

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2010-276**

RESOLUTION AUTHORIZING THE EXECUTION OF A SOLID WASTE FRANCHISE AGREEMENT (AGREEMENT) WITH WASTE MANAGEMENT INC. OF FLORIDA (WMIF) AND AUTHORIZING A WAIVER OF THE CITY'S PROCUREMENT CODE TO ALLOW THE AWARD OF THE AGREEMENT TO WMIF PURSUANT TO SECTION 2-583(d) OF THE PROCUREMENT CODE.

**WHEREAS**, the City of Coral Gables (City) has a Solid Waste and Recycling Collection Service Contract (Contract) with Waste Management Inc. of Florida (WMIF), which authorizes WMIF to collect solid waste and recyclable materials from multi-family residences and commercial businesses in the City; and

**WHEREAS**, the City's Contract with WMIF is scheduled to expire on March 30, 2011; and

**WHEREAS**, the City and WMIF have negotiated the terms of a Solid Waste Franchise Agreement (Agreement), which will replace the Contract, effective January 1, 2011; and

**WHEREAS**, the Agreement will authorize WMIF to continue providing its services in the City until September 30, 2018, subject to various conditions and limitations, and the Agreement will authorize the City to renew the Agreement for an additional two years, at the City's option;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1.** That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

**SECTION 2.** That the Agreement (attached hereto) is approved by the City Commission, and that the City Manager and City Clerk are hereby authorized to execute, on behalf of the City of Coral Gables, the Agreement between the City and WMIF, including the Guaranty that is attached to the Agreement as Exhibit 7, after WMIF provides a fully executed Guaranty to the City.

**SECTION 3.** That the City Commission does hereby waive any and all requirements in the City's procurement code that would otherwise apply to the procurement of WMIF's services or the execution of the Agreement. For the purposes of this waiver, the City's procurement code

shall be construed broadly to include but not be limited to the requirements adopted in Ordinance No. 2009-53 and Article VIII of the City Code, as well as the requirements set forth in the City's procurement manuals, policies, and regulations. The Commission finds that this waiver is necessary in order to proceed with the issuance of a contract that is in the best interests of the City. The Commission also finds that (a) the Agreement provides an attractive combination of economic and other benefits for the City and its residents, and (b) continuing to do business with WMIF avoids the disruptions in service that would occur if the City executed the Agreement with a different company. This waiver is authorized and adopted pursuant to Article VIII, Division 1, Section 2-583(d) of the City's procurement code.

**SECTION 4.** That the executed Agreement shall be made a part of this resolution and kept on file in the Office of the City Clerk.

**SECTION 5.** That this resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS FOURTEENTH DAY OF DECEMBER, A.D., 2010.

(Moved: Withers / Seconded: Anderson)

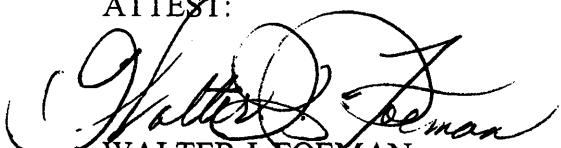
(Yea: Withers, Anderson, Kerdyk)

(Majority: 3-2 Vote)

(Nays: Cabrera, Slesnick)

(Agenda Item: C-9)

ATTEST:



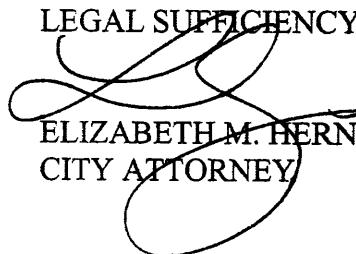
WALTER J. FOEMAN  
CITY CLERK

APPROVED:



DONALD D. SLESNICK II  
MAYOR

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:



ELIZABETH M. HERNANDEZ  
CITY ATTORNEY

**City of Coral Gables City Commission Meeting**  
**Agenda Item C-9**  
**December 14, 2010**  
**City Commission Chambers**  
**405 Biltmore Way, Coral Gables, FL**

**City Commission**

**Mayor Donald D. Slesnick, II**  
**Vice Mayor William H. Kerdyk, Jr.**  
**Commissioner Maria Anderson**  
**Commissioner Rafael "Ralph" Cabrera, Jr.**  
**Commissioner Wayne "Chip" Withers**

