City of Jacksonville, Florida

Lenny Curry, Mayor

Procurement Division
Ed Ball Building
214 N. Hogan Street, Suite 800
Jacksonville, Florida 32202

ONE CITY. ONE JACKSONVILLE.

MEMORANDUM

TO: General Government Awards Committee

FROM: Gregory Pease, Chief Procurement

DATE: October 15, 2018

SUBJECT: **PROTEST – Bid No.: CF-0190-18**
Title: Duval County Pre-Trial Detention Facility Accessibility Upgrades-Re-bid

The attached bid protest filed by **C.C. Borden Construction, Inc.**, is presented for action by the General Government Awards Committee, on Thursday, October 18, 2018 at 1:00 PM.

The General Government Awards Committee action is as follows:

UPHELD:	**DENIED:**
Dir. Adm. & Finance or Designee	Dir. Adm. & Finance or Designee
General Counsel or Designee	General Counsel or Designee
Director of Public Works or Designee	Director of Public Works or Designee

ACTION OF AWARDING AUTHORITY
Date _____

Approved _____ **Disapproved** _____

Signature of Authentication _____

FAX TRANSMISSION

FROM: C.C. Borden Construction, Inc. **DATE:** October 3, 2018

TO: Chief of Procurement **FAX NO.:** (904) 255-8837

RE: C.C. Borden Construction, Inc.
Notice of Protest
Bid No.: CF-0190-18
Pre-Trial Detention Facility Accessibility Upgrades Re-Bid

COMMENTS

Please see Notice of Protest from C.C. Borden Construction, Inc., with attachments.

Pages (including cover page) __13____

Original to follow via U. S. Mail _____ Yes ___X__ No

C.C. BORDEN CONSTRUCTION, INC.

October 3, 2018

Via Facsimile (904-255-8837) and Hand Delivery

Chief of Procurement
City of Jacksonville
214 N. Hogan St., 8th floor
Jacksonville, FL 32202

NOTICE OF PROTEST

Re: Pre-Trial Detention Facility Accessibility Upgrades Re-Bid
Bid No.: CF-0190-18
Project No.: 2013-0072

Dear Sir or Madam:

This letter constitutes C.C. Borden Construction, Inc.'s ("Borden") protest of the City of Jacksonville's ("City") recommended rejection of Borden's bid for the above-referenced project.

(a) The solicitation, decision, or recommended award

The solicitation and bid number are described above. Borden is protesting the City's recommended rejection of its bid, as set forth in the City's letter to Borden dated October 1, 2018, titled: "Notification of Recommended Bid Rejection" (the "Notification Letter")

(b) The timeliness of the protest

The Notification Letter to Borden was received at 9:23 AM on October 1, 2018. This Notice of Protest is being filed within forty-eight (48) hours of the Notification Letter and is therefore timely. Upon information and belief, the City has not posted its intended decision to reject Borden's bid.

(c) Protestant's legal standing to protest

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904/354-3458 • FAX 904/354-4770
• E-mail: ccborden@ccborden.com

C.C. BORDEN CONSTRUCTION, INC.

Borden is the entity who submitted the bid to the City and is directly and adversely affected by the City's intended decision to reject its bid to be awarded the contractor on the Pre-Trial Detention Facility project.

(d) The issues, material facts and legal authority upon which the protest is based

The reasons cited by the City for its recommended decision to reject Borden's bid were as follows:

(1) Borden's alleged failure to include experience in detention/correctional facilities as required in Special Conditions; and

(2) Borden's alleged failure to provide the name of a pre-qualified Detention Equipment Contractor ("DEC").

As to the first reason, Section 30.6 of the Special Conditions reads, in pertinent part, as follows:

1. The successful bidder must submit documentation of the construction of similar type of work and amount continually over past 5 years and 3 years with references before the project is awarded.

The first time this project bid the information above was required as part of the bid package. Borden submitted written evidence to substantiate the "experience" requirement, including but not limited to, a list of other projects completed, resumes of key personnel, and vendor reference. Among the past projects reported was the construction of a new building with 62 bunk beds for the Lake City, Florida Correctional Facility, whose contract amount was $1,013,857.00. Borden reviewed the bids from Core and E B Morris and did not see that information provided by either party.

As to the second reason for the intended rejection, the bid specifications provide, in Section 11190 titled "Basic Requirements for Detention Systems, that "[a]ny bid from a General Contractor that does not include the name of a pre-qualified DEC *in the appropriate space provided on the bid form* will be automatically rejected." [Emphasis added.]

Contrary to the bid specifications, the bid form did not include any space in which to disclose the name of the qualified DEC. Page 3.3 item C of the bid form notes the bidder cannot make changes to the bid form. Furthermore, the DEC does not fit within

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• E-mail: ccborden@ccborden.com

C.C. BORDEN CONSTRUCTION, INC.

any of the trades or scopes of work identified in the schedule of certified, qualified or licensed subcontractors (Appendix C).

