



Leavenworth Excavating & Equipment Co., Inc.

City of Kansas City, Missouri  
414 E. 12<sup>th</sup> Street  
Kansas City, MO 64106

To Whom it May Concern,

On January 10<sup>th</sup>, 2023, at 2:00 p.m. the City of Kansas City, Missouri received bids for Project 89008087- N. Green Hills Road Improvements. At the time the bids were opened, VF Anderson Construction was read as the low bid. From previous experience with the City, the staff did not want to award the contract to this contractor. Pyramid Contractors was read as the 2<sup>nd</sup> lowest bid. My understanding from talking with KCMO personnel and subcontractors is that Pyramid did not submit all the disadvantaged business subcontracting documents that are required to be submitted within 48 hours of the bid opening as per the Contract Bidding Documents. Leavenworth Excavating & Equipment Company, Inc (LEXECO) was read as the 3<sup>rd</sup> lowest bidder and had all the documents that were required to be submitted within 48 hours of the bid opening required by Contract Documents accompanying our bid package.

Based on these facts, it was our understanding that LEXECO was the lowest and most responsive bid. We received an e-mail from Kansas City, Missouri Procurement with the Letter of Intent to Subcontract along with a request for payment and performance bonds and other contracting documents for this project. We turned in our bonds and other documents on March 3<sup>rd</sup>. After several weeks, I contacted Michael Shaw (Public Works Director) to see where everything was at. He finally called me back on March 28<sup>th</sup> and notified me that they were, in fact, going to award the contract to Pyramid Contracting and not LEXECO.

LEXECO has passed up multiple opportunities in this time span to bid on other projects because we had the understanding that we were going to be awarded this project, and we wanted to be able to have a full crew dedicated to this project.

The City of Kansas City, MO has spelled out in their Contract Documents and in other pre-bid meetings, that certain forms or documents are required at bid, or within a specific amount of time after the bid, or the bid will be considered irregular and rejected. Unfortunately, the city staff isn't following through with these requirements. As stated in the April 12<sup>th</sup> Agenda for Transportation, Infrastructure, and Operations Committee (230315), "*waiving certain requirements of Section 3-455 Code of Ordinances in connection with the submittal of the contractor utilization plan;*". Section 3-455 Code of Ordinances is in connection with the submittal of the contractor utilization plan (attached for your convenience). This is what I was referring to previously when stated, "*My understanding from talking with KCMO personnel and subcontractors is that Pyramid did not submit all the disadvantaged business subcontracting documents that are required to be submitted within 48 hours of the bid opening as per the Contract Bidding Documents.*"

Obviously, Lexeco has put in a lot of time, effort, and money to prepare a bid and the final contract documents for this project. After all this effort, KCMO staff is waiving requirements that were very clear from the beginning and have been enforced in the past. By waiving these requirements, the skill, integrity, and responsibility of Kansas City is jeopardized.

Thank you for your time regarding this matter.

Respectfully,

Lauren Kaaz, Vice President



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### **Sec. 3-455. Procedures for construction contracts.**

The following shall apply to construction contracts in which the estimated cost thereof is more than \$300,000.00:

- (1) Bid submissions. Bidders shall submit an affidavit of intended utilization with their bids.
- (2) Forty-eight hour submissions. Bidders on city contracts shall submit the following within 48 hours after bid opening:
  - a. A notarized contractor utilization plan in conformance with section 3-433 hereof; and
  - b. Letters of intent to subcontract; and
  - c. A request for waiver of the contract goals pursuant to subsection 3-437(a) if the bidder failed to meet or exceed the goals.
- (3) Timely submission of the contractor utilization plan is a material element of the submission. The director is authorized to extend the 48 hour deadline for the letters of intent to subcontract but not the deadline for submission of the contractor utilization plan.
- (4) The apparent successful bidder shall submit documentation of good faith efforts made prior to 48 hours after bid opening when requested by the city or the incentive agency.
- (5) A notarized affidavit certifying actual MBE/WBE participation in the contract, including the names of such MBE/WBEs and the participation amount, and a certification that all MBE/WBE subcontractors and other subcontractor have been paid must be submitted by the contractor prior to the city's release of retainage under the contract.
- (6) Any increase in the amount of MBE/WBE participation after submission of the contractor utilization plan shall not count toward meeting the contract goals, unless otherwise permitted under section 3-443 hereof.
- (7) Bid shopping is prohibited.

(Ord. No. 180535 , § 1, 10-25-18)