



City of Flagler Beach

P.O. Box 70 • 105 South Second Street
Flagler Beach, Florida 32136
Phone (386) 517-2000

June 21, 2024

Mr. Dalton Baylor
President, DB Civil Construction
4475 US 1 S Ste 707
St. Augustine FL 32086

Dear Mr. Baylor:

I have received and reviewed the June 13, 2024 correspondence from you indicating your formal protest for the City of Flagler Beach's award for Contract FB-24-2105 (Potable Water Well #16). The City Commission, at its June 13, 2024 City Commission Regular Meeting awarded Contract FB-24-2105 to McMahan Construction Company, Inc. in the amount of \$881,760.00. Your subsequent protest is in accordance with City of Flagler Beach Municipal Code Division 3 (Competitive Bidding), Section 2-311 (Invitation to bid and/or request for proposals) and Section 2-312 (Bid challenge).

Although the proposal from DB Civil Construction was, as noted, lower than the proposal from McMahan Construction Company, Inc (\$879,835 v \$881,760), I have determined that the award to McMahan Construction Company, Inc. is in the best interest of the City of Flagler Beach.

The City does have a recent experience of water well work with McMahan Construction Company, with that contractor completing work on City Well #15. Additionally, with such closeness of the two proposals, what may be otherwise considered as minor irregularities become magnified: as admitted in your bid protest, two such irregularities are noted. Although such irregularities, again, as noted in the protest, can be waived, it is at the City's sole discretion to "waive irregularities, reject any and all proposals, request the item to be rebid, or to negotiate separately with vendors" (Sec. 2-311 [14]). Again, given the \$1,925 difference between the two proposals (a difference of 0.002% of the awarded bid amount), the cited irregularities are substantial enough to not warrant waiving by the City of Flagler Beach.

The City Commission is scheduled to meet again on June 27, 2024, at 5:30 PM, at City Hall (105 S. 2nd Street, Flagler Beach). If interested, you have the opportunity to appeal my decision to the City Commission at that time.

Sincerely,

Dale L. Martin
City Manager