**City Staff**

**City Manager, Patrick Salerno**  
**City Attorney, Elizabeth Hernandez**  
**City Clerk, Walter J. Foeman**  
**Deputy City Clerk, Billy Urquia**

**Public Speaker(s)**

**Dusty Melton, President of General Hauling**  
**Zeke Guilford, Representing Waste Management Inc.**  
**David Dee, Attorney for the City**  
**David Gregory, City Consultant with R.W. Beck**  
**Russell Mackie, Regional Vice President, Waste Pro of Florida**  
**Jason Neal, Waste Management**  
**Sylvester Lukis, Waste Services**

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C-9 [Start: 10:31:26 a.m.]

Resolution authorizing the execution of a Solid Waste Franchise Agreement (Agreement) with Waste Management Inc. of Florida (WMIF) and authorizing a waiver of the City's Procurement Code to allow the award of the Agreement to WMIF pursuant to Section 2-583(d) of the Procurement Code.

Mayor Slesnick: C-9. C-9 was pulled at the request of the attendees, and the person who approached me yesterday asking that it be pulled and filed a card pulling it today was Mr. Dusty Melton of 3430 Poinciana Avenue, Miami, FL 33133. Mr. Melton could you please rise and state

your position of why you've asked the Commission to pull it, and then before we move any further after you state that position, I'm going to ask the Commission what their pleasure is on moving forward with this or not, and so forth.

Mr. Melton: Thank you Mr. Mayor, Commissioners, Mr. Manager, Madam City Attorney. For the record my name is Dusty Melton, as the Mayor said, I live at 3430 Poinciana Avenue.

Mayor Slesnick: I would also add that on your card you are representing General Hauling Service, right?

Mr. Melton: Correct.

Mayor Slesnick: OK. That's it.

Mr. Melton: And that goes to one of my two concerns about this matter. As you know the County Code sets the minimum standards for ethical behavior in all of the municipalities; the County Code establishes minimum criteria for ethical behavior. By those of us in the private sector who deal with government, particularly in the area of contracting and purchasing of services. The County Code requires that employees of contractors register with the Clerk before engaging in contract negotiations, that's simply the law, and I'm concerned about the attention to the rule of law in this building on this matter, given the fact that the Clerk is unable to provide any paperwork regarding the folks that negotiated with your administration, this very hefty complicated document. Let me say at the onset that Waste Management Inc. which is the current service provider and the recommended new service provider is a fine company. My concerns are not about the company; my concerns are about the process, and my concerns are about work product that is before you today. As for the work product, one of the specific achievements noted in the proclamation earlier this morning about the illustrious career of the retiring City Attorney was the promulgation of your Procurement Code. Your Procurement Code sets out several critical goals and objectives high in that Code, one of which is to foster effective broad based competition within the free enterprise system. That's a policy of this City. It's also a part of the Code of Ethics and all of which has values and principles of the National Institute of Governmental Purchasing, which is the nation's foremost authority on public purchasing. This City is an active member of that institute and its code of ethics and its values and principles stress time and again the importance of competition in public procurement, and that competition should be maximized and sought wherever possible. Ten years ago, a prior City Manager and a prior City Commission when this contract was reaching this end at that moment did the normal sensible thing, this City tested the competitive market place, it published an RFP (Request for Proposal) and there was open, fair and transparent and tough competition, and the City administration and City Commission evaluated quality of service from the competitors and the

pricing of the competitors, the competition drove both of these things that you should be all about. Instead, ten years later, 36 years and three months, two and-a-half months into a relationship with a single vendor, this monopoly is proposed to be extended for at least another eight years without testing the market place. Let me tell you monopolies are an anathema in the free market system...

Mayor Slesnick: Mr. Melton one minute.

Mr. Melton: OK. Thank you. I didn't realize there was a....I can do it in one minute.

Mayor Slesnick: That's OK, we apologize and that's why I've gone beyond what we normally do because we didn't turn the lights on for you, but go ahead.

