



PEMBROKE PINES  
CITY COMMISSION

Angelo Castillo  
MAYOR  
954-450-1020  
acastillo@ppines.com

Thomas Good, Jr  
VICE MAYOR  
DISTRICT 1  
954-450-1030  
tgood@ppines.com

Jay D. Schwartz  
COMMISSIONER  
DISTRICT 2  
954-450-1030  
jschwartz@ppines.com

Maria Rodriguez  
COMMISSIONER  
DISTRICT 3  
954-450-1030  
mrodriguez@ppines.com

Michael A. Hernandez  
COMMISSIONER  
DISTRICT 4  
954-450-1030  
mihernandez@ppines.com

Charles F. Dodge  
CITY MANAGER  
954-450-1040  
cdodge@ppines.com

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**VIA ELECTRONIC MAIL**

David J. Moscoso, Esq.  
Attorney at Law  
Becker & Poliakoff  
2525 Ponce de Leon Blvd, Suite 825  
Coral Gables, FL 33134  
[dmoscoso@beckerlawyers.com](mailto:dmoscoso@beckerlawyers.com)

**RE: City Manager's Decision of Bid Protest Appeal submitted  
Protransportation, Inc. D/B/A Prokel Mobility / City of  
Pembroke Pines ("City") Request for Proposals No. AD-23-02  
(the "RFP")**

Dear Mr. Moscoso:

In accordance with Section 35.38(H) of the City's Code of Ordinances, this letter shall serve as my response to the appeal submitted to the City on May 6, 2024 by Protransportation, Inc. ("ProKel"), in connection with the above-referenced RFP (the "Appeal").

Upon review of the Appeal, relevant public records, and the City Code, I do not find that the selection and recommendation of Transportation Authority to the City Commission by the City's Evaluation Committee failed to comply in material respects with the requirements contained in the RFP. As such, the Appeal is hereby denied.

The Appeal posits that Transportation Authority's inclusion of City projects and employees as project references within Question Set 2 of the RFP, entitled "Previous Experience / References Form" ("QS2") constitutes a material deviation of the terms of the RFP for the following two (2) reasons:

1. The RFP guidelines explicitly states that respondents cannot provide the City of Pembroke Pines projects as a reference; and
2. The RFP guidelines prohibit any current City of Pembroke Pines employees as reference contacts.

Upon thorough consideration of the Appeal, I have determined that proceeding with the Evaluation Committee's recommendation to the City Commission is compliant with the RFP's proposal criteria.

The rationale provided within the Appeal for determining that Transportation Authority's submitted proposal should be considered to be nonresponsive hinges on the Appeal's representation that Transportation Authority's response fails to meet the two (2) above-referenced RFP guidelines. The Appeal presents the above-referenced guidelines as separate and distinct guidelines wholly comprising the entirety of one (1) of the six (6) evaluation criteria provided by the RFP. In fact, the Appeal provides that "waiving Transportation Authority's response on this question would lead to an entirely blank section..." This statement is incorrect and objectionable.

QS2 poses inquiries to interested proposers regarding **both** the proposer's previous experience **and** its references. Moreover, QS2 provides separate guidelines regarding the proper's previous experience with services similar to those required within the RFP and further describes that "The City is the sole judge in determining proposer's qualifications." QS2 then provides **separate guidelines** specific to the References Form. The References Form guidelines provide that interested proposers may submit reference contact and specific project information for up to five (5) different references, but instructs proposers to not provide City of Pembroke Pines projects as references and not to utilize any current City of Pembroke Pines employees as reference contacts.

It is critical when evaluating whether the Evaluation Committee did not comply in material respects with the requirements of the RFP, as I am required to do pursuant to the City's Code of Ordinances, to determine the extent of any alleged deviation from the requirements of the City's solicitation as well as the significance of such alleged deviation **as provided by said solicitation**.

The two arguments within the Appeal classifying Transportation Authority's proposal as nonresponsive are clearly encompassing solely of the References Form section of QS2 to the exclusion of the entire Previous Experience portion of QS2. While the guidelines for the References Form section of QS2 provide that proposers are not to submit City of Pembroke Pines projects and employees as reference projects and reference contacts, no such prohibition exists for the Previous Experiences portion of QS2.

