Agreement				No E-Verify Number	Yes		Yes
Subcontractor Affidavit				Yes	Yes		Incomplete
Non-Collusion Affidavit of Bidder/Offeror				Yes	Yes		Yes
Non-Collusion Affidavit of Subcontractor				Yes	Yes		Yes
Local Small Business				Yes	Yes		Yes
Good Faith Effort				Yes	Yes		Yes
Local Small Business				Yes	Yes		Yes
Subcontractor/Supplier Utilization Plan				Yes	Yes		Yes
Addendum 1				Yes	Yes		Yes
Bid Bond				Yes	Yes		Yes
Bid Price				Non-Compliant	Non-Compliant		Non-Compliant

Bid Item #09-139 Henry Brigham Community Center for Housing & Community Development for the City of Augusta - Housing and Community Development Department Bid Opening Date: Tuesday, August 25, 2009 @ 3:00 p.m.									
Vendors	Horizon Construction P. O. Box 798 Evans, GA 30809	J & B Construction 3550 Gordon Highway Grove town, GA 30813	Quality Storm Water 437 Cambridge Circle Martinez, GA 30907	Tran Construction 3855 Red Oak Court Martinez, GA 30907					
Statement of Non-Discrimination	Yes			Yes					
Conflict of Interest	Yes			Yes					
Bid Form	Yes			Yes					
Contractor Affidavit & Agreement	Yes			Yes					
Subcontractor Affidavit	Yes			Yes					
Non-Collusion Affidavit of Bidder/Offeror	Yes			Yes					
Non-Collusion Affidavit of Subcontractor	Yes			Yes					
Local Small Business Good Faith Effort	Yes			Yes					
Local Small Business Subcontractor/Supplier Utilization Plan	Yes			Yes					
Addendum 1	Yes			Did Not Acknowledge					
Bid Bond	Yes			Yes					
Bid Price	Non-Compliant			Non-Compliant					

Item # 1



Procurement Department

Mrs. Geri Sams, Director

September 11, 2009

FAXED/MAILED

Ammar Construction, Inc
Attn: Tony Ammar
P. O. Box 1877
Evans, GA 30809

Ref: Bid Item: 09-139 Henry Brigham Community Center
For the City of Augusta – Housing & Community Development
Department
Bid Opening Date: Tuesday, August 25, 2009 @ 3:00 p.m.

Dear Mr. Ammar:

Thank you for your submittal in response to the above referenced Bid Item. After reviewing your package, it was noted that you failed to properly execute the Subcontractor Affidavit form. Your submittal was not properly dated. The form states, "If there no subcontracting opportunities please fill out the form (write NA; sign, date and notarize)." We have included a copy of the form you returned in your submittal for your review.

In accordance to the Bid specifications and the Augusta-Richmond County Code, your company's submittal was deemed as non-compliant. I wish to call your attention to the following paragraph included in all invitations to bid which we have included below to address omissions of this nature.

"Bidders will please note that the number of copies requested; all supporting documents including financial statements and references and such other attachments that may be required by the bid invitation are material conditions of the bid. Any package found incomplete or submitted late shall be rejected by the Procurement Office. Any bidder allegedly contending that he/she has been improperly disqualified from bidding due to an incomplete bid submission shall have the right to appeal to the appropriate committee of the Augusta commission. Please mark BID number on the outside of the envelope."

I further wish to call your attention to ARTICLE 6, Sec. 1-10-43 (b) and ARTICLE 9, 1-10-67 (b) of our Augusta Richmond County Code as it relates to handling claims:

ARTICLE 6 PROCUREMENT SOURCE SELECTION METHODS AND CONTRACT AWARDS

Sec. 1-10-43. Sealed bids selection method.

(a) *Conditions for use.* All contracts of Augusta-Richmond County shall be awarded by competitive sealed bidding except as otherwise provided elsewhere in this article (see section 1-10-45-Sealed Proposals; 1-10-46-Professional Services; 1-10-47-Quotations; 1-10-49-Sole Source Procurement; and 1-10-50-Emergency Procurements, of this chapter).

Room 605 - 530 Greene Street, Augusta Georgia 30901
(706) 821-2422 - Fax (706) 821-2811

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Item # 1

(b) Invitation for bids and specifications. An invitation for bids shall be issued by the Procurement Office and shall include specifications prepared in accordance with Article 4 (Product Specifications), and all contractual terms and conditions, applicable to the procurement. All specific requirements contained in the invitation to bid including, but not limited to, the number of copies needed, the timing of the submission, the required financial data, and any other requirements designated by the Procurement Department are considered material conditions of the bid which are not waiveable or modifiable by the Procurement Director. All requests to waive or modify any such material condition shall be submitted through the Procurement Director to the appropriate committee of the Augusta-Richmond County Commission for approval by the Augusta-Richmond County Commission.

ARTICLE 9 APPEALS AND REMEDIES Sec. 1-10-67. Procurement protests.

(a) Right to protest. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to Augusta-Richmond County. Protestors shall seek resolution of their complaints initially with the Procurement Director. All protests must be submitted in writing to the Procurement Director.

(b) Protests concerning invitations to bid. A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals. If not done by that time, the complaint or protest is lost.

(c) Stay of procurement during protests. In the event of a timely protest under subsection (b) of this Section, the Procurement Director shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or until the Augusta-Richmond County Administrator or Commission makes a determination on the record that the award of the contract without delay is necessary to protect the interests of Augusta-Richmond County. (Ord. No. 6939, § 16, 1-2-07)

We would like to thank you for your interest in doing business with the City of Augusta and look forward to your company participating in future bids. Please do not hesitate to contact us at (706) 821-2422 at any time when you have a concern and are preparing for a future bid submission.

Sincerely,



Geri A. Sams, Director
Procurement Department

GAS/dw

Attachments

cc: Tameka Allen, Interim Deputy Administrator
Chester Wheeler, Director, Augusta Housing & Community Development Department
Rose White, Augusta Housing & Community Development Department

Tony Ammar
4211 Smith Field Creek
Evans, GA 30809
September 15, 2009

Geri Sams
City of Augusta Procurement Department
530 Greene Street
Augusta, GA 30901

RE: Bid Item: 09-139 Henry Brigham Community Center

Dear Mr. Sams:

I am writing to you in response to your letter dated September 11, 2009, regarding the Henry Brigham bid.

The subcontractor Affidavit is as the title indicated for subcontractors. The subcontractor has to put his E-verify, company name, the authorized officer, the title of the authorized officer, the printed name of the authorized officer, etc. The information requested for subcontractors.

If there are no subcontracting opportunities, the company submitting the bid has to sign, date, and notarize the form since there is no instruction where to put N/A or where the bidding company has to sign or date. As an agent I put N/A at the top of the page. I signed it where the subcontractor had to sign and put the date above where the notary public signs it. Therefore, I accomplished the following – wrote N/A, signed, dated, and notarized the subcontractor affidavit. As you can clearly see the Affidavit is dated the 24th day of August 2009.

I would like to protest the fact that you wanted to declare my bid as noncompliant at the same time, I would like to ask you the following questions:

1. If there is no subcontracting, why do we have to notarize the affidavit? Do you think contractors time and notary public's time is not valuable? Their time can be wasted on pages and pages of material that does not apply to the job?
2. Do any of the procurement people have any experience in preparing bids? If you had any one with that kind of experience you would not include the subcontractor affidavit in the bid document. This is the reason why: All subcontractors will wait until ten minutes or less from the time of the bid to fax their numbers. This way the competition will not have time to change their numbers. Any person submitting a bid has to rely on his estimate because he or she has to leave the office about 30 minutes prior to the opening bid time. Therefore, you are asking for the impossible.
3. The opening of the bid was delayed for about 20 minutes while the architect, the owner, and the contractors waited. All in all about twelve people waited about one hour for the bid to be opened. Do you think that owners, contractors, and architects have the time to waste?
4. The opening bid was August 25, 2009 and your letter was dated September 11, 2009. Why did it take seventeen days to send me a letter? I provided the owner with the signed contract and proof of insurance, a performance and payment bond.

15 SEP 09 AM 9:01

As of today, I have invested money and time in this project (bid offer not included), are you going to reimburse me for my time and the price of the bond?

I have lined up the people who are going to work on the project. One of these people is a young man, Joe Deserto, who has a wife and two small children. He is behind on his rent and bills and desperately needs this job. Can you explain to him why he is not working on this job? Can you explain to his family why they have to go hungry because I don't think that I can explain this to him?

I still remember a bid that you accepted and the bidder did not put his price in the form provided by you. Yet, now, you want to exclude my bid! Are contractors treated differently or what?

5. At the opening of the bid about half the bids were rejected. So my questions are the following:
- Are contractors stupid?
 - Is the bid process getting more complicated for no reason?
 - Are you asking more than they can handle?
 - Is the owner going to benefit from a rejection of half the bid?
 - Is there a better and more efficient way to do business?

I have been in the contracting business for years and I would like to make the following statement; the bidding in Richmond County is getting more complicated and less caring about the contractor, the application, and the indifference to the contractor will invite the following:

- More aggravation to all parties involved
- More lawsuits
- Waste of money and energy
- Reduced competition
- Increase in the cost to the owner

Sincerely,



Tony Ammar

Cc: Chester Wheeler

Rose White

Ammar Construction Company

PO Box 1877 Evans, GA 30809

706-832-7878

706-863-5915

cammar@knology.net

FAX



To: Geri Sams

Fax: 706-821-2811

Date: 9/16/2009

Re: Bid Item 09-239 Henry Brigham Community Center

From: Tony

Fax: 706-863-5915

Phone: 706-832-7878

Cc:

Comments:

Pages: 3

- ☐ Urgent
- ☐ For Review
- ☐ Please Comment
- ☐ Please Reply
- ☐ Please Recycle



September 29, 2009

Procurement Department

Mrs. Geri Sams, Director

FAXED/MAILED

Ammar Construction, Inc,
Attn: Tony Ammar
4211 Smith Field Creek
Evans, GA 30809

Ref: Bid Item: 09-139 Henry Brigham Community Center
For the City of Augusta – Housing and Community Development
Bid Opening Date: Tuesday, August 25, 2009 at 2:00 p.m.

Dear Mr. Ammar:

This correspondence comes to you pursuant to AUGUSTA, GA CODE §1-10-67(b), and in response to your September 15, 2009 letter regarding the above referenced bid item 09-139. In your letter you wish to protest your company's submittal which was deemed non-compliant because you did not properly execute the Subcontractor Affidavit.

The Procurement Department has carefully reviewed your submittal and the requirements of the Augusta-Richmond County bidding process. The bid specifications clearly state that "All specific requirements contained in the invitation to bid including, but not limited to, the number of copies needed, the timing of the submission, the required financial data, and any other requirements designated by the Procurement Department are considered material conditions of the bid which are not waiveable or modifiable by the Procurement Director" Since Ammar Construction, Inc. submittal was "found incomplete", the Procurement Department has no choice but to stand by our initial decision to deem your submittal as non-compliant.

Please be advised that all vendors for this project were deemed as non-compliant and therefore, the Housing and Community Development Department has requested that this bid item be sent back out for re-bid. Once the re-bid documents are available, you will receive notification of the re-bid process.

If you would like to pursue your request further, AUGUSTA, GA. CODE §1-10-69 authorizes the Augusta-Richmond County Administrator "to settle any protest regarding the solicitation or award of a County contract..." If you would like the Administrator to review your request, please let me know and I will forward your request to the Administrator's Office.

Room 605 - 530 Greene Street, Augusta Georgia 30901
(706) 821-2422 - Fax (706) 821-2811

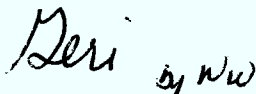
www.augustaga.gov

Register at www.demandstar.com/supplier for automatic bid notification

Item # 1

Please do not hesitate to contact us at (706) 821-2422 at any time when you have a concern and are preparing for the re-bid or any future bid submission.