Mr. Melton: Monopolies are particularly abhorrent in a recession; the marketplace in every industry is ferociously hungry and it serves no use purpose in my opinion not to test the marketplace. I will concede that this document before you is an improvement over the document that's been before you for the last ten years, it's an improvement, it's not improved enough, and I would ask the Clerk to please distribute copies of a letter...[inaudible]...that's been totally excluded from this process, who is prepared to provide quality services at a lower cost and has put it in writing. This is a firm, my client, for which I am registered because I do care about the rule of law in this building, if others don't who was founded in this town 64 years ago, and is one of the most respected waste haulers in all of South Florida. So I would respectfully suggest that the way forward is not to approve a no-bid "sweetheart" deal with a fractional improvement in cost savings, but to do what you did ten years ago, and what you ought to be doing every chance you get according to your own Procurement Code, test the marketplace, what have you got to lose?- and what have you got to fear? Thank you so much for your time and attention, and I will give to the Clerk the various documents that I referenced in my presentation.

Mayor Slesnick: Thank you Mr. Melton. OK. We are not going to go forward with this before I get a feeling from the Commission as to where...first of all Ms. Hernandez, not to put you on the spot, but is there anything that Mr. Melton has raised that raises legal issues that are troublesome to you, we'll just attack that issue first, I mean.

City Attorney Hernandez: Mr. Mayor, Commissioners as you know our Procurement Code is written in such a way that it is the ultimate decision of this City Commission in their absolute discretion that will reign with regard to any decision as to the award of a contract, absent and abuse of discretion that decision will not be overturned. Having said that, our lobbying registration provisions do require individuals who are negotiating, who are approaching City individuals on quasi-judicial or executive matters to register with the City Clerk, however, if the

City Commission finds that a person is in violation of our Code that person may be reprimanded, suspended, or prohibited from lobbying before the City Commission, a City Board, a City Committee or members thereof, before the City Manager or City staff for a period not to exceed two years. Also under our Code if the City Commission finds that there is a violation, a contract can be voidable, but it is really up to the City Commission as to whether or not you wish to implement any one of those choices including as little as a reprimand and as much as a starting the process all over. So it's really up to you all.

Mayor Slesnick: OK, let me ask you this. As Mr. Melton pointed out for 30-plus years or something....thank you Mr. Melton, 36 years, which is also the same as 30-plus years, for more than 30 years we have had a relationship with Waste Management, and for a number of those years, at least for as long as I have been in office we have had the same representative of the company that has interfaced with the City on a regular basis, not for contract negotiations, not for anything, but for service levels and responding to needs of the City and the people in the Business District, and so forth, and that person is a full-time paid employee of Waste Management, and is the designated representative. Now, is it a requirement and this is, when I was hit with this yesterday my first question, is the requirement of a person fitting that description to also be registered as a lobbyist?- in order to sit in meetings where a contract is being negotiated?

City Attorney Hernandez: OK. You provide a very broad definition of the word "sit in".

Mayor Slesnick: OK, say take part. I'm not trying to...I'm just asking...

City Attorney Hernandez: Taking part they must register.

Mayor Slesnick: OK. And if they have not registered...

City Attorney Hernandez: The Commission can reprimand or they can suspend...

Mayor Slesnick: Or we can notify them to register.

City Attorney Hernandez: I have no idea they have registered or not, I'm just saying, you know, the issue has been raised.

Mayor Slesnick: OK. If they are not, we can notify them that they must register for future...

City Attorney Hernandez: Absolutely.

City Manager Salerno: Mayor, may I add something?

Mayor Slesnick: Yes.

City Manager Salerno: Mr. Guilford will you step up just to address that question.

Mr. Guilford: Mr. Mayor, Commissioners for the record, my name is Zeke Guilford along with Mort Guilford here on behalf of Waste Management. Once we found out that the representative of Waste Management had not filed a lobbyist registration, he did in fact file one yesterday. As you stated Mr. Mayor, as an employee of the company he did not realize that he was responsible to file a lobbyist registration. That item has been cured, the City Attorney has stated what the punishment, you can reprimand him and the actual punishment goes to the person not to the process, but we have cured that issue.

Mayor Slesnick: I mean, let's put this on the table, we know we are talking about Mr. Jason Neal...

Mr. Guilford: Yes sir.