Accordingly, despite Transportation Authority's specification within the References Form portion that it has worked exclusively with the City since 2002, Transportation Authority's inclusion of City projects and employees within the References Form portion of QS2 did not adhere to the guidelines provided **only** for the References Form portion of the QS2. However, Transportation Authority's inclusion of City-related work in the Previous Experience portion of QS2 was not a deviation from the requirements of the RFP. As such, and as further detailed below, the City's Evaluation Committee's selection of Transportation Authority despite its response to the References Form section of QS2 would not require an entirely blank section of the evaluation criteria established by the RFP, as stated in the Appeal.

Here, the evaluation criteria table provided within the RFP prescribes a maximum of 12.5 points out of 100 total points toward **all** of QS2. Moreover, there is no objective standard or guideline provided to the Evaluation Committee by the RFP to determine how points shall be allotted within this specific section of the criteria table. Instead, members of the Evaluation Committee, who were recommended by City staff and selected by me to participate on this committee due to their knowledge and understanding of the scope of work required from this RFP, are provided the discretion to use such knowledge and understanding, as well as the information

provided to them by Staff, to allot points in this section, which includes the Experience portion **and** the References Form portion.

Section 34.15 of the City's Code of Ordinances provides that "all requests for proposals shall state the relative importance of price and **any other evaluation criteria**." As referenced above, the evaluation criteria table provided within the RFP is comprised of six (6) separate categories. Each category provides the maximum number of points that a member of the Evaluation Committee may allot toward that specific category. All categories, when added together total a maximum cumulative amount of 100 points. Typically, categories that touch upon key or indispensable components of the scope of work required by a solicitation are allotted a greater amount of possible points than categories that may not be so indicative of the bidder's ability to perform the solicited services.

Here, the City stated the relative importance of QS2 by providing QS2 with the second least amount of possible points among the six (6) separate scoring categories. Even if the information provided by Transportation Authority within the References Form portion of QS2 were to be wholly excluded from the RFP on the basis of the prohibited nature of such information, the disqualified portion only amounts to one half of the criteria category possessing the second lowest amount of possible points where any scoring is at the discretion of the Evaluation Committee. Accordingly, I do not agree with the notion presented within the Appeal that the Evaluation Committee's selection of Transportation Authority constitutes a material deviation of the terms and renders meaningless the basis upon which bids were originally sought.

The RFP provides that "the Evaluation Committee will make a recommendation to the City Commission for award of contract". The RFP further provides that "The Contract shall be awarded to the most responsive/responsible proposer(s) whose proposal is determined to be the most advantageous to the City taking into consideration the evaluation criteria. The meeting minutes for the Evaluation Committee meeting on March 19, 2024 provide that there was a notable amount of dialogue between the Committee members and both proposers about the respective proposals.

The process that the Evaluation Committee adhered to at its meeting is meant to provide ample opportunity to consider all information presented to the Committee. As noted within the Appeal, the Evaluation Committee specifically discussed Transportation Authority's submittal for the Reference Contacts portion of QS2 on the record at its evaluation committee meeting and provided Transportation Authority's representative with an opportunity to respond.

The Evaluation Committee's unanimous decision to select and recommend Transportation Authority to the City Commission was made pursuant to consideration of the submitted proposals and information provided by staff as well as the presentations provided by the proposers and individual questions and answers with the proposers that occurred during the Evaluation Committee's meeting. Decisions made pursuant to the foregoing opportunities to engage in and consider all available information does not seem arbitrary and do not seem capricious.

For the reasons provided above, I do not find that the selection and recommendation of Transportation Authority to the City Commission by the City's Evaluation Committee meets the standard set by the City Code that would require me to overturn the Procurement Director's

Determination. I do not find that the Evaluation Committee's decision failed to comply in material respects with the requirements contained in the Request for Proposal and therefore uphold the Procurement Director's Determination Letter and deny this Appeal.

Regards,



Charles F. Dodge  
City Manager

CFD/md