Sincerely,

A handwritten signature in cursive script that reads "Geri" followed by "by nw" in a smaller, less legible script.

Geri A. Sams, Director
Procurement Department

GAS/nw

cc: Fred Russell, Administrator
Chiquita T. Johnson, General Counsel
Chester Wheeler, Director Housing and Community Development

Tony Ammar
4211 Smith Field Creek
Evans, GA 30809
October 1, 2009

Geri Sams
City of Augusta Procurement Department
530 Greene Street
Augusta, GA 30901
Ref: Bid Item: 09-139 Henry Brigham Community Center

Dear Mrs. Sams:

In response to your letter dated September 29, 2009, I wanted to pursue my protest further. Your procurement system is outdated and needs to be changed. Change that will accomplish the following:

- A. A simpler system
- B. A system that cares about the contractors
- C. A system that does not waste contractors, owners and tax payer's money

If you are willing to help, please let me know. If you are not willing to help or change the system, then every legal avenue will be used to reach this goal.

Help will be sought from the following institutions:

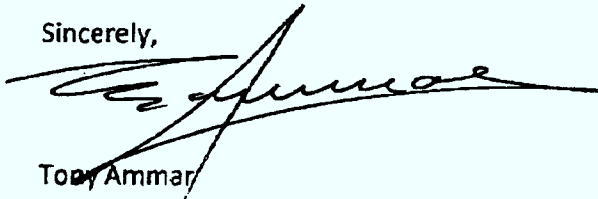
- 1. Court (starting Tuesday, October 4, 2009)
- 2. The Media (this week and next week)
- 3. The government and small business administration
- 4. Congress
- 5. Local contractors who will demonstrate in front of your office
- 6. Georgia Governor

Please remember that the tax payers of the State of Georgia are paying your salary. My advice to you is not to bite the hand that feeds you and don't underestimate the will of the people.

Our government is spending millions of dollars for studies to improve the quality of life. If you go to the Augusta Georgia Richmond County website <http://www.augustaga.gov/DocumentView.aspx?DiD=2072> you can view the study that highlights a few of the problems with the current system. You can also view some of the recommendations <http://www.augustaga.gov/DocumentView.aspx?DiD=2073>.

I have been asking for help regarding this matter for the past two years and I am asking again.

Sincerely,



Tony Ammar

Cc: Fred Russell, Administrator
Chester Wheeler, Director of Housing & Community Development
Local Contractors doing business in Richmond County

Ammar Construction Company
P.O. Box 1877
Evans, GA 30809

706-832-7878
Fax 706-863-5915
cammar@knology.net

TO: Geri Sams
FAX: 706-821-2811
PHONE:
RE:

FROM: Tony Ammar
PAGES: 2
DATE: 10/5/2009
CC: Fred Russell, Chester Wheeler

☐ URGENT

☐ FOR REVIEW

☐ PLEASE COMMENT

☐ PLEASE REPLY

☐ PLEASE RECYCLE

Comments:

Emailed To: Geri Sams 10/28/09sh

JOHN T. GARCIA

Attorney at Law
205B North Belair Road
Evans, Georgia 30809
(706) 650-7727

Fax (706) 364-5390
E-mail: garcia81@knology.net

Post Office Box 1984
Evans, Georgia 30809

October 28, 2009

Frederick L. Russell
Augusta-Richmond County Administrator
530 Greene Street, Room 801
Augusta, Georgia 30901

Re: 09-139 Henry Brigham Community Center-Ammar Construction Bid Appeal

Dear Mr. Russell:

I represent Ammar Construction, Inc. Could you please provide me an update of the status of the Ammar Construction Bid Appeal on the Henry Brigham Community Center? My client has appealed the Procurement Director's decision to your office, but has not heard anything since that time. My client would prefer to resolve this matter in the most efficient and amicable manner, but he intends to avail himself of all of his legal remedies, but must exhaust the administrative appeals first.

My client was the low bidder on this project, but received a September 11, 2009 letter from Ms. Geri A. Sams. In her September 11, 2009 letter, Ms. Sams deemed his bid to be non-compliant because the Subcontractor's Affidavit was allegedly not completed properly¹. The complaint is that both date blanks must be completed, rather than one date blank as was done in this instance.

Mr. Ammar protested by letter to Ms. Sams on September 15, 2009. On September 23, 2009, he received a notice from Chester A. Wheeler, III rescinding the "Notice of Award." Then on September 29, 2009, Ms. Sams again deemed Mr. Ammar's bid as non-compliant. She then offered to forward any protest to your office for further review. On October 1, 2009, Mr. Ammar again protested/appealed by sending such to Ms. Sams with you listed as a "cc:."

Since that time, my client has not received any additional information. Would you please provide a status update to me? Mr. Ammar is deeply concerned that the bidding process has gotten completely out of hand. This case is a perfect example. The form in question merely confirms that there are no subcontractors. It is signed by Mr. Ammar, dated, and notarized. It is beyond silly to

As an interesting aside, the Subcontractor Affidavit indicates that there will be no subcontractors.

Mr. Frederick L. Russell Letter
October 28, 2009
Page Two

require two dates on the same document when the notary is affirming that Mr. Ammar subscribed sworn to on a particular date. I note that the Augusta Code Section 1-10-43(g) specifically authorizes the correction of bids. This alleged defect does not affect the bid pricing of Mr. Ammar's bid in any manner, shape, or form.

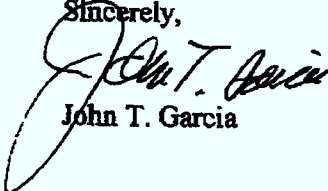
Mr. Ammar states this sort of placing "form over substance" is deterring contractors from bidding projects. Code Section 1-10-6 specifically encourages local bidders. However, the nit-picky method in which the process is handled is deterring local contractors from engaging in the bidding process. Ammar Construction, Inc. has performed admirably for the City on many other projects. As an example, he did an outstanding job on Brookfield Park. He has performed a number of other quality jobs for the City. However, he is exasperated at how he and the other contractors are treated.

He has two goals in this appeal. The first is the simpler task. He believes that he has been wrongfully denied this bid. To resolve this matter, he demands that he either be paid his profit from the project or he be awarded the project. His preference is that he simply is given his lost profit and not be required to deal with the issue.

The larger goal is to reform the bidding process. My client is a fair and reasonable man. He understands that the bidding process must of necessity have certain inviolate rules. However, when a strained interpretation of those rules leads to the silliness which has brought about this appeal, he believes that changes must be made to the process to make it fair and efficient. Every contractor, who submits bid, but is not awarded the contract loses income in the lost time and expenses for submitting the bid. When the bidding process becomes stymied by pedantic interpretations of the Code, then contractors stop bidding. This will lead to increased costs for Augusta-Richmond County. We should encourage more bids, not drive them away.

My client and I would welcome the opportunity to meet with you and others to develop a more coherent process. Please feel free to contact me at 706-650-7727.

Sincerely,


John T. Garcia

cc: Tony Ammar



AUGUSTA LAW DEPARTMENT

DAVID S. COPENHAVER
Mayor

ALVIN MASON
Mayor Pro Tem

CHIQUITA T. JOHNSON
General Counsel
Augusta Law Department

ANDREW G. MACKENZIE
WAYNE BROWN
KENNETH S. BRAY
Staff Attorneys
Augusta Law Department

Betty Beard
Corey Johnson
Joe Bowles
Alvin Mason
Calvin Holland, Sr.
Joe Jackson
Jerry Brigham
Jimmy Smith
J. R. Hatney
Don Grantham

Frederick L. Russell
Administrator

October 30, 2009

VIA US MAIL AND FAX
(706) 364-5390
John T. Garcia
Attorney at Law
205B North Belair Road
Evans, Georgia 30809

Ref: Bid Protest: ITB 09-139 Henry Brigham Community Center

Dear Mr. Garcia:

This letter is on behalf of Administrator, Fred Russell and is in response to your letter of October 27, 2009 regarding a bid protest by Ammar Construction, Inc. on ITB 09-139 Henry Brigham Community Center. AUGUSTA, GA. CODE § 1-10-69 authorizes the Administrator to "settle any protest regarding the solicitation or award of a County contract ... prior to an appeal to the Augusta-Richmond County Commission."

The Procurement Department has indicated that Ammar Construction's bid was incomplete because of a failure to properly execute the Subcontractor Affidavit form. It is my understanding that Ammar Construction does not dispute the fact that the certain parts of the form, like the date, were not completed by Ammar Construction, but rather claims that "form" should not be placed over "substance" and that Ammar Construction should be able to correct the form pursuant to AUGUSTA, GA. CODE § 1-10-43(g).

Since none of the bidders on this project were deemed compliant and because it is often in the best interest of Augusta-Richmond County to readvertise bids where none or very few bidders are compliant, this project is being re-bid.¹ Thus, Ammar Construction and the other bidders² on this project are able to correct any and all errors that were made during the initial bid

¹ AUGUSTA, GA. CODE § 1-10-52(a) provides:

An invitation for bids/ quotes, a request for proposals, or other solicitation may be canceled, or any or all bids may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interest of Augusta-Richmond County.

² After all the bids were opened and deemed non-compliant, a comparison of the bid amounts revealed that Ammar Construction was not the low bidder on this project

of this project. Since Ammar Construction still has the opportunity to participate in the re-bid of this project, this bid protest is now moot.

With regard to whether the Subcontractor Affidavit of Ammar Construction was compliant, the Administrator agrees with the Procurement Department and finds that Ammar Construction's bid was properly rejected as non-compliant. The AUGUSTA, GA. CODE §1-10-43(b) as well as ITB 09-139 states:

All specific requirements contained in the invitation to bid including, but not limited to, the number of copies needed, the timing of the submission, the required financial data, and any other requirements designated by the Procurement Department are considered material conditions of the bid which are not waiveable or modifiable by the Procurement Director.

The Subcontractor Affidavit has several specific requirements. It clearly states, in bold, **"please fill out the form"** and **"sign, date and notarize."** Ammar Construction did not comply with these requirements in a number of essential respects. There were nine (9) things to be completed on this form:

1. E-verify User Identification Number
2. Company Name
3. Contractor Signature
4. Title of Authorized Officer or Agent of Contractor
5. Printed Name of Authorized Officer or Agent
6. Date
7. A request to please check one of three categories for number of employees
8. Notarization
9. Write "N/A" on the form

Of the nine (9) things to be filled out or done, Ammar Construction only completed three (3) of these (3, 8 and 9). Thus, the Subcontractor Affidavit form was sixty-six percent (66%) incomplete. Failing to fill out the other six (6) required parts of the form renders it wholly deficient. Among the deficiencies, was no title or printed name for the purported signature, no indication of the number of employees, no E-Verify Identification Number³ and no date showing that the signatory signed it on the same date as the notarization. Moreover, if Ammar Construction had some concerns regarding how to fill out the form or what was required on the form, such concerns could have and should have been raised at numerous stages in the bidding process *before the bids were opened*. See AUGUSTA, GA. CODE §1-10-67(b).⁴ Such a protest is now lost and is also moot since the project is being re-bid and Ammar Construction has a chance to fix these deficiencies.

³ This is despite the fact that the Subcontractor Affidavit states that for all vendors "Georgia Law requires you to have an E-verify User Identification Number on or after July 1, 2009."

⁴ AUGUSTA, GA. CODE §1-10-67(b) states in its entirety:

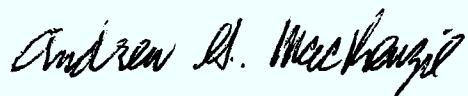
Protests concerning invitations to bid. A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals. If not done by that time, the complaint or protest is lost.

Hope I have addressed the concerns of Ammar Construction and that it competes in the re-bid of ITB 09-139. However, the bid protest process does allow for "an appeal to the Augusta-Richmond County Commission." AUGUSTA, GA. CODE §1-10-69. The procedure to appeal to the Commission for this purpose is provided in AUGUSTA, GA. CODE §1-10-43(b):

All requests to waive or modify any such material condition shall be submitted through the Procurement Director to the appropriate committee of the Augusta-Richmond County Commission for approval by the Augusta-Richmond County Commission.

