

# WILSON BROCK & IRBY, L.L.C.

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April 22, 2019

**VIA: ELECTRONIC MAIL (RHERNANDEZ@SAVANNAHGA.GOV)**  
**AND OVERNIGHT DELIVERY**

Mr. Rob Hernandez, City Manager  
Office of the City Manager  
Savannah City Hall  
2 East Bay Street  
Savannah, GA 31402



Subject: Supplemental Constitutional Objections Regarding Appeal of Pending Decision to Award a Contract for Phase I of Arena Operations and Management Design Assistance Services (City Purchasing Event #6488) (the "RFP").

Dear Mr. Hernandez:

A short while ago, we received a notice from your office that you scheduled our RFP appeal for Wednesday morning at 9 o'clock. We are preparing for that appeal hearing. To that end, we have noticed that Section 2-4121 sets forth a right to file an appeal but it is silent regarding how that appeal process is administered, and it sets forth no standards pursuant to which a decision will be rendered on the appeal. By delivery of this letter, SMG respectfully requests a copy of the standards by which you will review its RFP appeal to enable us to appropriately prepare for Wednesday's appeal hearing.

In the event the City of Savannah has not previously adopted any codified standards of review for this RFP appeal, SMG respectfully submits the following supplemental constitutional objections:

1. The Code of Ordinances, Savannah, Georgia, as amended (the "City Code"), do not prescribe any standards to constrain the city manager's discretion to sustain or deny this RFP appeal. Therefore, any denial of the RFP appeal (or the approval of any lesser relief than requested herein) would deprive SMG of its right to due process of law and equal protection under the law in violation of Article I, Section III, Paragraph 1; and Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983.
2. For the foregoing reason, any interpretation of the City Code that has the indirect effect of denying this RFP appeal (or approving any lesser relief than requested herein) would deprive SMG of its right to due process of law and equal protection under the law in violation of Article I, Section III, Paragraph 1; and Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983.

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3. Any failure or refusal to consider and render a decision on any of the individual claims in SMG's appeal letter, dated April 18, 2019 (the "RFP Appeal Letter"), would be inherently arbitrary and capricious, particularly when the City Code fails to prescribe ascertainable standards for the evaluation of this RFP appeal.
4. SMG incorporates the legal objections (including its constitutional objections) and legal notices presented in the RFP Appeal Letter as if they were fully set forth herein.

Pursuant to the requirements of O.C.G.A. § 36-33-5, SMG respectfully advises the City Council that it has expended substantial financial sums in support of its RFP and its RFP appeal. Therefore, SMG stands ready to proceed with legal action against the City Council and/or the city manager within 30 days after those parties deny this RFP appeal, award the RFP contract to the OVG Team (as defined in the RFP Appeal Letter), or otherwise fail to rectify the legal deficiencies set forth in this RFP appeal. In the event SMG is forced to pursue litigation, it intends to seek all damages and relief to which it is entitled under Georgia law, including but not limited to monetary damages and attorneys' fees and expenses pursuant to O.C.G.A. § 13-6-11.

For all of the foregoing reasons, SMG renews its request for you to sustain its RFP appeal. However, if you deny this RFP appeal, SMG formally requests a public hearing of this RFP appeal before the Mayor and City Council with reasonable advance notice thereof to allow necessary out-of-state SMG representatives to participate in that RFP hearing. SMG also renews its request for all of the remedies set forth in its RFP Appeal Letter.

Please do not hesitate to let me know if I may provide you with any additional information or clarify anything in this appeal.

Sincerely,

WILSON BROCK & IRBY, L.L.C.



Harold Buckley Jr., AICP, Esq.

cc: Mr. Doug Thornton, SMG (via email at [doug.thornton@smgneworleans.com](mailto:doug.thornton@smgneworleans.com))  
Mr. Harry Cann, SMG (via email at [HCann@smgworld.com](mailto:HCann@smgworld.com))  
Mr. Miguel Camacho, Brownstone Group (via email at [mcamacho@bstonegroup.com](mailto:mcamacho@bstonegroup.com))  
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*[Copied parties continue on the next page.]*

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Cc: Hon. Eddie DeLoach, Mayor (via email at [edeloach@savannahga.gov](mailto:edeloach@savannahga.gov))  
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