



September 23, 2022

Ms. Danielle Thompson, Director  
Douglas Shelton, Sr. Procurement Specialist  
Office of Procurement Services  
City of Dallas  
Office of Procurement Services  
1500 Marilla St. 3FN  
Dallas, TX 75201

RE: PROTEST APPEAL – NOTICE OF INTENT TO AWARD  
CITY SOLICITATION NO. BCZ22-00018733  
PROFESSIONAL REAL ESTATE AUCTION SERVICES FOR CITY-OWNED SURPLUS PROPERTIES

Dear Ms. Thompson and Mr. Shelton:

We are in receipt of Mr. Shelton's letter dated September 16, 2022, regarding this solicitation and notice that our firm was not selected for this contract based on our proposal not being the "most advantageous proposal." We believe the City made a gross error in their decision based on the facts of each proposal as well as the firms who submitted proposals, which are our firm, Williams & Williams Marketing Services, Hudson & Marshall, and Auctions by Allstar LLC.

Since the "Not the lowest bid" item was not checked on the form we received, we infer from that that our proposal was either the lowest received bid or at least was lower than the firm selected. The Evaluation Criteria as listed in the solicitation is as follows:

- Qualifications – 35 points
- Experience & Capabilities – 30 points
- Cost – 30 points
- Local Preference – 5 points

We will address each of the above 4 items:

- **Qualifications** – There is no question our firm is the most qualified of the 4 firms. We have been successfully selling real estate by public auction since 1959, longer than any of the firms listed above. Our 3 principals in this transaction have more professional designations than any of the personnel of the other 3 firms, not to mention a Past President and Hall of Fame Member of the National Auctioneers Association that is still actively conducting auctions today. We provided several references and letters of recommendation from several other government agencies.
- **Experience and Capabilities** – There is no question our firm is the most experienced firm with the best capabilities, having sold hundreds of millions of dollars in real estate over the past 62 years. We in particular have extensive government agency real estate public auction experience, especially over the past 8 years having conducted 22 auctions for 12 different government agencies on the federal, state, county, and local level with a track record second to none – **16.6% higher than independent 3<sup>rd</sup> party market appraisal on a weighted average and 56.4% higher on a per auction basis**. We utilize state of the art computer hardware, software, and back-office capabilities to successfully complete and close real estate auctions on a timely basis. Based on the size of the particular auction (and especially with multi-property auctions), we also contract additional NAA professional auctioneers to conduct real estate auctions at the highest level. If the City checked our references, they would find that we have done outstanding work for the agencies listed in our proposal.
- **Cost** – Since by the City's review, noted above, we were not awarded the contract even though we may have been the lowest bid (and presumably we likely have the lowest bid). We also offered to negotiate the commission for each auction depending on the size of auction to give the City flexibility (all real estate commissions are negotiable). Given that the City will bear absolutely no cost of marketing of these properties, our firm takes all of the risk whether they sell or not. The bottom line is in

an auction, the Buyer Premium does not factor into the highest bid being achieved – it is simply a cost of doing business much like retail sales tax. Bidders know they will have to pay for it and bid accordingly. The winning bidder is paying market value and at least 1 dollar more than the next highest bidder

- **Local Preference** – While our firm is not domiciled in Dallas, our Texas Designated Broker, Mel Harris of Elements Realty Group, is located in Fort Worth, TX, and has significant government agency real estate experience with the United States Postal Service. Just because a firm may be located in Dallas doesn't mean they are necessarily any more qualified or have produced better results. They just happen to have an office in Dallas. If you look at the incumbent's website, they are actually based in Georgia, not Dallas. They may have an office in Dallas, but it appears their headquarters is in Georgia.
- **Diversity, Equity, and Inclusion** – While this was not a stated evaluation criterion, the City of Dallas encourages procurement to include MBE/WBE/HUB firms and included the City's list of those in the solicitation documents. If this was not to be a consideration for this contract award, why did the City include this in the solicitation documents? As an integral member of our team, Mel Harris of Elements Realty Group is an MBE-certified firm (and is listed on the list of MBE/WBE/HUB firms provided to us by the City of Dallas and he earns a significant share of the commission we earn on this contract (and has in the past with other Texas contracts we've had). Did any of the other firms have MBE/WBE/HUB inclusion in their proposals? We don't believe so.

At Ms. Thompson's suggestion we submitted an Open Records Request with the City of Dallas to get the scoring matrix for this decision by category and reviewer. Attached is the response we received. Therefore, we are specifically requesting, again, from the Office of Procurement Services, a copy of the scoring matrix by category and by reviewer, along with all reviewer notes that are part of this Notice of Intent to Award before any final contract award is made and before the contract is executed. Furthermore, we need to know, seriously, what being "Most Advantageous" to the City means? Does it mean it's more advantageous to keep the incumbent firm under contract, rather than "changing horses?" If that's the case, why did the City even put this out for bid and waste our and the other bidders' time and money?

As to the other firms who bid, nearly all of the auctions done by Auctions by Allstar are online-only auctions of personal property, which is not what this contract contemplated. As to Williams and Williams, they do not do government agency auctions of government agency-owned surplus real estate but rather foreclosure auctions of properties that had government-guaranteed financing (and this is similar for Hudson and Marshall). As to Hudson and Marshall, the incumbent, the only government agency auctions of government agency-owned real estate they have done, as far as we know, have been for the City of Dallas, whereas we've done it for now at least 13 different government agencies nationally. Like both Williams and Williams and Hudson and Marshall, we work on a national basis. In fact, on August 5, 2022, we sold a 390.5-acre former minimum security correctional facility for the State of Oregon for \$9,052,187.50. If we can sell a former prison, we can sell any real estate! We would be happy to provide that reference to the City as well.

As to specific relief, we firmly believe Higgenbotham Auctioneers International Ltd. Inc. is the rightful highest scoring firm based on the facts. We want a discussion with the City before any contract is finally awarded and/or executed to review how the initial award decision was made. Besides the scoring matrix noted above, at the very least, the City needs to split this contract amongst the top 2 firms and then for the next 5 years, let it be a competition to see which firm performs best! That would at least be fairer than the outcome the City published on September 16, 2022.

For City response, please direct all responses to Mr. Christopher Vaughan, Vice President-Government Contracts, Higgenbotham Auctioneers International Limited, Inc. at 2996 Murcott Way, Escondido, CA 920287, (858) 382-6030, [NationalAuctionTeam@gmail.com](mailto:NationalAuctionTeam@gmail.com).

Thank you for your time and attention to this specific request.

Best regards,



Martin E. Higgenbotham  
President



Christopher M. Vaughan  
Vice President-Government Contracts