Thus, if Ammar Construction would like to appeal this protest to the Commission, please submit such a request directly to the Procurement Director. If you have any questions relating to this matter please let me know.

Sincerely,



Andrew G. MacKenzie, Staff Attorney

cc: Fred Russell, Administrator
Geri A. Sams, Procurement Department Director
Chester Wheeler, Director of Housing & Community Development

JOHN T. GARCIA
Attorney at Law
205B North Belair Road
Evans, Georgia 30809
(706) 650-7727

Fax (706) 364-5390
E-mail: garcia81@knology.net

Post Office Box 1984
Evans, Georgia 30809

November 24, 2009

Geri A. Sams
Procurement Director
530 Greene Street, Room 601
Augusta, Georgia 30911

Re: 09-139 Henry Brigham Community Center-Ammar Construction Bid
Appeal

Dear Director Sams:

On behalf of the Ammar Construction Company, Inc., I file a formal protest and appeal to the Augusta-Richmond County Board of Commissioners regarding the 09-139 Henry Brigham Community Center bid by Ammar Construction and the letter rescinding his Notice of Award.

My client was the low bidder on this project, but received a September 11, 2009-letter from your office¹. In this September 11, 2009-letter, his bid was deemed to be non-compliant because the Subcontractor's Affidavit was allegedly not completed properly. The allegation in that letter was that the form was not "properly dated²."

Mr. Ammar protested by letter to your office on September 15, 2009. On September 23, 2009, he received a notice from Chester A. Wheeler, III rescinding the "Notice of Award." Then in a September 29, 2009-letter, your office again deemed Mr. Ammar's bid as non-compliant. Your office offered to forward the protest/appeal to Mr. Russell's Office for review. On October 1, 2009, Mr. Ammar again protested/appealed. On October 28, 2009, I wrote Mr. Russell inquiring about the status of the review. On October 30, 2009, I received a letter from Mr. Andrew G. MacKenzie

1
Mr. Andrew G. McKenzie states in his letter that someone else was low bidder. My understanding was that there were five bidders, one of which failed to attached Addendum 1 and another who failed to include the Local Small Business Good Faith Effort and Local Small Business Subcontractor/Supplier Utilization Plan documents. Of the three who turned in all of the documents, my client was low bidder. My understanding is that this makes him the low bidder for these purposes.

2
Mr. MacKenzie expands this original reason to include a claim that the subcontractor portions of the forms should be completed by the general contractor.

Ms. Geri Sams Letter
November 24, 2009
Page Two

in which he set forth the position of your department and advised me to file yet another letter with your office if I desired to appeal to the Augusta-Richmond County Board of Commissioners.

Therefore, I hereby file this fourth letter detailing my client's desire to appeal and if necessary, exhaust his administrative remedies before pressing the matter further.

However, I feel the necessity to expand/respond to Mr. MacKenzie's letter so that my client is sure that Augusta-Richmond County is making its decision based on a full understanding of the situation. I do this so that neither you nor the Augusta-Richmond County Board of Commissioners acts based on an erroneous analysis of the situation. I have attached a copy of the "Subcontractor's Affidavit" which was attached to the Ammar Construction Bid. Please note the bold type at the bottom which reads as follows:

If there are no subcontracting opportunities, please fill out the form(write N/A: sign, date, and notarize)

The only requirements for "filling out" the form are "N/A" sign, date, and notarize. In this case, there were the notation "N/A," Mr. Ammar's signature, a date, and the notarization by the notary. This notarization has the exact date of notarization as required by statute. See O.C.G.A. § 45-17-8.1 for the requirement to state the "exact date of the notarial act."

To these four general contractor requirements, Mr. MacKenzie states that the form was "66%" incomplete. It is our position that for a general contractor the form was one hundred (100%) percent complete. Somehow, Mr. MacKenzie has confused this to require the completion of the information which applies to the *subcontractors* and with that which is required for the *general contractor*. I respectfully suggest that when the form states "fill out" and is followed by parenthetical instructions, then, the parenthetical instructions control. See "parenthetical" as defined in *The Oxford English Dictionary* 2nd Ed. 1989.

It would do well to recognize that there is no place for the general contractor to sign should there be no subcontractors. The form, which is designed for the subcontractor to complete, is devoid of a signature place for the contractor. The form contemplates its execution by a subcontractor, not by the general contractor. Thus, the form was properly completed.

In addition to the standard rules of construction in the English language, the form itself reflects that it is a form for subcontractors. First, the "Subcontractor's Affidavit" is by title and the actual terms employed is to be completed by the "subcontractor." Mr. MacKenzie seems to be under the belief that the General Contractor executes an affidavit which states in relevant part as follows:

By executing this affidavit, the **undersigned subcontractor** verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or

Ms. Geri Sams Letter
November 24, 2009
Page Three

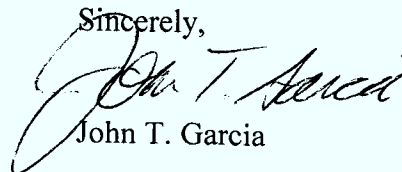
corporation which is engaged in the physical performance of services under a contract with _____ on behalf of Augusta Richmond County.....
(emphasis supplied).

It would make no sense for Mr. Ammar to execute a "Subcontractor Affidavit" where he is not a subcontractor and there are no subcontractors to be used in his bid. Presumably, the reason the form is required is to insure an express declaration from either the general or the subcontractor. There was such an express declaration in this situation.

If there had been subcontractors, then all of the information Mr. MacKenzie extols as necessary would have been supplied. However, since there are no subcontractors, my client followed the instructions, (write N/A: sign, date, and notarize³), and submitted the form along with the remainder of his bid package which contains many of the items that Mr. MacKenzie believes that the general contractor should put on the "Subcontractor's Affidavit."

If I may be of assistance to you, please do not hesitate to call me at 706-650-7727.

Sincerely,



John T. Garcia

w/enc.

cc: Andrew G. MacKenzie, Esquire
Ammar Construction Company, Inc.
Fred Russell
Chester Wheeler

I note that the instructions do not state for the signatory to place their title or printed name. It merely states to write: N/A, sign, date, and notarize.

Bid/RFP/RFQ # 09-139

SUBCONTRACTOR AFFIDAVIT

NA - No Subcontractors

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services under a contract with _____ on behalf of Augusta Richmond County Board of Commissioners has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O. C. G. A 13-10-91.

E-Verify * User Identification Number _____

Please Check One
500 or More _____ 100 or more _____ 100 or less _____
Number of Employees

Company Name _____

BY: *[Signature]*
Authorized Officer or Agent
(Contractor Signature)

Date: _____

Title of Authorized Officer or Agent of Contractor _____

✓ Vendor with 100 employees or more – must have an E-Verify * User Identification Number

Printed Name of Authorized Officer or Agent _____

✓ Vendor with less than 100 employees – check 100 or less box, fill out the form and return with your submittal. (Georgia Law requires you to have an E-Verify*User Identification Number on or after July 1, 2009.)

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

24TH DAY OF AUGUST, 2009

[Signature]
Notary Public

My Commission Expires:

12/8/09

NOTARY SEAL

TREG SZERLONG

Notary Public-Columbia County, Georgia
My Commission Expires December 8, 2009

MUST BE RETURNED WITH YOUR SUBMITTAL

If there are no subcontracting opportunities, please fill out the form (write N/A; sign, date and notarize).



**Administrative Services Committee Meeting
1/11/2010 12:35 PM**

Motion to consider Bid Protest of Tran Construction on ITB 09-155 and to award Bid to to Lowest Qualified Bidder

Department:	Procurement Department
Caption:	Motion to consider bid protest of Tran Construction on ITB 09-155- Task Order for Water and Sewer System Repairs & Installation and to Award bid to lowest qualified bidder.
Background:	Sealed bids for this item were received on or about October 9, 2009. There were five (5) vendors which submitted a bid, but only three (3) were compliant. Blair Construction was the low bidder. Tran Construction's bid was incomplete because of a failure to include a required notary seal on the Subcontractor Affidavit form. Tran Construction does not dispute the fact they failed to properly notarize the Subcontractor Affidavit; rather "Tran contends the Procurement Department rejected its bid arbitrarily and against precedent established by the department." The Procurement Department and the Administrator have found no support for Tran Constructions claims and recommend that this protest is denied.
Analysis:	There are two separate and distinct classes of affidavits that the Procurement Department has occasion to review from time to time. The first class is Prime Contractors, such as Tran Construction in ITB 09-155. These contractors are the actual bidders on projects and the entities that enter into a contractual relationship with Augusta-Richmond County upon being awarded a project. The second class is comprised of Subcontractors to the Prime Contractors. The Subcontractors have a contractual relationship with the Prime Contractor, but have no direct contractual relationship with Augusta-Richmond County. The Prime Contractors are required to comply with every condition of a bid including properly notarizing their affidavits. The Procurement Department does not have a precedent of waiving any bid requirements for Prime Contractors especially in the context of the Subcontractor Affidavit form, like the one improperly notarized by Trans Construction. The Administrator agrees with the Procurement Department's assessment that Tran Construction's bid was properly rejected as non-compliant for failure to provide a notary seal on the Subcontractor Affidavit and failure to timely file a bid protest. This bid should be awarded to Blair Construction, the lowest responsive bidder.
Financial Impact:	The amount of the lowest responsive bid was \$847,439.49.
Alternatives:	Re-bid this project or waive the material condition of properly notarizing the Subcontractor affidavit and award the bid to Tran Construction. Cover Memo
Recommendation:	Item # 2 Deny Tran Construction's bid protest and award the bid to Blair

Construction, the lowest responsive bidder- Blair Construction.

**Funds are Available in
the Following
Accounts:**

Funding for this project has been identified in the Utilities Department Budget.

REVIEWED AND APPROVED BY:

Clerk of Commission

Invitation To Bid

Sealed bids will be received at this office until 11:00 a.m., Friday, October 9, 2009 for furnishing:

**Bid Item #09-155 Task Order Contract for Water & Sewer System Repairs & Installation
for Utilities Department**

Bids will be received by Augusta, GA Commission hereinafter referred to as the OWNER at the offices of:

Geri A. Sams
Procurement Department
530 Greene Street - Room 605
Augusta, Georgia 30901
706-821-2422

Bid documents may be examined at the office of the Augusta, GA Procurement Department, 530 Greene Street – Room 605, Augusta, GA 30901. **Plans and specifications for the project shall be obtained by all prime, subcontractors and suppliers exclusively from Imaging Technology Print. The fees for the plans and specifications which are non-refundable is \$25.00**

Documents may also be examined during regular business hours at the Augusta Builders Exchange, 1262 Merry Street, Augusta, GA 30904; F. W. Dodge Plan Room, 1281 Broad Street, Augusta, GA 30901. It is the wish of the Owner that all businesses are given the opportunity to submit on this project. To facilitate this policy the Owner is providing the opportunity to view plans online (www.itrepro.com) at no charge through Imaging Technology (706 724-7924) beginning Thursday, August 27, 2009. Bidders are cautioned that submitting a package without Procurement of a complete set are likely to overlook issues of construction phasing, delivery of goods or services, or coordination with other work that is material to the successful completion of the project. Bidders are cautioned that sequestration of documents through any other source is not advisable. Acquisition of documents from unauthorized sources places the bidder at the risk of receiving incomplete or inaccurate information upon which to base his qualifications.

A Mandatory Pre-Bid Conference will be held on Friday, September 18, 2009 @ 2:00 p.m. in the Procurement Department – Room 605. All questions must be submitted in writing to the office of the Procurement Department by fax at 706-821-2811 or by mail. No bid will be accepted by fax, all must be received by mail or hand delivered. All questions are to be submitted in writing by Tuesday, September 22, 2009 by 3:00 p.m.