(e) Request to provide supplemental protest documentation

In accordance with §126.106(e)(4) of the City of Jacksonville Procurement Protest Procedures, Borden hereby reserves the right to provide supplemental protest documentation within three (3) business days after the date this Notice of Protest is received.

Thank you for your attention in regard to the foregoing.

Sincerely,

Camille C. Borden

Camille C. Borden
President

1019 Rosselle Street • Jacksonville, Florida 32204
904/354-3458 • FAX 904/354-4770
• E-mail: ccborden@ccborden.com

State of Florida

Woman Business Certification

C.C. Borden Construction, Inc.

Is certified under the provisions of
287 and 295.187, Florida Statutes, for a period from:

05/09/2017 to 05/09/2019

Erin Rock, Interim Secretary
Florida Department of Management Services

office of supplier

Office of Supplier Diversity • 4050 Esplanade Way, Suite 380 • Tallahassee, FL 32399 • 850-487-0915 • www.dms.myflorida.com/osd

RESUME - CAMILLE C. BORDEN

Camille C. Borden has been the **President** of C.C. Borden Construction, Inc. since its inception **29 years** ago.

Prior to opening her own business, Ms. Borden spent four years working for other firms in order to gain the experience needed to venture out onto her own.

She was educated at the University of Florida in Gainesville, Florida where she earned her Bachelor's of Building Construction in 1983.

Camille's responsibilities range from Bidding, estimating, to administration, planning and day- to–day operations of the Company.

She has had over 30 years of diversified experience in construction management both in private and public sectors. Her areas of expertise are estimating and project management. She has worked on projects for both the construction of new facilities and the renovation of existing facilities for a variety of projects. Projects managed range from $5,000 to $10,000,000 in contract value.

RESUME - B. ALLEN BORDEN

B. Allen Borden has been the **Senior Project Manager** with C.C. Borden Construction for 28 years.

He has extensive experience with other firms for 25 years prior to coming on board.

Mr. Borden's responsibilities include Secretary/Treasurer for C.C. Borden Construction, Inc. and Project Manager/Superintendent on projects ranging from $5,000 to $10,000,000 in value. Duties that encompass bid management, contract negotiations, supervision of contracts, document review, liaison with Owner and subcontractor, keep all parties up to speed with pending issues, verify request for changes from subcontractors are legitimate and priced fairly, ensure the Owner is pleased with the project from start to close out.

Allen has had over forty five years of construction experience. This includes new facilities as well as renovations. His areas of expertise are project management, field supervision (centralizing on efficient management) and negotiations to keep projects on schedule and in budget.

RESUME - LYNNWOOD HATTON

TITLE: Superintendent
YEARS WITH C.C. BORDEN CONSTRUCTION 6

YEARS WITH OTHER FIRMS: 20

RESPONSIBILITIES:
Supervise entire construction projects from $250,000 to $20,000,000 and coordinate and direct all trades including subcontractors. Monitor safety, quality control, plan and schedule project activities, purchase material, rent equipment, and maintain good rapport with customers.

PROFESSIONAL EXPERIENCE:
2012-Present
C.C. Borden Construction, Inc.; Jacksonville, FL - Superintendent
2004-2012
Auld & White Constructors; Jacksonville, FL - Superintendent
2004-2004
Auld & White Constructors; Jacksonville, FL - Assistant Superintendent
1993-2004 Auld & White Constructors; Jacksonville, FL - Carpenter / Lead Carpenter

RESUME - DOUG MCCORMICK

TITLE: Superintendent
YEARS WITH C.C. BORDEN CONSTRUCTION: 7
YEARS WITH OTHER FIRMS: 17

RESPONSIBILITIES:
Coordination of subcontractors, field personnel and material suppliers, daily planning and scheduling. His project management ensures quality control, job site safety, and a reliable customer liaison.

PROFESSIONAL EXPERIENCE:
2008-Present
C.C. Borden Construction, Inc.; Jacksonville, FL - Superintendent
2004-2008
Hashman Construction, Inc.; Jacksonville, FL - Superintendent
1997-2004
RIC-LON Enterprises, Inc; Jacksonville, FL - Superintendent
1991 – 1997
Lyons Construction; Jacksonville, FL - Self Employed
1990-1991
B & W Door Contractors; Jacksonville, FL Installation Mechanic

RESUME - DANIEL PITTMAN

TITLE: Superintendent/Carpenter
YEARS WITH C.C. BORDEN CONSTRUCTION: 10
YEARS WITH OTHER FIRMS: 20

RESPONSIBILITIES:
Field Personnel. His on-site management ensures quality control, job site safety, and a reliable customer liaison.