Mayor Slesnick:....and I leave it to the Commission, I mean, as far as I'm concerned if he has cured it, this is a man who has served the citizens of the City well, on behalf of his private company, it is not any interest of mine to reprimand or to penalize Mr. Neal himself. If anyone feels differently about that part of the discussion please say so now.

Commissioner Withers: I'm fine with it; I just don't quite understand the logic behind it.

City Attorney Hernandez: The logic behind lobbyist registration....

Commissioner Withers: I mean, if you are an employee so I mean, does that apply to Florida Power and Light, Miami Water and Sewer?

City Attorney Hernandez: Yes.

Commissioner Withers: So all those employees are supposed to...

City Attorney Hernandez: All the principals and all the representatives that interface with the City for purposes of negotiations or in quasi-judicial matters are required to register with the City Clerk.

Commissioner Withers: So have all of our vendors, have we looked at all of our vendors?- are any other vendors not in compliance?

City Attorney Hernandez: I cannot tell you that. The registration is with the City Clerk's office Commissioner Withers.

Commissioners Withers: Well I mean, if we've got people out there violating the law I think it would be prudent to look at every single vendor and make sure everybody is in compliance, which I think is ridiculous, I don't know how the rest of the Commission feels, but I mean....

Commissioner Cabrera: It is what it is.

Commissioner Withers:...it is what it is.

City Attorney Hernandez: It's an ordinance that when the Commission adopted it, it was with a view toward transparency of the process as to individuals who are doing business with the City to register with the City Clerk so that individuals knew who was there to meet with them. It's up to you all.

Commissioner Withers: I understand.

Mayor Slesnick: Let me say this, but what I think Mr. Withers is saying is, transparency is when Dusty Melton gets up he represents a number of clients and he can be speaking even as a citizen, but we know now that he is registered, that he represents...

Commissioner Withers: In a public hearing.

Mayor Slesnick: If a high ranking official at Waste Management comes in the door, we know that they are a high ranking official from Waste Management and they are here because they are a high ranking official at Waste Management, what's the lack of transparency in that?

Commissioner Withers: So the University of Miami...?

City Attorney Hernandez: They registered.

Commissioner Withers: Doctors Hospital – everybody that has come before us?

City Attorney Hernandez: The University of Miami has registered.

Commissioner Withers: No, I'm just saying all those folks are...

City Attorney Hernandez: Yes.

Mayor Slesnick: Is it a law that we are responsible for or we are commanded by the County to have that as part of our law?

City Attorney Hernandez: Well we have it as part of our City Code...

Mayor Slesnick: I know, but I'm saying is it required?

City Attorney Hernandez: ...and the County has a lobbyist registration requirement as part of the County Code.

Mayor Slesnick: I know, are we required to meet the County standard?

City Attorney Hernandez: My position is that we are allowed to have a more liberal ordinance which we do; the County is a bit more stringent.

Mayor Slesnick: OK.

Commissioner Anderson: Then maybe in the future we could look at and see from the list in the City Clerk's office they can review it and see if there is anybody that's coming before us ahead of time, send out a general letter of reminder, you know, that might be good to help avoid this and clarify this for the future. I think the lobbyist registration is fine, I'm good with that, we can help them along as far as information that would be better, that way we don't get ourselves in this type of situation – no, no, I'm saying in the sense of having to hear this, not us, but having to decide.

Mayor Slesnick: Mr. Withers raises a good question, does that include homeowners associations?

City Attorney Hernandez: Not-for-profits, no.

Mayor Slesnick: OK, not-for-profits, no. OK. Mr. Manager.

City Manager Salerno: Thank you Mr. Mayor. I think just for clarification purposes Mr. Melton who was extremely interested in talking about the color and rule of law today, I don't know if he is aware of this, but Mr. Melton you are not currently registered yourself as a lobbyist today with

the City of Coral Gables, your lobbyist registered expired on September 30 of 2010, you have not registered according to the City Clerk.

Mr. Melton: My apologies.

City Manager Salerno: OK.

Mr. Melton: I thought it was for the calendar year.

City Manager Salerno: It says each October first of the year, that was the requirement and I think its worth pointed out that...