No Bid may be withdrawn for a period of **60** days after time has been called on the date of opening. **A 10% Bid bond is required to be submitted in a separate envelope so marked along with the bidders' qualifications; a 100% performance bond and a 100% payment bond will be required for award.**

An invitation for bids shall be issued by the Procurement Office and shall include specifications prepared in accordance with Article 4 (Product Specifications), and all contractual terms and conditions, applicable to the procurement. All specific requirements contained in the invitation to bid including, but not limited to, the number of copies needed, the timing of the submission, the required financial data, and any other requirements designated by the Procurement Department are considered material conditions of the bid which are not waiveable or modifiable by the Procurement Director. Please mark BID number on the outside of the envelope.

GERI A. SAMS, Procurement Director

Publish:

Augusta Chronicle August 27, September 3, 10, 17, 2009
Metro Courier September 2, 2009

cc: Tameka Allen Interim Deputy Administrator
 Drew Goins Utilities Department
 Jerry Delaughter Utilities Department
 Merrill Wilkie Utilities Department

Bid Tabulation
Revised October 24, 2009

ITEM NO.	DESCRIPTION	QTY.	UNIT
I.	WATER MAIN		
	6" Dia. PVC Water Transmission Main C900, Class 200	150	LF
	8" Dia. PVC Water Transmission Main C900, Class 200	150	LF
	10" Dia. PVC Water Transmission Main C900, Class 200	150	LF
	12" Dia. PVC Water Transmission Main C900, Class 200	150	LF
	6" Dia. D.I.P Water Transmission Water Main, Class XXX, SJP	150	LF
	8" Dia. D.I.P Water Transmission Water Main, Class XXX, SJP	150	LF
	10" Dia. D.I.P Water Transmission Water Main, Class XXX, SJP	150	LF
	12" Dia. D.I.P Water Transmission Water Main, Class XXX, SJP	150	LF
	6" Dia. D.I.P Water Transmission Water Main, Class XXX, RJP	150	LF
	8" Dia. D.I.P Water Transmission Water Main, Class XXX, RJP	150	LF
	10" Dia. D.I.P Water Transmission Water Main, Class XXX, RJP	150	LF
	12" Dia. D.I.P Water Transmission Water Main, Class XXX, RJP	150	LF
	Select Backfill, GDOT Type I, Class I & II (Sand/Clay)	5,000	CY
	Miscellaneous Water Pipe Fittings and Connections	1,500	LB
	Fire Hydrant, Installed Complete with Valve, Pipe, and Blocking	24	EA
	6" In-Line Gate Valve, Including Vale Box, Installed Complete, Open Right	4	EA
	8" In-Line Gate Valve, Including Vale Box, Installed Complete, Open Right	4	EA
	10" In-Line Gate Valve, Including Vale Box, Installed Complete, Open Right	2	EA
	12" In-Line Gate Valve, Including Vale Box, Installed Complete, Open Right	2	EA
	6" Tapping Sleeve, Valve, Valve Box, Installed Complete	2	EA
	1" Long Side Water Service Installed Incl Re-Connection, Complete	2	EA
	1" Short Side Water Service Installed Incl Re-Connection, Complete	2	EA
	Tie-In to Existing Line	4	EA
	Cut and Plug Existing Line	2	EA
	Miscellaneous Class A Concrete (Thrust Blocks, Concrete Encasement, Etc.)	1,000	SY
	Subtotal I		
	SANITARY SEWER		
	8" Dia PVC Sanitary Sewer Pipe SDR35, 0-6', incl. Type II (no. 67 Stone) Bedding Material	200	LF
	10" Dia PVC Sanitary Sewer Pipe SDR35, 0-6', incl. Type II (no. 67 Stone) Bedding Material	200	LF
	12" Dia PVC Sanitary Sewer Pipe SDR35, 0-6', incl. Type II (no. 67 Stone) Bedding Material	200	LF
	18" Dia PVC Sanitary Sewer Pipe SDR26, 0-6', incl. Type II (no. 67 Stone) Bedding Material	100	LF
	24" Dia PVC Sanitary Sewer Pipe SDR26, 0-6', incl. Type II (no. 67 Stone) Bedding Material	100	LF
	8" Dia PVC Sanitary Sewer Pipe SDR35, 6-8', incl. Type II (no. 67 Stone) Bedding Material	200	LF
	10" Dia PVC Sanitary Sewer Pipe SDR35, 6-8', incl. Type II (no. 67 Stone) Bedding Material	200	LF
	12" Dia PVC Sanitary Sewer Pipe SDR35, 6-8', incl. Type II (no. 67 Stone) Bedding Material	200	LF

UNIT PRICE	TOTAL PRICE
\$13.67	\$2,050.50
\$18.05	\$2,707.50
\$24.40	\$3,660.00
\$32.31	\$4,846.50
\$20.54	\$3,081.00
\$24.88	\$3,732.00
\$31.12	\$4,668.00
\$39.22	\$5,883.00
\$25.17	\$3,775.50
\$29.20	\$4,380.00
\$37.34	\$5,601.00
\$46.12	\$6,918.00
\$7.50	\$37,500.00
\$3.50	\$5,250.00
\$2,850.00	\$68,400.00
\$749.52	\$2,998.08
\$1,061.91	\$4,247.64
\$1,563.30	\$3,126.60
\$1,907.28	\$3,814.56
\$2,403.54	\$4,807.08
\$808.92	\$1,617.84
\$402.30	\$804.60
\$1,135.35	\$4,541.40
\$1,080.00	\$2,160.00
\$28.00	\$28,000.00
	\$218,570.80
\$17.11	\$3,422.00
\$19.71	\$3,942.00
\$23.27	\$4,654.00
\$46.68	\$4,668.00
\$70.32	\$7,032.00
\$17.66	\$3,532.00
\$20.25	\$4,050.00
\$23.92	\$4,784.00

UNIT PRICE	TOTAL PRICE
\$27.00	\$4,050.00
\$33.00	\$4,950.00
\$40.00	\$6,000.00
\$49.00	\$7,350.00
\$36.00	\$5,400.00
\$42.00	\$6,300.00
\$50.00	\$7,500.00
\$58.00	\$8,700.00
\$47.00	\$7,050.00
\$55.00	\$8,250.00
\$65.00	\$9,750.00
\$77.00	\$11,550.00
\$10.00	\$50,000.00
\$9.00	\$13,500.00
\$3,400.00	\$81,600.00
\$1,050.00	\$4,200.00
\$1,420.00	\$5,680.00
\$1,975.00	\$3,950.00
\$2,395.00	\$4,790.00
\$3,600.00	\$7,200.00
\$1,325.00	\$2,650.00
\$935.00	\$1,870.00
\$1,325.00	\$5,300.00
\$575.00	\$1,150.00
\$55.00	\$55,000.00
	\$323,740.00
\$52.00	\$10,400.00
\$54.00	\$10,800.00
\$61.00	\$12,200.00
\$87.00	\$8,700.00
\$113.00	\$11,300.00
\$54.00	\$10,800.00
\$57.00	\$11,400.00
\$64.00	\$12,800.00

UNIT PRICE	TOTAL PRICE
\$48.00	\$7,200.00
\$50.00	\$7,500.00
\$52.00	\$7,800.00
\$54.00	\$8,100.00
\$60.00	\$9,000.00
\$62.00	\$9,300.00
\$64.00	\$9,600.00
\$66.00	\$9,900.00
\$52.00	\$7,800.00
\$54.00	\$8,100.00
\$56.00	\$8,400.00
\$58.00	\$8,700.00
\$21.00	\$105,000.00
\$2.50	\$3,750.00
\$4,000.00	\$96,000.00
\$2,000.00	\$8,000.00
\$2,500.00	\$10,000.00
\$3,000.00	\$6,000.00
\$3,500.00	\$7,000.00
\$2,500.00	\$5,000.00
\$1,300.00	\$2,600.00
\$600.00	\$1,200.00
\$2,500.00	\$10,000.00
\$2,000.00	\$4,000.00
\$54.00	\$54,000.00
	\$413,950.00
\$41.00	\$8,200.00
\$41.00	\$8,200.00
\$41.00	\$8,200.00
\$70.00	\$7,000.00
\$72.00	\$7,200.00
\$43.00	\$8,600.00
\$43.00	\$8,600.00
\$43.00	\$8,600.00

D.S. Utilities, Inc.

L-J Co., Inc.

Bid Tabulation
Revised October 24, 2009

ITEM NO.	DESCRIPTION		QTY.	UNIT
	18" Dia PVC Sanitary Sewer Pipe SDR26, 6-8', incl. Type II (no. 67 Stone) Bedding Material		100	LF
	24" Dia PVC Sanitary Sewer Pipe SDR26, 6-8', incl. Type II (no. 67 Stone) Bedding Material		100	LF
	8" Dia PVC Sanitary Sewer Pipe SDR35, 8-10', incl. Type II (no. 67 Stone) Bedding Material		200	LF
	10" Dia PVC Sanitary Sewer Pipe SDR35, 8-10', incl. Type II (no. 67 Stone) Bedding Material		200	LF
	12" Dia PVC Sanitary Sewer Pipe SDR35, 8-10', incl. Type II (no. 67 Stone) Bedding Material		200	LF
	18" Dia PVC Sanitary Sewer Pipe SDR26, 8-10', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	24" Dia PVC Sanitary Sewer Pipe SDR26, 8-10', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	8" Dia PVC Sanitary Sewer Pipe SDR35, 10-12', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	10" Dia PVC Sanitary Sewer Pipe SDR35, 10-12', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	12" Dia PVC Sanitary Sewer Pipe SDR35, 10-12', incl. Type II (no. 67 Stone) Bedding Material		75	LF
	18" Dia PVC Sanitary Sewer Pipe SDR26, 10-12', incl. Type II (no. 67 Stone) Bedding Material		75	LF
	24" Dia PVC Sanitary Sewer Pipe SDR26, 10-12', incl. Type II (no. 67 Stone) Bedding Material		50	LF
	8" Dia PVC Sanitary Sewer Pipe SDR35, 12-14', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	10" Dia PVC Sanitary Sewer Pipe SDR35, 12-14', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	12" Dia PVC Sanitary Sewer Pipe SDR35, 12-14', incl. Type II (no. 67 Stone) Bedding Material		100	LF
	18" Dia PVC Sanitary Sewer Pipe SDR26, 12-14', incl. Type II (no. 67 Stone) Bedding Material		75	LF
	24" Dia PVC Sanitary Sewer Pipe SDR26, 12-14', incl. Type II (no. 67 Stone) Bedding Material		75	LF
	8" Dia PVC Sanitary Sewer Pipe SDR35, 14-16', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	10" Dia PVC Sanitary Sewer Pipe SDR35, 14-16', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	12" Dia PVC Sanitary Sewer Pipe SDR35, 14-16', incl. Type II (no. 67 Stone) Bedding Material		75	LF
	18" Dia PVC Sanitary Sewer Pipe SDR26, 14-16', incl. Type II (no. 67 Stone) Bedding Material		75	LF
	24" Dia PVC Sanitary Sewer Pipe SDR26, 14-16', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	8" Dia PVC Sanitary Sewer Pipe SDR35, 16-18', incl. Type II (no. 67 Stone) Bedding Material		150	LF
	10" Dia PVC Sanitary Sewer Pipe SDR35, 16-18", incl. Type II (no. 67 Stone) Bedding Material		150	LF
	12" Dia PVC Sanitary Sewer Pipe SDR35, 16-18", incl. Type II (no. 67 Stone) Bedding Material		75	LF
	18" Dia PVC Sanitary Sewer Pipe SDR26, 16-18", incl. Type II (no. 67 Stone) Bedding Material		75	LF
	24" Dia PVC Sanitary Sewer Pipe SDR26, 16-18", incl. Type II (no. 67 Stone) Bedding Material		75	LF

