

**IN THE SUPERIOR COURT OF BULLOCH COUNTY
STATE OF GEORGIA**

**GEORGIA BRANCH, ASSOCIATED)
GENERAL CONTRACTORS OF)
AMERICA, INC.; GEORGIA UTILITY)
CONTRACTORS, INC.; and)
ASSOCIATED BUILDERS AND)
CONTRACTORS OF GEORGIA, INC.,)**

Plaintiffs,

v.

THE CITY OF STATESBORO, GEORGIA,)

Defendant.

CIVIL ACTION FILE

NO. 1B05CV360T

**ORDER AND FINAL JUDGMENT GRANTING A
PERMANENT INJUNCTION**

By Order dated November 4, 2005, this Court ordered the trial on the merits of this action to be advanced and consolidated with the hearing on plaintiffs' Second Application for Temporary Restraining Order and Interlocutory Injunction. That trial was conducted on November 10, 2005 before the Court, the Honorable F. Gates Peed presiding. Having considered the Verified Complaint for Temporary Restraining Order, Interlocutory and Perpetual Injunction, and Declaratory Judgment, as well as all evidence presented in this action, the arguments of counsel, and all pleadings and the record as a whole, and being otherwise fully advised on the premises, the Court hereby finds as follows:

On October 24, 2005 Defendant, the City of Statesboro, Georgia ("Statesboro"), received bids for the construction of Project No. 1081 0030, the Statesboro Police Headquarters on West Grady Street in Statesboro, Georgia ("Project") through the use of

a reverse auction bidding event by which bidders were permitted to submit multiple revised bids based on the status or ranking of their bids as related to those submitted by other bidders, this ranking status being disclosed to all bidders by Statesboro through an internet application using computer software (“Reverse Auction Bidding Event”).

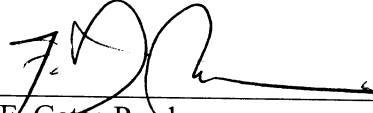
Solicitations for bids for construction services issued by Georgia municipal corporations must comply with the requirements set out in Title 36, Chapter 91 of the Official Code of Georgia. In this case, the Invitation to Bid issued by Statesboro for the Project advised potential bidders that Statesboro would receive competitive sealed bids from general contracting firms in accordance with O.C.G.A. § 36-91-21(b) through the use of the Reverse Auction Bidding Event. However, the Court finds that the Reverse Auction Bidding Event violates O.C.G.A. § 36-91-21(b) because the Reverse Auction Bidding Event is not a statutorily authorized competitive *sealed* bidding process.

Based on these findings, it is hereby ORDERED AND ADJUDGED:

- (1) That plaintiffs’ application for Declaratory Judgment is GRANTED;
- (2) That Statesboro is hereby permanently and perpetually enjoined from awarding or executing a contract for the construction of the Project based on the bids received on October 24, 2005 through the Reverse Auction Bidding Event, or any other reverse auction bidding event which allows bidders to submit multiple or revised bids based on information revealed to them about the status of each bidder’s bid as related to those submitted by other bidders or any other information disclosed about the bids received; and

(3) That each party shall bear its own costs and attorneys' fees.

SO ORDERED this 15 day of November, 2005.



F. Gates Peed
Judge, Superior Court of Bulloch
County, Ogeechee Judicial Circuit