PROFESSIONAL EXPERIENCE:
2003-Present
C.C. Borden Construction, Inc., Jacksonville, FL
2000-2003
Skilled Services, Jacksonville, FL

RESUME - ARTHUR ROGERS

TITLE: Superintendent/Carpenter
YEARS WITH C.C. BORDEN CONSTRUCTION: 3
YEARS WITH OTHER FIRMS: 10

RESPONSIBILITIES:
Field Personnel. His on-site management ensures quality control, job site safety, and a reliable customer liaison.

PROFESSIONAL EXPERIENCE:
2014-Present
C.C. Borden Construction, Inc., Jacksonville, FL - Superintendent
2007-2014
Jax Paint and Coatings, Jacksonville, FL - Painter
2004-2007
Painting Unlimited, Jacksonville, FL - Painter

RESUME - KAREN FELTMAN

TITLE: Field Secretary
YEARS WITH C.C. BORDEN CONSTRUCTION: 15
YEARS WITH OTHER FIRMS: 20
RESPONSIBILITIES:
Schedules progress meetings. Responsible for minutes and distribution. Sets up computer files and manuals for project. Disburses contracts, purchase orders etc. Involved with setting up project mobilization. Involved in distribution of submittals. Handles warranty packages.

PROFESSIONAL EXPERIENCE WITH ADDITIONAL FIRMS:
1989-1996
Administrative Assistant - Barnett Bank, N.A.
1996-1999
Administrative Assistant - Federal Reserve Bank of Atlanta, Jacksonville Branch

RESUME - LINDA GONZALEZ MASON

TITLE: Bookkeeper
YEARS WITH C.C. BORDEN CONSTRUCTION: 3
YEARS WITH OTHER FIRMS: 40
RESPONSIBILITIES:
Full Charge Bookkeeper. Handles all accounting information for the entire company.
PROFESSIONAL EXPERIENCE:
Present
C.C. Borden Construction, Inc., Jacksonville, FL
Full Charge Bookkeeper
1997-2014
Economy Electrical Contractors, Jacksonville, FL, Accounting Manager
1988-1997
Capital Petroleum Equipment Co., Jacksonville, FL, Staff Accountant
1986-1988
Barnett Brass & Copper, Jacksonville, FL , Operation Sales Manager
1975-1984
Barnett Brass & Cooper, Jacksonville, FL, Staff Accountant

GHG INSURANCE
A Division of Sihle

1000 Riverside Ave., Suite 500 •Jacksonville, FL 32204 • (904) 421-8600 • Fax (904) 421-8601 • info@ghgins.com • www.ghgins.com

March 5, 2018

City of Jacksonville
117 West Duval St, Ste 480
Jacksonville FL 32202

Re: Prequalification

To Whom It May Concern:

During our thirty year relationship with C.C. Borden, they have grown into one of the most well respected contractors in the North Florida area.

In regards to C.C. Borden's bonding capacity, our current program is $18,000,000 per project and aggregate bonding capacity is $35,000,000. Fidelity & Deposit Company of Maryland, a Zurich company, is the bonding company for C.C. Borden Construction, Inc. and their A.M. Best is A+ Superior, XV, ($2 Billion or Greater).

We consider C.C. Borden Construction, Inc. to be an excellent construction company and we look forward to supporting them with their bonding needs.

If you have any questions or need any further information, please feel free to contact us.

Sincerely,

William R. Hardaker

William R. Hardaker
Attorney-in-Fact for Fidelity & Deposit Company of Maryland

WRH: hcs

ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by MICHAEL BOND, Vice President, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint William R. HARDAKER and Teresita Aranjuez LOVE, both of Jacksonville, Florida, EACH its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice-President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies; and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 6th day of January, A.D. 2017.

ATTEST:

ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

SEAL

By: Eric D. Barnes

Secretary
Eric D. Barnes

Vice President
Michael Bond

State of Maryland
County of Baltimore

On this 6th day of January, A.D. 2017, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, MICHAEL BOND, Vice President, and ERIC D. BARNES, Secretary, of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposeth and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Constance A. Dunn

Constance A. Dunn, Notary Public
My Commission Expires: July 9, 2019

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify of revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998:

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 5 day of March, 20 18.