UNIT PRICE	TOTAL PRICE
\$47.49	\$4,749.00
\$71.62	\$7,162.00
\$18.20	\$3,640.00
\$19.22	\$3,844.00
\$24.62	\$4,924.00
\$48.52	\$7,278.00
\$72.98	\$10,947.00
\$18.83	\$2,824.50
\$21.53	\$3,229.50
\$25.50	\$1,912.50
\$49.60	\$3,720.00
\$74.84	\$3,742.00
\$19.80	\$2,970.00
\$22.61	\$3,391.50
\$26.87	\$2,687.00
\$51.54	\$3,865.50
\$77.67	\$5,825.25
\$20.99	\$3,148.50
\$23.91	\$3,586.50
\$28.49	\$2,136.75
\$53.92	\$4,044.00
\$81.72	\$12,258.00
\$22.33	\$3,349.50
\$27.30	\$4,095.00
\$30.43	\$2,282.25
\$56.99	\$4,274.25
\$87.01	\$6,525.75

UNIT PRICE	TOTAL PRICE
\$91.00	\$9,100.00
\$118.00	\$11,800.00
\$58.00	\$11,600.00
\$60.00	\$12,000.00
\$67.00	\$13,400.00
\$97.00	\$14,550.00
\$123.00	\$18,450.00
\$66.00	\$9,900.00
\$68.00	\$10,200.00
\$75.00	\$5,625.00
\$106.00	\$7,950.00
\$133.00	\$6,650.00
\$76.00	\$11,400.00
\$79.00	\$11,850.00
\$85.00	\$8,500.00
\$125.00	\$9,375.00
\$151.00	\$11,325.00
\$100.00	\$15,000.00
\$103.00	\$15,450.00
\$110.00	\$8,250.00
\$150.00	\$11,250.00
\$176.00	\$26,400.00
\$125.00	\$18,750.00
\$127.00	\$19,050.00
\$134.00	\$10,050.00
\$175.00	\$13,125.00
\$202.00	\$15,150.00

UNIT PRICE	TOTAL PRICE
\$72.00	\$7,200.00
\$74.00	\$7,400.00
\$45.00	\$9,000.00
\$45.00	\$9,000.00
\$45.00	\$9,000.00
\$74.00	\$11,100.00
\$76.00	\$11,400.00
\$47.00	\$7,050.00
\$47.00	\$7,050.00
\$47.00	\$3,525.00
\$76.00	\$5,700.00
\$78.00	\$3,900.00
\$49.00	\$7,350.00
\$49.00	\$7,350.00
\$49.00	\$4,900.00
\$78.00	\$5,850.00
\$80.00	\$6,000.00
\$51.00	\$7,650.00
\$51.00	\$7,650.00
\$51.00	\$3,825.00
\$80.00	\$6,000.00
\$82.00	\$12,300.00
\$53.00	\$7,950.00
\$53.00	\$7,950.00
\$53.00	\$3,975.00
\$82.00	\$6,150.00
\$84.00	\$6,300.00

D.S. Utilities, Inc.

L-J Co., Inc.

Bid Tabulation
Revised October 24, 2009

ITEM NO.	DESCRIPTION	QTY.	UNIT
	8" Dia PVC Sanitary Sewer Pipe SDR35, 18-20', incl. Type II (no. 67 Stone) Bedding Material	150	LF
	10" Dia PVC Sanitary Sewer Pipe SDR35, 18-20', incl. Type II (no. 67 Stone) Bedding Material	150	LF
	12" Dia PVC Sanitary Sewer Pipe SDR35, 18-20', incl. Type II (no. 67 Stone) Bedding Material	75	LF
	18" Dia PVC Sanitary Sewer Pipe SDR26, 18-20', incl. Type II (no. 67 Stone) Bedding Material	75	LF
	24" Dia PVC Sanitary Sewer Pipe SDR26, 18-20', incl. Type II (no. 67 Stone) Bedding Material	75	LF
	8" Dia DIP Sanitary Sewer Pipe Class XXX, 16-18', incl. Type II (no. 67 Stone) Bedding Material	150	LF
	10" Dia DIP Sanitary Sewer Pipe Class XXX, 16-18', incl. Type II (no. 67 Stone) Bedding Material	150	LF
	12" Dia DIP Sanitary Sewer Pipe Class XXX, 16-18', incl. Type II (no. 67 Stone) Bedding Material	100	LF
	16" Dia DIP Sanitary Sewer Pipe Class XXX, 16-18', incl. Type II (no. 67 Stone) Bedding Material	150	LF
	20" Dia DIP Sanitary Sewer Pipe Class XXX, 16-18', incl. Type II (no. 67 Stone) Bedding Material	150	LF
	Select Backfill, GDOT Type I, Class I & II (Sand/Clay), Measured In-place Volume	5,000	CY
	Miscellaneous Sewer Pipe Fittings and Connections	5,000	LB
	Pre-cast Sanitary Manhole, GDOT STD 1011A Type I, 0-6', 48-Dia	20	EA
	Pre-cast Sanitary Manhole, GDOT STD 1011A Type I, 0-6', 60-Dia	20	EA
	Additional Sanitary Manhole Depth, Type I, Class I, 48-Dia	20	VF
	Additional Sanitary Manhole Depth, Type I, Class I, 60-Dia	20	VF
	Doghouse/Connector Manhole, Incl Base, Cone, and Ring & Cover	2	EA
	6" Sanitary Sewer Service, Complete	20	EA
	Cut & Plug Existing Sanitary Sewer, Diameter Varies	1	EA
	Cut & Plug Existing Manhole, Diameter and Depth Varies	2	EA
	Tie New Sanitary Sewer to Existing Manholes, Diameter Varies	2	EA
	AC Water Main Crossing	5	EA
	Ductile Iron Pipe Polyethylene Encasement	100	LF
	Concrete Encasement of Sanitary Sewer (Creek Crossings, Etc.)	100	CY
	Subtotal II		
III.	PAVEMENT STRUCTURES		
	Asphalt Overlay, Type F, 1.5" Thick Minimum	1,750	SY
	Pavement Patch - Including Graded Aggregate Base, 10.5" Thick, 7" Wide and Asphalt Patch 2.5" Thick, Including Removal of 2.5" GAB and Placement of Bituminous Prime Coat	1,000	SY
	24" Concrete Curb and Gutter Removal and Replacement, (As Appropriate and Necessary)	100	LF
	Subtotal II		
III.	MISCELLANEOUS		
	Flowable Fill	245	CY
	Rock Excavation, Trench or Mass	150	CY
	Foundation Backfill, GA DOT Type II, for Additional Unclassified Excavation	150	CY
	Clearing and Grubbing	5	AC

UNIT PRICE	TOTAL PRICE
\$23.95	\$3,592.50
\$29.52	\$4,428.00
\$32.85	\$2,463.75
\$60.93	\$4,569.75
\$94.57	\$7,092.75
\$49.95	\$7,492.50
\$61.00	\$9,150.00
\$69.62	\$6,962.00
\$95.94	\$14,391.00
\$145.60	\$21,840.00
\$7.50	\$37,500.00
\$1.50	\$7,500.00
\$1,347.30	\$26,946.00
\$1,859.49	\$37,189.80
\$291.06	\$5,821.20
\$375.84	\$7,516.80
\$1,833.30	\$3,666.60
\$1,157.32	\$23,146.40
\$1,134.00	\$1,134.00
\$1,242.00	\$2,484.00
\$1,458.00	\$2,916.00
\$1,599.91	\$7,999.55
\$4.00	\$400.00
\$129.60	\$12,960.00
	\$417,658.85
\$8.75	\$15,312.50
\$26.00	\$26,000.00
\$18.90	\$1,890.00
	\$43,202.50
\$94.99	\$23,272.55
\$50.00	\$7,500.00
\$17.99	\$2,698.50
\$4,500.14	\$22,500.70

UNIT PRICE	TOTAL PRICE
\$149.00	\$22,350.00
\$151.00	\$22,650.00
\$158.00	\$11,850.00
\$200.00	\$15,000.00
\$227.00	\$17,025.00
\$165.00	\$24,750.00
\$174.00	\$26,100.00
\$184.00	\$18,400.00
\$205.00	\$30,750.00
\$245.00	\$36,750.00
\$10.00	\$50,000.00
\$14.00	\$70,000.00
\$2,990.00	\$59,800.00
\$4,830.00	\$96,600.00
\$225.00	\$4,500.00
\$340.00	\$6,800.00
\$6,900.00	\$13,800.00
\$1,035.00	\$20,700.00
\$460.00	\$460.00
\$805.00	\$1,610.00
\$1,495.00	\$2,990.00
\$1,840.00	\$9,200.00
\$5.00	\$500.00
\$290.00	\$29,000.00
	\$1,016,135.00
\$20.00	\$35,000.00
\$71.00	\$71,000.00
\$57.00	\$5,700.00
	\$111,700.00
\$120.00	\$29,400.00
\$75.00	\$11,250.00
\$38.00	\$5,700.00
\$7,000.00	\$35,000.00

UNIT PRICE	TOTAL PRICE
\$55.00	\$8,250.00
\$55.00	\$8,250.00
\$55.00	\$4,125.00
\$84.00	\$6,300.00
\$86.00	\$6,450.00
\$53.00	\$7,950.00
\$53.00	\$7,950.00
\$53.00	\$5,300.00
\$82.00	\$12,300.00
\$88.00	\$13,200.00
\$21.00	\$105,000.00
\$2.50	\$12,500.00
\$3,000.00	\$60,000.00
\$3,400.00	\$68,000.00
\$150.00	\$3,000.00
\$170.00	\$3,400.00
\$2,000.00	\$4,000.00
\$1,500.00	\$30,000.00
\$2,000.00	\$2,000.00
\$2,000.00	\$4,000.00
\$2,000.00	\$4,000.00
\$3,000.00	\$15,000.00
\$2.50	\$250.00
\$54.00	\$5,400.00
	\$653,750.00
\$25.00	\$43,750.00
\$55.00	\$55,000.00
\$55.00	\$5,500.00
	\$104,250.00
\$115.00	\$28,175.00
\$85.00	\$12,750.00
\$55.00	\$8,250.00
\$3,000.00	\$15,000.00

D.S. Utilities, Inc.

L-J Co., Inc.

ITEM NO.	DESCRIPTION	QTY.	UNIT
	Fence Removal & Replacement, New, Replace in Kind	100	LF
	Subtotal III		
III.	MISCELLANEOUS		
	Lump Sum Construction (Includes but is not Limited to the Items Listed in Bid Schedule)	1	LS
	Subtotal IV		

GRAND TOTAL

Blair Construction, Inc.

UNIT PRICE	TOTAL PRICE
\$15.00	\$1,500.00
	\$57,471.75
\$110,535.59	\$110,535.59
	\$110,535.59

\$847,439.49

D.S. Utilities, Inc.

UNIT PRICE	TOTAL PRICE
\$9.00	\$900.00
	\$82,250.00
\$150,000.00	\$150,000.00
	\$150,000.00

\$1,683,825.00

L-J Co., Inc.

UNIT PRICE	TOTAL PRICE
\$20.00	\$2,000.00
	\$66,175.00
\$25,000.00	\$25,000.00
	\$25,000.00

\$1,263,125.00

Fulcher Hagler LLP
ATTORNEYS AT LAW SINCE 1946

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
Post Office Box 1477 • Augusta, Georgia 30903-1477
One 10th Street, Suite 700 • Augusta, Georgia 30901
Telephone: (706) 724-0171

ROBERT C. HAGLER
Admitted in GA

DIRECT CONTACT
Fax: (706) 396-3607
Email: rhagler@fulcherlaw.com

November 20, 2009

VIA HAND DELIVERY

Mr. Fred Russell, Administrator
Augusta Richmond County
530 Greene Street
Room 801
Augusta, GA 30901



Re: Appeal of Rejection of Bid of Trans Construction, Inc.
09-155 Task Order for Water & Sewer System Repairs & Installation
For the City of Augusta – Utilities Department

Dear Mr. Russell:

Pursuant to Article 9, Sec. 1-10-67 of Augusta Richmond County Code we are herewith appealing the rejection of Tran Construction, Inc.'s bid on the above project per Geri Sams' letter of October 9, 2009 and the subsequent denial of its appeal per her letter of November 13, 2009. See Exhibits 1 and 2.