Mayor Slesnick: We'll show the same generosity to Mr. Melton; there will be no reprimand or....

Commissioner Cabrera: I think we should give you a \$25,000 fine and suspend you for the rest of the season along with the Jets Coach (laughter).

City Manager Salerno: Mayor, the only thing and this is up to the Commission, Mr. Melton submitted to each of you a one page summary of, I guess, his views on the matter of the contract, but did not go into any other substance of those arguments today. I would only say that in my review of those items they are originally harmless, I have reviewed them, I only have one question for Mr. Melton, I'd be glad to go into each of those items if you care to, but I don't believe Mr. Melton, I'd have to ask you, have you read this contract?- because I have follow up questions, if you have read it.

Mr. Melton: I don't presume to be conversant about it, but I have read it.

City Manager Salerno: The entire contract?

Mr. Melton: Yes sir. I have a copy.

City Manager Salerno: I would have to say that the statements made in the letter, if he read the contract, I'm still going to have to assume he didn't understand the contract, I'm giving you the benefit of the doubt because the statements that are made in there are totally inaccurate and do not represent a person who has an understanding of that contract. I'm prepared to go into point by point through Mr. Melton's letter and show in which fashions that I still find it very hard that, again he is a lobbyist with a mission and he is trying to do the best for his client, I recognize that,

but on the other hand I think the information that was provided is totally baseless, and I am prepared to go point by point through his item, if the Commission would like me to do so.

Mayor Slesnick: Before we move on, I had two other speakers registered on the same pulled item, but I am going to ask that they limit themselves to one speaker at this moment, so which ever for Waste Pro, Sylvester Lucas, 836 Madrid, Coral Gables.

Mr. Lucas: Mr. Mayor thank you, Commissioners, City Attorney, City Manager, my name is Sylvester Lucas, I do represent a company that is in the business called Waste Pro. I'm also here as a citizen of Coral Gables and with all due respect to the lawyers on the dais and in the audience, all of this talk about lobbyists and registration, etc. obfuscates the underlying substance of this issue. I have no doubt in my mind that your Manager negotiated a deal in good faith, and believes strongly in his heart of hearts based on his experience and expertise that he cut a great deal for the City, but I'm here to tell you that I did read the contract, and I can tell you it's probably it's a good deal, but we don't know if it's a good deal because you don't have any other industry member giving you their bid, what they would do in connection with commercial waste hauling. So I think we are on the wrong path; I think the City of Coral Gables is indeed what Liz says it is, which is a beacon, but this beacon has been deemed here, because until and unless you give other members of this industry an opportunity to compete for these services, we really don't know. We can say that this is a great deal, we can say it's the best deal we could cut, we could say whatever you want to say, because you've negotiated in good faith, and Waste Management obviously is a great company, it's been providing waste hauling services for me personally in this community for many, many years; but I can tell you that just based on several localities that I deal with on behalf of Waste Pro, there is no question that the market today is down, and haulers are reducing their charges. Just with the Miami-Dade County School Board not too long ago negotiating a very similar contract Waste Management, the incumbent here when it was asked to bid, bid 50 percent of the costs it had previously been charging. So how do we know what the number is at the end without competition?- how can we say after a ten year contract that it's inappropriate to go out to bid?- because my consultants and I have told you that I have cut the best deal I can. Frankly, it could be a good deal, I'm here to admit it, but I think that the commercial establishments and the multi-family housing developments here, we have grown quite a bit in the last 10 to 20 years, deserve an opportunity to see whether they could get a better deal, and I appreciate in the contract that Waste Management has reduced the costs of disposal of yard waste, but that has nothing to do with commercial establishments, they should do that anyway, they have done it with plenty of private sector clients, they've cut back their disposal costs, but with that I'll conclude please, please consider competing this and seeing for yourselves, you have plenty of time, they are going to be providing services for the next seven or eight months anyway, you have plenty of time to conduct an open and honest competition. Thank you.

Mayor Slesnick: Thank you. OK, Mr. Kerdyk did you...?

