

December 16, 2019

City of Cocoa: Purchasing Division
Attn: Heath Hancher, Procurement Manager
65 Stone Street,
Cocoa, Florida 32922
Fax: 321-433-8455
hhancher@cocoafl.org

Notice of Intent to File Protest re: Bid No. B-20-08-COC Award

Pursuant to Section 15: Methods of Source Selection, Para 15.2, a (13) of the City of Cocoa Purchasing Manual, notice is hereby given that RUSH Marine, LLC (hereafter referred to as the "Protestor") by and through the undersigned counsel hereby gives Notice of its intent to file a Protest of the award of a contract to Canaveral Construction, Co. relating to City of Cocoa Bid No. B-20-08-COC for Cocoa Riverfront Park Promenade Improvements ("Bid"). Additionally, as required by the City of Cocoa Purchasing Manual, attached hereto is a copy of the Bid Protest Bond. The original will follow the attached copy once officially delivered to the City Clerks Office. As grounds for the Protest, the Protestor would state as follows:

1. The nature of the protest is that the City of Cocoa City Council violated its own policies in awarding the Bid to Canaveral Construction Co.. Protestor was affected adversely as Protestor was the lowest most responsive and responsible bidder who met the specification most advantageous to the City of Cocoa.

A formal protest will be filed within 10 calendar days of this notice.

Submitted by



Scott L. Knox
W. Nathan Meloon
Wideman Malek, P.L.
1990 W New Haven Ave
Melbourne, Florida 32904
Attorneys for Rush Marine, LLC

Submitted via E-Mail, Fax, and Hand Delivery

BID PROTEST BOND

Bond Number: 0220438

Bid Number: B-20-08-COC

KNOW ALL PERSONS BY THESE PRESENTS:

That we, Rush Marine, LLC., a Limited Liability Company, organized and existing under the laws of the State of Florida, and having its principal place of business at 6285 Riverfront Center Boulevard, Titusville, FL 32780, as PRINCIPAL, and Berkley Insurance Company, a surety company, organized under the laws of the State of Delaware, and duly authorized to do business in the State of Florida, whose principal place of business is 475 Steamboat Road, Greenwich, CT 06830, as SURETY, are held and firmly bound unto the City of Cocoa, Florida, as OBLIGEE, in the amount of Five thousand dollars (\$5,000.00) for the payment of which sum we, as Principal and Surety, bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THIS BOND is issued under the provisions of Florida Statutes 255.0516. The above-named Principal has initiated an administrative protest regarding the Obligee's decision or intended decision pertaining to the ranking of bidders on the Riverfront Promenade Overlook Project, and to beginning contract negotiations with Canaveral Construction Co. Said protest is conditioned upon the posting of a bond at the time of filing the formal written protest.

NOW, THEREFORE, the condition of the Bond is that if the Principal, after the administrative hearing process and/or any appellate court proceedings regarding the protest, shall satisfy all costs and charges allowed by final order and/or judgment, and interest thereon, in the event the Obligee prevails, then the obligation shall be null and void; otherwise it shall remain in full force and effect.

The Obligee may bring any action in the court of competent jurisdiction on this bond for the amount of such liability, including costs and attorneys' fees.

PRINCIPAL: Rush Marine, LLC

BY: Anthony Gendry

Title: PRESIDENT (CORPORATE SEAL)

ATTEST: Walter Kinn

Witness

SURETY: Berkley Insurance Company

BY: Cindy L. Mirisola

Cindy L. Mirisola

Title: Attorney-in-Fact (CORPORATE SEAL)

Florida Resident Agent: Cindy L. Mirisola

Cindy L. Mirisola

ATTEST: Michelle Benedict

witness

(Note: Power of Attorney showing authority of Surety's agent or Attorney in Fact must be attached).

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: *Cindy L. Mirisola; Benjamin Craig Sibley; Robert H. Bond; or Heather Bradley of Sihle Insurance Group, Inc. of Altamonte Springs, FL* its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00), to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 24th day of July, 2018.

Attest:

Berkley Insurance Company

(Seal)

By

Ira S. Lederman
Executive Vice President & Secretary

By

Jeffrey M. Hafler
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT)

) ss:

COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 24th day of July, 2018, by Ira S. Lederman and Jeffrey M. Hafler who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDBAKEN
NOTARY PUBLIC
MY COMMISSION EXPIRES
APRIL 30, 2019

Maria C. Rundbaken
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 13 day of December, 2018.

(Seal)

Vincent P. Forte
Vincent P. Forte

WARNING -- Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and verification instructions (on reverse) must be in blue ink.