Tran was the lowest bidder on the project according to the attached schedule shown as Exhibit 3. Its bid was rejected for the stated reason that a Subcontractor Affidavit (Exhibit 4) lacked a notary seal and was thus deemed "non-compliant."

Tran contends the Procurement Department rejected its bid arbitrarily and against precedent established by the department. Indeed Ms. Sams has recently sworn under oath that "[o]rdinarily, the Procurement Department does not deem a bid non-compliant because affidavits completed by subcontractors do not contain a corporate seal, a notary seal, or the signature of the secretary/assistant secretary of the company." See affidavit of Ms. Sams given in *BLEECS, Inc. d/b/a Stewart Corbitt General Contractors V. Augusta, Georgia, U. S. District Court for the Sothern District of Georgia, CV 109-019* as Exhibit 5.

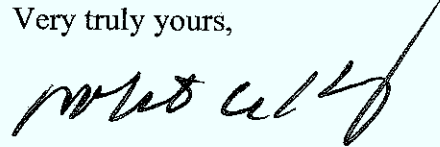
In *BLEECS* the Plaintiff contended that certain bid documents submitted by the winning contractor were also non-compliant, including a Subcontractor Affidavit missing a notary seal like the one executed by Tran in this case. The Defendant (Augusta Georgia) argued in opposition to Plaintiff's motion for summary judgment that "[t]hese omissions all involve subcontractor affidavits that did not contain a corporate seal, the signature of the secretary/assistant secretary, or a notary seal. Ordinarily, the Procurement Department does not deem a bid non-compliant because subcontractor's affidavits do not contain a corporate seal, a

Mr. Fred Russell, Administrator
November 20, 2009
Page 2

notary seal, or the signature of the secretary/assistant secretary of the company.” See as Exhibit 6 Defendants Opposition to Plaintiff’s Motion for Summary Judgment in BLEECS.

Because the Procurement Department’s past policy is to deem Subcontractor Affidavits compliant even with minor omissions such as the lack of a notary or corporate seal, Trans bid was improperly and arbitrarily rejected. Therefore on behalf of Tran we respectfully request that you award the job to Tran Construction, Inc. as the lowest bidder.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert C. Hagler", with a long, sweeping flourish extending from the end of the signature.

Robert C. Hagler
For the Firm

/ccs

cc: Geri Sams, Procurement Director
Andrew MacKenzie, Staff Attorney



AUGUSTA LAW DEPARTMENT

DAVID S. COPENHAVER
Mayor

ALVIN MASON
Mayor Pro Tem

CHIQUITA T. JOHNSON
General Counsel
Augusta Law Department

ANDREW G. MACKENZIE
WAYNE BROWN
KENNETH S. BRAY
Staff Attorneys
Augusta Law Department

Betty Beard
Corey Johnson
Joe Bowles
Alvin Mason
Calvin Holland, Sr.
Joe Jackson
Jerry Brigham
Jimmy Smith
J. R. Hatney
Don Grantham

Frederick L. Russell
Administrator

December 17, 2009

VIA U.S. MAIL AND FAX
706-396-3607

Mr. Robert Hagler
Fulcher Hagler LLP
P.O. Box 1477
Augusta, GA 30901

Ref: Bid No. 09-155: Task Order for Water & Sewer System Repairs & Installation for the
Augusta Utilities Department

Dear Mr. Hagler:

This letter is on behalf of Administrator, Frederick L. Russell and is in response to your November 20, 2009 letter regarding a bid protest by Tran Construction, Inc. on ITB 09-155 Task Order for Water & Sewer System Repairs & Installation for the Augusta Utilities Department. AUGUSTA, GA. CODE § 1-10-69 authorizes the Administrator to "settle any protest regarding the solicitation or award of a County contract ... prior to an appeal to the Augusta-Richmond County Commission."

The Procurement Department has indicated that Tran Construction's bid was incomplete because of a failure to include a required notary seal on the Subcontractor Affidavit form. It is my understanding that Tran Construction does not dispute the fact they failed to properly notarize the Subcontractor Affidavit; rather "Tran contends the Procurement Department rejected its bid arbitrarily and against precedent established by the department." The remedy Tran Construction seeks is that Augusta-Richmond County "award the job to Tran Construction, Inc. as the lowest bidder."

The factual evidence that you contend supports Tran Construction's position is one (1) sentence of a nine (9) page affidavit submitted by Procurement Director Geri Sams in the case captioned BLECCS, Inc. v. Augusta, Georgia, 1:09-cv-019 (S.D. G.A. filed Feb. 10, 2009). The portion of the affidavit which you cited states as follows:

Ordinarily, the Procurement Department does not deem a bid non-compliant because affidavits completed by subcontractors do not contain a corporate seal, a notary seal, or the signature of the secretary/assistant secretary of the company.

BLECCS, 1:09-cv-019, Aff'd of Geri Sams, ¶ 11 (Doc. 40). Respectfully, I believe this sentence has been taken completely out of context and that the Affidavit of Geri Sams provides no support whatsoever for Tran Construction's position.

There are two (2) separate and distinct classes of affidavits that the Procurement Department has occasion to review from time to time. The first class is Prime Contractors, such as Tran Construction in ITB 09-155. These contractors are the actual bidders on projects and the entities that enter into a contractual relationship with Augusta-Richmond County upon being awarded a project. The second class is comprised of Subcontractors to the Prime Contractors. The Subcontractors have a contractual relationship with the Prime Contractor, but have no direct contractual relationship with Augusta-Richmond County. The Prime Contractors are required to comply with every condition of a bid including properly notarizing their affidavits. The Procurement Department does not have a precedent of waiving any bid requirements for Prime Contractors especially in the context of the Subcontractor Affidavit form, like the one improperly notarized by Trans Construction. Geri Sams' testimony is crystal clear on this point:

When a contractor is not utilizing any subcontractor, **it is required that the contractor write "N/A" on the subcontractor affidavits and completely fill out the form with the contractor's information, signed and properly notarized.** Augusta requires this to be done to ensure that we are informed whether or not subcontractors are being used. **There have been many occasions when bids have been non-compliant for failure to return the subcontractor forms or failure of the contractor to complete the subcontractor forms completely when no subs are being used.**

BLECCS, 1:09-cv-019, Aff'd of Geri Sams, ¶ 14 (Doc. 40) (emphasis added). Failing to properly notarize documents is the reason BLECCS bid was properly rejected as non-compliant:

The bid of Plaintiff on ITB No. 08-167A was properly determined to be non-compliant by the Procurement Department. **Plaintiff's bid contained five documents that were improperly notarized under Georgia law**, three of which are required to be signed by the contractor submitting the bid.

BLECCS, 1:09-cv-019, Aff'd of Geri Sams, ¶ 22 (Doc. 40) (emphasis added). Nothing said by Ms. Sams in her affidavit and nothing in the pleadings filed by Augusta in the BLECCS case supports the idea that the Procurement Department has a precedent of waiving bid requirements for Prime Contractors.

The Administrator agrees with the Procurement Department's assessment that Tran Construction's bid was properly rejected as non-compliant for failure to provide a notary seal on the Subcontractor Affidavit and failure to timely file a bid protest. I hope I have addressed the concerns of Tran Construction and request that Tran Construction withdraw its bid protest.

However, the bid protest process does allow for "an appeal to the Augusta-Richmond County Commission." AUGUSTA, GA. CODE §1-10-69. The procedure to appeal to the Commission for this purpose is provided in AUGUSTA, GA. CODE §1-10-43(b):

All requests to waive or modify any such material condition shall be submitted through the Procurement Director to the appropriate committee of the Augusta-Richmond County Commission for approval by the Augusta-Richmond County Commission.

Thus, if Tran Construction would like to appeal this protest to the Commission, please submit such a request directly to the Procurement Director. If you have any questions relating to this matter please let me know.

Sincerely,



Andrew G. MacKenzie, Staff Attorney

cc: Mr. Frederick L. Russell, Administrator
Ms. Chiquita T. Johnson, General Counsel
Mr. Tom Weidmeier, Director Utilities
Ms. Geri A. Sams, Procurement Department Director

Mandatory Pre-Bid Meeting

Bid Item #09-155

Task Order Contract for Water & Sewer System Repairs & Installation

For the City of Augusta - Utilities Department

Friday, September 18, 2009 at 2:00 p.m.

PLEASE PRINT

Page 1 of 2

NAME	COMPANY/DEPT.	ADDRESS/CITY/STATE/ZIP CODE	TELEPHONE NUMBER	FAX NUMBER	Prime/Sub/
1. Lynne Gerty	DBE Dept		706 821-2406	706 821-4223	
2. Edward Beatty	Tri-Star Contractors, Inc.	47 LEGACY LANE EDGEFIELD, SC 29824	803 637 5751	803 637 0028	
3. THELON SAPP	QUALITY STORM WATER SOLUTIONS	437 CAMBRIDGE CIR. WARTNER, GA 30907	706 210-8046	706 210-8047	
4. Patrick Dillard	Blair Construction	P.O. Box 770 Evans, GA 30809	706 808-1950	706 808-1855	Pine
5. Bill Head	DS UTILITIES	1644 HOLY TRINITY CHURCH RD LITTLE MTN. SC 29075	803-345-9106	803-345-5362	Prime
6. Jeffery Hazen	Hazen Trucking, Inc.	1736 BARTON CHAPEL RD	667-9903	706 667-9903	Prime
7. Barrett Bowden	Contract Management	1827 KINGSWOOD RD AUGUSTA GA 30304	706 667-9033	706 667-9034	Prime
8. Benny Highfield	EAGLE UTILITY	13500 BRANCH RD BISHOPSGR	706 764-6015	706 764-1638	
9. RANDALL McHAJIN	L-J INC	603 PINEHOL RD BEECH ISLAND, SC	803-929-1181	803 827-9188	PRIME
10. Jerry Delaughter	AUD	360 Bay St., Augusta, GA	706-312-4140		
Item # 2					
12.					

Mandatory Pre-Bid Meeting

Bid Item #09-155

Task Order Contract for Water & Sewer System Repairs & Installation
For the City of Augusta - Utilities Department
Friday, September 18, 2009 at 2:00 p.m.

PLEASE PRINT

Page 2 of 2

NAME	COMPANY/DEPT.	ADDRESS/CITY/STATE/ZIP CODE	TELEPHONE NUMBER	FAX NUMBER	Prime/Sub/
1. Kevin Friel	sunbelt Pump, Power & Trench shoring	1540 Fries Rd conyers 6A 30094 Kevin.Friel@sunbeltrentals.com	404 877-9377-7377	678 342 9871	
2. Kevin Baldwin	Mabus Brothers Construction Co. Inc	920 Molly Pond Rd. Augusta, GA 30901	706 722-8941	706 722-7521	P
3. Gordon Smith	W.K. Dickson, Inc	1450 Greene St. Ste 225 Augusta GA 30901	706 722-3479	706 722-6773	
4. Justo Chacon	AUD	300 Bay St	706 312-4158		
5. MERRILL WILKIE	AUD	360 Bay St	706 312-4144	706 312-4123	
6. ANGEL DIAZ	TRAN Construction	3855 Red Oak Ct MARTINEZ, GA 30907	305 525-1009	706 855-8662	PRIME
7. Tommy L. Griffin Jr.	Tommy L. Griffin Pigs & Hogs	3743 Atlantic Ave Macon, GA 31204	478 477-5771	478 477-8195	Prime.
8. Sheila Paulk	Procurement		706 821-4251	706 821-2811	
9. Phyllis Mills	Procurement		706 821-2811	706 821-2811	
10.					
Item # 1					
Item # 2					
12.					