Vice Mayor Kerdyk: I just would like to ask the City Manager to go through this letter, I think it's very important I get a clear understanding, because I do understand the sentiment of some of the presenters here, and I need to have a better understanding on the record of exactly what has been negotiated, and furthermore I would like to hear from our consultant at some point to ask him some questions, and I just caution the people who are looking and watching this, it's not only the best financial deal, it's also the best financial deal from a responsible bidder that can provide services. I have had the opportunity and I will say that I have the opportunity of controlling and dealing with lots of commercial property in downtown Coral Gables, and Waste Management I can tell you from that standpoint has always provided excellent service. So service is a strong component in my overall value of a provider, but having said that I need some....I need to feel good or I can't support this...

Commissioner Cabrera: Can I just talk to you about that before the Manager takes over?

Vice Mayor Kerdyk: Sure.

Commissioner Cabrera: I concur with you about your concerns about service because Mr. Neal each and every time I have had to contact him or his company has been nothing but professional, responsive, and has really worked toward a resolution of the problem, whatever it may have been, and it has been in the form of a complaint, so unfortunately that's just the way it goes in your business. But again, I'm going to let the Manager speak on this matter because that's what you want him to do, but Bill you know what the over-arching issue I have with this?- because I read the contract, but I'm not an expert, and I'm not going to say I know every sentence and every paragraph in that contract, I read it, but what I want to say to you is, given the current economic climate affecting our City, our region, our country, I don't know about you, but I am always in a competitive environment with all my clients regardless of how great we are and what a good job we do, in fact I just lost what I considered a great client December 1<sup>st</sup> , and this client as they fired us praised us for having done a good job, but guess what?- it was all about cost savings and it had to be for that client, they had no choice, they really had to tighten their belt in a very, very difficult economic downturn; and as much as it hurt me, and as much as it hurt my company, and as much as it hurt my relationship with the carrier, which by the way there was going to be disruption in that change, and you talk about disruption because that's one of the arguments or facts that the Manager may discuss; you know what disruption in my business is?- a patient/doctor relationship that's a serious, serious disruption; trash hauling I'm sorry Mr. Neal, I love you, and I mean that sincerely in a professional way, I simply can't consider the same kind of relationship when it comes to disruption of services, and so while the Manager will share with

us his experience and the fact that he retained the services of an outside consulting firm to help him with this, we never tested the market. I remember in 2000 before I took office when you and Chip and Raul and Dorothy and Jim told what the issue of Waste Management an onyx, that was in 2000, and that was a really difficult process for all of you; I vividly remember it, but you know what? - given the changes that we have seen in our economy, given the business climate that we are all facing, I'm so sorry because I think a 37-year relationship is very, very important Mr. Neal, but I also think that testing the waters for the good of the citizens is a sign of good government, and that's the reason why I'm very concerned; and I do want to now be quiet to hear what the Manager has to say and reserve the right to rebuttal him.

Mayor Slesnick: Mr. Manager before you start, what bothers me in this process, if it is the desire of the majority of the Commission to go out to bid, I'm not sure that you want to be in the position or Waste Management to sit here and discuss point by point what it is that you have done. I understand that it is already been printed in a document, but further discussion of that may in fact raise questions which may in fact raise issues, which may in fact put Waste Management in a less competitive bidding position then there would be if we just told you now if that is the will of the majority of the Commission, I don't know how you feel about that.

City Manager Salerno: I have no problem; I don't think it puts them in any different position than they are in the current moment.

Mayor Slesnick: That's fine with me then. Did you wish to start your presentation?

City Manager Salerno: Yes.

Mayor Slesnick: Is it the desire of the Commission to hear more details of the contract? Mr. Withers? Ms. Anderson?

Commissioner Anderson: That's fine.

City Manager Salerno: Thank you, thank you. What I believe Vice Mayor Kerdyk asked was for me to review the sheet of paper given by Mr. Melton with his comments and then I'd like to point out some other aspects of this. First of all this is contract that would be effective January 1<sup>st</sup> of 2011, approximately two weeks from now, I think it's important to keep that in mind, that is the proposed start date of this agreement. I'll start off by saying this is a far superior contract to what has been in place in the past, it is a far better business deal, and it has far greater enforcement mechanisms than the existing contract has, but with respect to Mr. Melton's comments; in the second paragraph he refers to the fact that this grants an exclusive monopoly merely redundant Mr. Melton, an exclusive contract is just what it says, an exclusive contract. It