Gerald F. Haley, Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT ALL REQUIRED INFORMATION TO:

Zurich American Insurance Co.
Attn: Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056

2.6.1.2

C. C. BORDEN CONSTRUCTION, INC. - Projects Complete

NAME OF OWNER	NAME / LOCATION / DESCRIPTION OF PROJECT	TYPE OF WORK PROVIDED	DESIGN ARCHITECT/ DESIGN ENGINEER	ORIGINAL CONTRACT AMOUNT / FINAL CONTRACT AMOUNT*	COMPLETION DATES ORIGINAL	COMPLETION DATES ACTUAL*
COLUMBIA COUNTY	LAKE CITY CORRECTIONAL FACILITY #943	NEW BLDG 62 BUNKS		1,013,657		
WALMART	DADE CITY 713-216 1626	REMODEL	Cuhaci & Peterson	429,308 / 553,517	Nov-16	July-17
WALMART	NORMANDY BLVD 1083-224 1627	REMODEL	Cuhaci & Peterson	768,170 / 873,305	12/12/2016	17-May
WALMART	103 RD ST. 1701	REMODEL	PB2 Companies	689,397 / 753,443	January-17	Aug. 17
SJCSD	CREEKSIDE H.S. 1704	SHELT UPGRD WIND REPL	Bhide & Hall Architects, PA	365,529 / 466,430	February-17	November-17
JCA	JEWISH COMMUN. ALLIANCE 1705	REN. RST RMS & REWK SITE	N/A	103,722 / 95,144	4/24/2017	July-17
WALMART	PT. ST. LUCIE #3527-218 1706	REMODEL	Cuhaci & Peterson	1,308,282 / 1,427,261	20-Mar	17-Nov

*Changes in Contract Amounts and Completion Dates Were Due to Owner Initiated Changes

C.C. BORDEN CONSTRUCTION, INC.

October 8, 2018

Via Facsimile (904-255-8837) and U.S. Mail

Chief of Procurement
City of Jacksonville
214 N. Hogan St., 8th floor
Jacksonville, FL 32202

Re: Pre-Trial Detention Facility Accessibility Upgrades Re-Bid
Bid No.: CF-0190-18
Project No.: 2013-0072

Dear Sir or Madam:

This letter will serve to supplement C.C. Borden Construction, Inc.'s ("Borden") bid protest letter to the City of Jacksonville's ("City") dated October 3, 2018.

As noted previously, the reasons cited by the City for its recommended decision to reject Borden's bid were as follows:

(1) Borden's alleged failure to include experience in detention/correctional facilities as required in Special Conditions; and

(2) Borden's alleged failure to provide the name of a pre-qualified Detention Equipment Contractor ("DEC").

As to the first reason, Section 30.6 of the Special Conditions reads, in pertinent part, as follows:

> 1. The successful bidder must submit documentation of the construction of similar type of work and amount continually over past 5 years and 3 years with references before the project is awarded.

There is no definition of "similar type of work". It is unclear and left up to speculation as to whether this means construction of pre-trial detention facilities, or large public buildings in general. Despite its vagueness, the chart of prior work experience submitted by Borden with its original bid, a copy of which was also attached to Borden's

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[illegible]

bid protest letter of 10.3.18, more than adequately demonstrates that Borden is an experienced contractor under Section 30.6 of the bid specifications.

As to the second reason for the intended rejection, the bid specifications provide, in Section 11190 titled "Basic Requirements for Detention Systems, that "[a]ny bid from a General Contractor that does not include the name of a pre-qualified DEC *in the appropriate space provided on the bid form* will be automatically rejected." [Emphasis added.]

As we previously advised, the bid form did not include any space in which to disclose the name of the qualified DEC. One might speculate that the DEC could be designated upon either the chart of licensed subcontractors or the chart of unlicensed subcontractors (see Appendix C of bid proposal). However, this is ambiguous and unclear, at best. Since the DEC is an entity "pre-qualified" by the City, it should not be designated on the chart of unlicensed subcontractors, which is reserved only for those subcontractors who are "*NOT required to be certified, qualified or licensed*". (see Appendix C (2) of bid proposal). Thus, the only other possible space on the bid form to designate the DEC would be on the chart of licensed subcontractors. However, the scope of work of the DEC does not fit within in any of the specified scopes of work set forth in Appendix C (1), namely, underground utility, electrical, plumbing, mechanical, sheet metal, roofing, welding, carpentry, pool/spa, irrigation, siding, water treatment, natural gas or signage. Clearly, the City used a generic subcontractor chart/bid proposal form, which did not provide an appropriate space to designate the DEC. This fact, coupled with the City's request not to mark-up the bid form, left Borden in a quandary as to the DEC designation request.

In addition thereto, the City had numerous opportunities in which to address the DEC designation issue prior to its recommended rejection letter to Borden dated October 1, 2018, but never did so. Borden was still in the running for the award until October 1, 2018. Up until this time, the City had been corresponding by email with Borden and other bidders as to various aspects of the project and award, and Borden was never informed that its bid was contested in any manner as a result of the DEC designation.

Thank you for your attention in regard to the foregoing.

Sincerely,

Camille C. Borden
President