User: Mills, Phyllis

Organization:

City of Augusta, GA (Augusta Commission)

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Planholders List

Member Name City of Augusta, GA (Augusta Commission)

Bid Number ITB-09-155-0-2009/PJM

Bid Name Task Order Contract for Water & Sewer System Repairs & Installation

1 Document(s) found for this bid

5 Planholder(s) found.

[Add Planholder](#)

Supplier Name ▲	Phone	Fax	Doc Count	Attributes	Programs	Actions
B & B Underground and Drilling Inc	3867340592	3869438895	1			Documents
Complete Services	9046938635	9047867483	1	1. Small Business		Documents
Onvia, Inc. - Content Department	2063739500	8882637801	1			Documents
PaintSquare	4124318300	4124315428	1			Documents
waldropplumbing	7068363899	7062434883	1			Documents

Page 1 of 1

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BLAIR CONSTRUCTION
ATTN PATRICK DILLARD
PO BOX 770
EVANS GA 30809

BEAMS CONTRACTING
ATTN BUDDY ROWLAND
2335 ATOMIC ROAD
BEECH ISLAND SC 29842

MABUS BROS CONSTRUCTION
ATTN JEFF COOPER
920 MOLLY POND ROAD
AUGUSTA GA 30901

MOORHEAD CONSTRUCTION
ATTN DON MOORHEAD
1513 ANDERSON STREET
BELTON SC 29627

REEVES CONSTRUCTION
ATTN MIKE EDWARDS
PO BOX 1129
AUGUSTA GA 30903

CONSTRUCTION PERFECTED INC
ATTN BRANDON COOPER
587 CHERRY AVENUE
NORTH AUGUSTA SC 29841

STORM WATER SOLUTIONS
ATTN THERON SAPP
437 CAMBRIDGE CIRCLE
MARTINEZ GA 30907

D & S UTILITIES
ATTN BOB MCCLAM
1644 HOLY TRINITY CHURCH ROAD
LITTLE MOUNTAIN SC 29075

TOMMY L GRIFFIN PLUMBING
ATTN TRIPP GRIFFIN
3743 ATLANTIC AVENUE
MACON GA 31204

L-J INC
ATTN RANDALL MCCLAIN
220 STONERIDGE DRIVE, SUITE 405
COLUMBIA SC 29210

RUBY-COLLINS, INC.
ATTN: BOBBY CATES
4806 WRIGHT DRIVE
SMYRNA, GA 30082

SOUTHERN SITE DESIGN
ATTN LEE JEFFCOAT
PO BOX 2327
EVANS GA 30809

L & J CONSTRUCTION
2802 FAIRMOUNT STREET
AUGUSTA, GA 30906

W. L. HAILEY
2971 CRAFT DRIVE
NASHVILLE, TN 37204

EAGLE UTILITY
ATTN TIM MCELROY
1350 BRANCH ROAD
BISHOP, GA 30627

SOUTHERN SERVICES
P. O. BOX 5549
AUGUSTA, GA 30906

HARRIS CONSTRUCTION
ATTN: JEFFERY HARRIS
1736 BARTON CHAPEL ROAD
AUGUSTA, GA 30906

J & B CONSTRUCTION
ATTN: JEROME JONES
2550 GORDON HWY
GROVETOWN, GA 30813

MERRILL WILKIE
AUGUSTA UTILITIES

BID ITEM #09-155 Task Order for Water &
Sewage System Repairs & Installation
mailed Thursday 08/27/09

BID ITEM #09-155 Task Order for Water &
Sewage System Repairs & Installation
for Augusta Utilities Department.
Bid Due Fri 10/9/09 @ 11:00 A.M.

DREW GOINS
AUGUSTA UTILITIES

JERRY DELAUGHTER
AUGUSTA UTILITIES

YVONNE GENTRY
DBE OFFICE



UTILITIES DEPARTMENT

C. Drew Goins
Interim Director

Jerry Delaughter, P.E.
Assistant Director
Phone: 706-312-4132
Fax: 706-312-4133

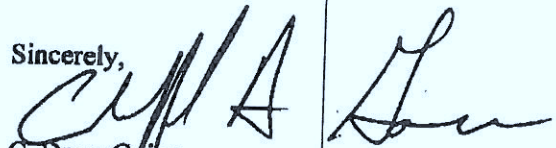
MEMORANDUM

DATE: October 30, 2009
TO: Geri A. Sams
FROM: C. Drew Goins
SUBJECT: Bid Item #09-155 Task Order for Water & Sewer System Repairs and Installations
Bid Opening Date: October 9, 2009 11:00 am

We have reviewed the bid tab sheet and submittals received for the above item. We have also considered the department's recommendation for award and budget requirements.

I concur with the recommended award of bid item #09-155 to the low and responsive bidder; Blair Construction Company in the amount of \$847,439.49.

Sincerely,


C. Drew Goins
Utilities Department Interim Director

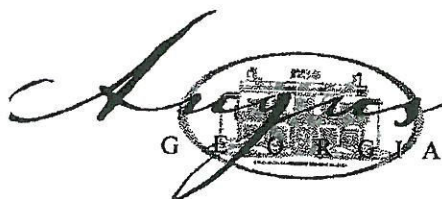
Jerry Delaughter, P.E.
Utilities Department Asst. Director (in absence of Director)

Engineering and Construction Division
360 Bay Street, Suite 180 - Augusta, GA 30901
(706) 312-4132 - Fax (706) 312-4133
WWW.AUGUSTAGA.GOV

Item # 2
Item # 2

Bid Item #09-155
Task Order for Water & Sewer System Repairs & Installation
For the City of Augusta - Utilities Department
Bid Opening Date: Friday, October 9, 2009 at 11:00 a.m.

Vendors:	Blair Construction PO Box 770 Evans, GA 30809	DS Utilities 1644 Holy Trinity Church Little Mountain, SC 29075	Harris Trucking Inc. 1736 Barton Chapel Rd Augusta, GA 30909	L-J Inc 603 Pine Log Road Beech Island, SC 29842	Tran Construction 3855 Red Oak Court Martinez, GA 30907
Bid Form	YES	YES	YES	YES	YES
Statement of Non-Discrimination	YES	YES	YES	YES	YES
Conflict of Interest	YES	YES	YES	YES	YES
Contractor Affidavit & Agreement	YES	YES	NON-COMPLIANT Invalid E-Verify Number	YES	YES
Subcontractor Affidavit & Agreement	YES	YES	YES	YES	NON-COMPLIANT Tran did not properly notarize form missing notary seal
Non-Collusion Affidavit of Bidder	YES	YES	YES	YES	YES
Non-Collusion Affidavit Subcontractor	YES	YES	YES	YES	YES
Local Small Business Good Faith Efforts	YES	YES	YES	YES	YES
Local Small Business Subcontractor/Supplier Utilization Plan	YES	YES	YES	YES	YES
Addendum	YES	YES	YES	YES	YES
Bid Bond	YES	YES	YES	YES	YES
Lump Sum Pricing	\$847,439.49	\$1,700,825.00	NON-COMPLIANT	\$1,323,125.00	NON-COMPLIANT



Office Of The Administrator

Frederick L. Russell, Administrator

Tameka Allen, Interim Deputy Administrator
Robert Leverett, Interim Deputy Administrator

Room 801 - Municipal Building
530 Greene Street - AUGUSTA, GA. 30901
(706) 821-2400 - FAX (706) 821-2819
www.augustaga.gov

November 17, 2009

Mr. Drew Goins
Interim Director - Utilities
360 Bay Street
Augusta, GA 30901

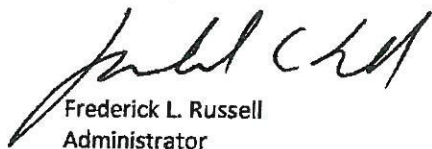
Dear Drew:

The Augusta-Richmond County Commission, at their regular meeting held on Tuesday, November 17, 2009, took action on the following items.

15. Approved construction contract award to Blair Construction in the amount of \$ 544,400.11. (Approved by Engineering Services Committee November 9, 2009) *DA-159*
16. **Deferred** due to pending protest the motion to approve contract award to Blair Construction Company for services associated with Water & Sewer System Repairs and Installations in the amount of \$847,439.49. Bid Item #09-155 (Approved by Engineering Services Committee November 9, 2009) *DA-155*
19. Approved the selection of ESG Operations, Inc. for the Full Wastewater Contract Management, Operations & Maintenance Program from RFP Item #09-154A. (Approved by Engineering Services Committee November 9, 2009) *DA-154A*

If you have any questions, please contact me.

Yours truly,


Frederick L. Russell
Administrator

cc: Ms. Donna Williams
Ms. Geri Sams

11-17-09: #15, #16, #19



**Engineering Services Committee Meeting
11/9/2009 1:05 PM**

Approve Task Order Contract to Blair Construction Company for Water & Sewer System Repairs and Installations

Department: Augusta Utilities Department

Caption: Approve contract award to Blair Construction Company for services associated with Water & Sewer System Repairs and Installations in the amount of \$847,439.49. Bid item #09-155

Background: The Augusta Utilities Department has requirements to perform emergency repairs and water/sewer installations beyond the in-house force current manpower. These repairs/installations are needed to support the water and sanitary sewer infrastructure in Augusta- Richmond County. The contract provides a contractor who can respond expediently to repair system failures and to install water and sanitary sewer service in areas where systems have failed. This contract is needed to provide continuous operation and maintenance to the current infrastructure in Augusta- Richmond County including the Fort Gordon installation.

Analysis: Blair Construction company submitted an acceptable bid package and was the lowest responsive bidder. The submitted bids from DS Utilities and L-J Inc. have been corrected through extending their unit price amounts after discovering an addition error/extension error in their total base bid price. The corrected amounts have no bearing on the order in which the bidders were ranked.

Financial Impact: \$847,439.49, under account number 507043410-5425110/80600040-5425110

Alternatives: 1. Reject all bids, which would delay the contract and the ability to repair failures and small installations. 2. Award the contract to Blair Construction company for services associated with Water & Sewer System Repairs and Installations.

Recommendation: We recommend approving the contract with Blair Construction company in the amount of \$847,439.49 for services associated with Water & Sewer System Repairs and Installations.

Funds are Available in the Following Accounts: \$847,439.49 from account 507043410-5425110/80600040-5425110

Cover Memo

REVIEWED AND APPROVED BY:

Item # 2

Item # 2

Finance.
Procurement.
Law.
Administrator.
Clerk of Commission

Cover Memo

Item # 2

Item # 2



Procurement Department

Mrs. Geri Sams, Director

October 9, 2009

FAXED/MAILED

Tran Construction, Inc.
Attn: Henry Loudon
3855 Red Oak Court
Martinez, GA 30907

Ref: Bid Item: 09-155 Task Order for Water & Sewer System Repairs & Installation
For the City of Augusta – Utilities Department
Bid Opening Date: Friday, October 9, 2009 @ 11:00 a.m.

Dear Mr. Loudon:

Thank you for your submittal in response to the above referenced Bid Item. After reviewing your package it was noted that the Subcontractor Affidavit is missing the notary seal. Although your company is not utilizing any subcontractors, as the Prime Contractor, you were required to write N/A, sign, date and properly notarize the document. We have included a copy of your submittal for your review.

In accordance to the Bid specifications and the Augusta-Richmond County Code, your company's submittal was deemed as non-compliant. I wish to call your attention to the following paragraph included in all invitation to bids which we have included below to address omissions of this nature.

“Bidders will please note that the number of copies requested; all supporting documents including financial statements and references and such other attachments that may be required by the bid invitation are material conditions of the bid. Any package found incomplete or submitted late shall be rejected by the Procurement Office. Any bidder allegedly contending that he/she has been improperly disqualified from bidding due to an incomplete bid submission shall have the right to appeal to the appropriate committee of the Augusta commission. Please mark BID number on the outside of the envelope.”