is not an extension of a contract with Mr. Melton, it is a new contract, there is no extension here with this contract. We have already discussed the registration and lobbyist aspects of this contract; I did meet with Mr. Melton several months ago, a number of months ago when he approached me and asked me to discuss the company that he was representing, I did; I told him exactly what we were doing, I said we are going to attempt the quality of service being provided today by Waste is giving me reason to want to try to negotiate a new contract with them, if we are successful and I can come up with a compelling basis to do so, then that would be my recommendation to the Commission. He explained to me some of the benefits that his company he thought could offer, and I told him thank you, he said he would appreciate any consideration I would give to what he presented today, that was the end of the conversation. I told him what we were doing at that time, and that is how we have proceeded.

Vice Mayor Kerdyk: Mr. City Manager?

City Manager Salerno: Yes.

Vice Mayor Kerdyk: Can I insert something? It's my issue – instead of going point by point with Dusty, I think that's counterproductive, but what I'd like for you to tell me is, why I should support this contract? - I think that's to me more important of how I proceed, and I apologize for even bringing up your point by point situation, I would prefer you just tell me and maybe the consultant can tell me and the other Commissioners here that are wanting to listen to why we should proceed?

City Manager Salerno: Be glad to. With one last item I do feel I must respond to. Mr. Melton described that this contract negotiation is a reduction in cost or benefits to the City is described as a pittance, this is what was negotiated was a pittance for a sweetheart deal, that's why I asked you the question because I don't believe you understand the contract, because I don't believe in any – I don't believe you in good conscience representing anybody could stand up today and say what I am going to talk to you about today is a pittance.

Mr. Melton: I offered those words and I believe compared to the market it's a pittance and it's a sweetheart deal.

Mayor Slesnick: Mr. Melton.

City Manager Salerno: OK. I understand. Let me explain what this contract provides to the City. It is going to reduce overall cost to all customers by two and-a-half percent (2.5%). The City has been paying for solid waste related services for an extended period of time, being paid for by the taxpayers at large. This cost this contract will reimburse the City for its administrative costs in

the amount of \$425,000 a year. It will pay the City \$25,000 to educate residents with respect to solid waste issues. It will reimburse the City for its total cost of street sweeping in the commercial areas of the City at a cost of \$200,000. It will reimburse the City for picking up trash receptacles in the business area of the City at a cost of \$75,000. It will reimburse the City's cost for litter collection in the downtown area of \$175,000. It will pay the City \$25,000 a year, so that we can hire an external auditor to audit the fees being paid to the City to make sure that Waste Management is paying us properly. It will reduce our yard waste costs by \$300,000 a year. It also establishes a base for franchise fees in the City, which depending upon the market and the market has been declining, establishes a floor which is a benefit to the City of \$200,000 to \$400,000 a year. If you total all that up it comes to a range of \$1,445,000, approximately to \$1,645,000 per year reduced from its current costs. The description by Mr. Melton was to describe what I just said as a pittance. This is not blindly extended as was stated here. Let me introduce for the members of the Commission, David Dee would you stand up. David is an attorney out of Tallahassee who has nearly 30 years experience and specializes, has a statewide reputation in solid waste contracts, franchise agreements, RFP's, etc. To his right, to your left is David Gregory with R.W. Beck and Associates working under Mr. Dee, R.W. Beck, is one of the leading solid waste consultants in the State of Florida and has consulted for counties and cities throughout the state. To Mr. Dee's right is Bill Redman with the Redman Consulting Group, also a consultant as part of our team. The R.W. Beck/RCG consulting team has a letter in the packet which you have received which strongly recommends that this is an excellent deal and they are here and would be available for you all to ask those questions of. Let me bring you to a key consideration here. There are real savings in this to the taxpayers of this City. I have just described benefits from \$1,445,000 to potentially \$1,645,000 starting January. The process as was discussed here to go out and seek, go through an RFP process is something that it would take, I estimate would take two months to prepare the RFP, two months to bid it, one to two months to evaluate it, one month to award a contract and safely five months to start up, that is approximately one year. You would be foregoing by not acting today \$1,445,000 to \$1,645,000 in real savings to this City that I don't believe we can afford to give up. Although Mr. Melton said there is no harm there is no cost to continuing on with Waste Management in its current – there is plenty of time to do so. No acknowledgement of the risk, real financial risk associated with doing this. Let's talk about bidding and pricing. Communities have gone out for bid, this community went out for bid in 2000 and what happened as a result of that it found that the best provider for solid waste for these services is Waste Management, that's what it found out; and what did it do after the bids?- it negotiated from what I understand from staff there were negotiations associated with that process as well. The bidding process unfortunately, and I would have to say this, I got to learn a little bit about Waste Pro, you have no commercial contracts within Miami-Dade County of any substance, am I correct? When you put out an RFP process for these types of services you also sort of establish firms that are minimum standards, I'd have to just say that if we ever did such a thing, or the City did in the future probably Waste Pro

