

**From:** Mike Reilly [mreilly@broxindustries.com]  
**Sent:** Tuesday, April 21, 2009 11:09 AM  
**To:** City Council - All; Joyal, Michael  
**Cc:** SMB1003@aol.com  
**Subject:** Bid # B09065 Hot Bituminous Paving (Asphalt)  
Mr. Mayor, Mr. Joyal and Members of the City Council,

I am writing to you on behalf of Brox Industries, Inc; we are one of the three paving contractors who submitted a bid for the above referenced bid. Continental Paving Inc. (CPI) of Londonderry, NH was the lowest bid, followed by Brox Industries, Inc. (BII) and Pike Industries Inc. (PII). It is our understanding that the City Purchasing Department will recommend an award to CPI. We also understand that CPI failed to submit a bid bond with their bid.

We recognize that the City has the right to award the bid deemed "most advantageous to the City". However, as a City landowner, taxpayer and future bidder/vendor of the City of Dover, we must protest an award based on a bid submitted without a bid bond – a bid requirement ( indeed the City furnishes their own bid bond form) and a major bid informality. Minor informalities include small math errors and typographical errors; the City would not hear from BII if a minor informality was evident in this case. If a contractor fails to provide a bid bond, he has no liability in the event of default once his bid is accepted and therefore has no risk in bidding the project. In other words, had CPI been low bidder by a margin unacceptable to them ( say, \$200,000.00), they could have walked away from the bid at no cost to CPI (or their bonding company), whereas the other bidders must prepare their bids with the certain knowledge that they must perform if they are the accepted low bidder, or face a bid bond claim. CPI's omission from last Tuesday's bid (regardless of intent) renders the bid unfair to the other bidders and to The City of Dover.

The fairness of the bid process in Dover is important for all the stakeholders in the process, most importantly to the City itself. It is our hope that you will not award this contract based on an informal bid, but will either reject the bid of CPI or reject all bids and submit the project for re-bid.

Thank you for your time and please call me with any questions you may have,

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