I further wish to call your attention to **ARTICLE 6, Sec. 1-10-43 (b) and ARTICLE 9, 1-10-67 (b)** of our Augusta Richmond County Code as it relates to handling claims:

ARTICLE 6 PROCUREMENT SOURCE SELECTION METHODS AND CONTRACT AWARDS
Sec. 1-10-43. Sealed bids selection method.

(a) Conditions for use. All contracts of Augusta-Richmond County shall be awarded by competitive sealed bidding except as otherwise provided elsewhere in this article (see section 1-10-45-Sealed Proposals; 1-10-46-Professional Services; 1-10-47-Quotations; 1-10-49-Sole Source Procurement; and 1-10-50-Emergency Procurements, of this chapter).

Room 605 - 530 Greene Street, Augusta Georgia 30901
(706) 821-2422 - Fax (706) 821-2811

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Item # 2

(b) *Invitation for bids and specifications.* An invitation for bids shall be issued by the Procurement Office and shall include specifications prepared in accordance with Article 4 (Product Specifications), and all contractual terms and conditions, applicable to the procurement. All specific requirements contained in the invitation to bid including, but not limited to, the number of copies needed, the timing of the submission, the required financial data, and any other requirements designated by the Procurement Department are considered material conditions of the bid which are not waiveable or modifiable by the Procurement Director. All requests to waive or modify any such material condition shall be submitted through the Procurement Director to the appropriate committee of the Augusta-Richmond County Commission for approval by the Augusta-Richmond County Commission.

ARTICLE 9 APPEALS AND REMEDIES Sec. 1-10-67. Procurement protests.

(a) *Right to protest.* Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to Augusta-Richmond County. Protestors shall seek resolution of their complaints initially with the Procurement Director. All protests must be submitted in writing to the Procurement Director.

(b) *Protests concerning invitations to bid.* A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals. If not done by that time, the complaint or protest is lost.

(c) *Stay of procurement during protests.* In the event of a timely protest under subsection (b) of this Section, the Procurement Director shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or until the Augusta-Richmond County Administrator or Commission makes a determination on the record that the award of the contract without delay is necessary to protect the interests of Augusta-Richmond County. (Ord. No. 6939, § 16, 1-2-07)

We would like to thank you for your interest in doing business with the City of Augusta and look forward to your company participating in future bids. Please do not hesitate to contact us at (706) 821-2422 at any time when you have a concern and are preparing for a future bid submission.

Sincerely,


Geri A. Sams, Director
Procurement Department

GAS/sp

Attachments

cc: Tameka Allen, Interim Deputy Administrator
Drew Goins, Utilities Department

Bid/RFP/RFQ # 09-155

SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services under a contract with Tran Const., Inc. on behalf of Augusta Richmond County Board of Commissioners has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O. C. G. A 13-10-91.

HL011 1562
E-Verify * User Identification Number

Company Name

Tran Construction, Inc.
3855 Red Oak Court
Martinez, GA 30907
GCCO# 011759

BY: Authorized Officer or Agent
(Contractor Signature)

Date: 10/9/09

Pres
Title of Authorized Officer or Agent of Contractor

Henry Louken
Printed Name of Authorized Officer or Agent

Georgia Law requires your company to have an E-Verify* User Identification Number on or after July 1, 2009.

For additional information: State of Georgia

http://www.dol.state.ga.us/pdf/rules/300_10_1.pdf
<https://e-verify.uscis.gov/enroll/>

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

9th

DAY OF

Oct

, 2009

Notary Public

My Commission Expires

NOTARY SEAL

MUST BE RETURNED WITH YOUR SUBMITTAL

If there are no subcontracting opportunities, please fill out the form (N/A, sign, date and notarize).

Rev. 8/26/09

Item # 2

Fulcher Hagler LLP
ATTORNEYS AT LAW SINCE 1946

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
Post Office Box 1477 • Augusta, Georgia 30903-1477
One 10th Street, Suite 700 • Augusta, Georgia 30901
Telephone: (706) 724-0171

November 2, 2009

ROBERT C. HAGLER
Admitted in GA

DIRECT CONTACT
Fax: (706) 396-3607
Email: rhagler@fulcherlaw.com

VIA HAND-DELIVERY

Geri A. Sams, Director
Procurement Director
Augusta Richmond County
Room 605 - 530 Greene Street
Augusta, Georgia 30901

Re: Appeal of Rejection of Bid
09-155 Task Order for Water & Sewer System Repairs & Installation
For the City of Augusta – Utilities Department

Dear Ms. Sams:

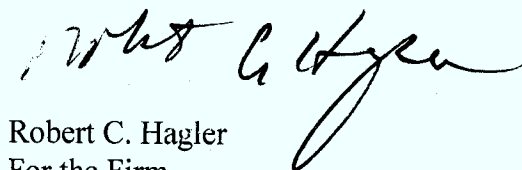
Pursuant to Article 9, Sec. 1-10-67 of Augusta Richmond County Code we are herewith appealing your rejection of Tran Construction, Inc.'s bid on the above project pursuant to your letter dated October 9, 2009.

Tran Construction, the lowest bidder, submitted a complete bid package on October 9, 2009. The only thing lacking was the notary seal on the Subcontractor Affidavit, a copy of which is attached. Please note that the document in fact contains the signature of the notary, the same person who notarized all of the other documents in the package. In all other material respects the bid package was complete. Nothing in the Contract Documents and Specifications speaks to the lack of a notary seal.

I am attaching a replacement subcontractor affidavit with the notary seal affixed. This should complete the bid package in all respects.

The lack of a notary seal on a required document is a di minimus error at most, easily corrected and should not have rendered the bid package incomplete. Now that the bid package *is* complete in all respects, we respectfully request that you award the job to Tran Construction, Inc. as the lowest bidder.

Very truly yours,



Robert C. Hagler
For the Firm

RCH/ejd
Enclosure

cc: Henry T. Loudon
Angel Diaz

Item # 2

Bid/RFP/RFQ #

09-155

SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services under a contract with Tran Const., Inc. on behalf of Augusta Richmond County Board of Commissioners has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O. C. G. A 13-10-91.

H1011 1562

E-Verify * User Identification Number

TRAN CONSTRUCTION INC.

Company Name

BY: Authorized Officer or Agent
(Contractor Signature)

PRESIDENT

Title of Authorized Officer or Agent of Contractor

Henry T. Loden

Printed Name of Authorized Officer or Agent

Date:

10/9/09

Georgia Law requires your company to have an E-Verify* User Identification Number on or after July 1, 2009.

For additional information: **State of Georgia**

http://www.dol.state.ga.us/pdf/rules/300_10_1.pdf
<https://e-verify.uscis.gov/enroll/>

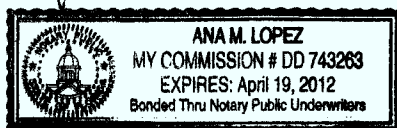
SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

9TH DAY OF OCT, 2009

Notary Public

My Commission Expires:

NOTARY SEAL



MUST BE RETURNED WITH YOUR SUBMITTAL

If there are no subcontracting opportunities, please fill out the form (N/A, sign, date and notarize).

Rev. 8/26/09

Item # 2



Procurement Department

Mrs. Geri Hams, Director

November 13, 2009

FAXED/ MAILED

Robert Hagler
Fulcher Hagler LLP
P.O. Box 1477
Augusta, GA 30901

Ref: Bid No. 09-155: Task Order for Water & Sewer System Repairs & Installation
For the City of Augusta – Utilities Department

Dear Mr. Hagler:

This correspondence comes to you pursuant to AUGUSTA, GA. CODE §1-10-67(b), and in response to your November 2, 2009, letter regarding the above referenced bid. In your letter, you stated that you wish to appeal the rejection of Tran Construction, Inc.'s bid pursuant to the letter received from our office dated October 9, 2009.

Trans Construction does not contest that the fact that it failed to properly execute the subcontractors Affidavit as requested in the bid specifications. In fact you acknowledge in your letter that "The only thing lacking was the notary seal on the Subcontractor Affidavit" Rather, Tran Construction claims that failing to include the notary seal is "a di minimus error" and its submission should now be considered "complete in all respects" since you have provided "a replacement subcontractor affidavit with the notary seal affixed." I do not agree with Tran Construction's position and find that the bid of Trans Construction was properly rejected as noncompliant. The Invitation to Bid clearly states that "all supporting documents ... and such other attachments that may be required by the bid invitation are material conditions of the proposal" and "[A]ny package found incomplete ... shall be rejected by the Procurement Office."

Properly notarizing a signature is a state law requirement:

For the authentication of his notarial acts each notary public must provide a seal of office, which seal shall have for its impression his name, the words "Notary Public," the name of the state, and the county of his residence; or it shall have for its impression his name and the words "Notary Public, Georgia, State at Large."

O.C.G.A. § 45-17-6(a)(1)(emphasis added). Failure to provide a notary seal invalidates the signature, makes the entire form invalid and makes the bid materially incomplete. Since Trans Construction, Inc. submittal was "found incomplete", the Procurement Office has no choice but to stand by our initial decision to deem your submittal as non-compliant.

Room 605 - 530 Greene Street, Augusta Georgia 30901
(706) 821-2422 - Fax (706) 821-2811

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Item # 2

In addition, the requirement for the subcontractor form to be signed and notarized was known to Tran Construction prior to the time that the bids were opened and considered. Tran Construction could have and should have protested this requirement before the bids were opened. AUGUSTA, GA CODE §1-10-67(b) provides:

A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals.
If not done by that time, the complaint is or protest is lost. [Emphasis added].

Tran Construction did not file a timely protest and the protest is now lost. If you would like to pursue your request further, AUGUSTA, GA. CODE §1-10-69 authorizes the Augusta-Richmond County Administrator "to settle any protest regarding the solicitation or award of a County contract..." If you would like the Administrator to review your request, please let me know and I will forward your request to the Administrator's Office.

Please do not hesitate to contact us at (706) 821-2422 at any time when you have a concern and are preparing for future submissions.

Thank you for your consideration.

Sincerely,



Geri A. Sams, Director
Procurement Department

GAS/nw

cc: Fred Russell, Administrator
Chiquita T. Johnson, General Counsel
Drew Goins, Interim Director Utilities



**Administrative Services Committee Meeting
1/11/2010 12:35 PM
Set Qualifying Fees for 2010**

Department: Board of Elections

Caption: Approve setting Qualifying Fees for 2010 Local Offices.

Background: Pursuant to O.C.G.A. 21-2-131(a)(1), the governing authority of each local jurisdiction must set the qualifying fees for offices appearing on the next upcoming general election ballot. The qualifying fee is based on 3% of the annual salary of the office.

Analysis: N/A

Financial Impact: \$20.00

Alternatives: N/A

Recommendation: Approve the qualifying fees provided in legal advertisement that is attached.

Funds are Available in the Following Accounts:

REVIEWED AND APPROVED BY:

**Finance.
Law.
Administrator.
Clerk of Commission**

NOTICE TO THE RESIDENTS OF
AUGUSTA-RICHMOND COUNTY, GEORGIA

Pursuant to O.C.G.A. 21-2-131 (a)(1), you are hereby notified that the qualifying fees for the various local offices appearing on the 2010 General Election ballot have been set by the Augusta-Richmond County Commission as follows:

State Court Judge.....\$4,165.61

Mayor of the City of Augusta.....\$1,950.00

Augusta Commission\$360.00
(Seats 2, 4, 6, 8, and 10)

Board of Education.....\$100.00
(Seats 2, 3, 6, 7, and 9)

Qualifying for the above listed offices will commence on Monday, June 28, 2010 at 9:00 AM and will end on Friday, July 2, 2010 at 12:00 Noon. Qualify will be conducted in the Richmond County Board of Elections Office, 530 Greene Street, Room 104, Augusta, Georgia.

This 28th day of January, 2010.

Lynn M. Bailey, Executive Director
Richmond County Board of Elections