would not meet the minimum qualifications for a track record in that regard by the fact that they have none in Miami-Dade County. We haven't looked at that, but I'm just trying to show that they have very limited commercial presence in Miami-Dade; I don't know enough about General Hauling, but again they are a small contractor. One of the issues that was raised here in this letter is that we should look to Miami Beach who has an owner regulated system where it's an open process of four different contractors, that means that they have four times the amount of trucks running on their streets, and when there is a problem who is going to go find out when there is a problem with garbage in the streets or bins overflowing, you're going to go track and find out which one of four companies is responsible for that, that's one of the philosophical reasons that this Commission, I believe, has gone down the path based upon its track record in the past, of having an exclusive franchise; you don't want to have to figure out who is responsible. In this particular City we know who is responsible if there is a solid waste problem within the downtown area, its Waste Management. In these other environments that have been suggested you have four times potentially the amount of trucks going on the streets and trying to find who is responsible for a problem. You are just chasing the wind in many respects and that burden falls back on the City. I can tell you about stories where communities have gone out to bid and companies have given, have undercut, and bought contracts to get their foot in the door, and I can tell you and I can give you examples of communities where after the vendor bought the contract to get in went out and analyzed and found every single "nook and cranny" that they could try to say, contact doesn't say this, we are going to negotiate the price upward, you have to pay for this, and they attack the contract, OK, that's what can happen as well. This is not just, you know, that competition is a healthy thing, you know you get what you pay for, and right now it appears that I sense that quality is important to this community, and a dozen services, you have a quality service today. I also believe we are paying more for it than we should be paying today, and that is why we have negotiated a deal that has concessions from \$1.4 to \$1.6 million in real dollars starting in two weeks to the City, and...

Vice Mayor Kerdyk: Mr. City Manager.

City Manager Salerno: Yes.

Vice Mayor Kerdyk: Thank you very much; you make a very compelling case. Could you wrap up your thoughts and maybe I could ask something of the consultants.

City Manager Salerno: Yes. I'd ask David, why don't you step up; he is our attorney and the consultants are working under him, as I said to your left that is David Gregory with R.W. Beck, and to the right of Mr. Dee is Bill Redman, but depending upon where the line of questioning is, Vice Mayor, we could pull up the right consultant.

Vice Mayor Kerdyk: I think mine is more of an overview; I need to feel some comfort in why as a City Commissioner, Vice Mayor that I would agree upon this contract as opposed to going out and bidding the project out totally. That's ultimately the decision we are making here, so please provide your guidance as far as that goes.

Mr. Dee: Yes sir. By way of background my name is David Dee, I'm here working throughout the State of Florida for local governments, I represent not only this community, but Broward, Palm Beach, Martin County, River County, Brevard County, lots of others around the state as well as many of the cities, I've worked on many procurements like this, and like you when put in this situation believing in competition, believing in the issuance of an RFP is the way that you would normally proceed. I want to make it clear that I've spent a career working across from Waste Management on cases, and I've been successful in taking literally hundreds of millions of dollars out of their pocket and keeping it in the pockets of my local government clients. So I'm not here as a lackey for Waste Management, I'm not here to blindly recommend something to you, but I have learned over the years that there are some cases where having an RFP is not necessarily the best choice. Now I confess, if you don't have an RFP, I can't guarantee you that you got the lowest possible cost. What I've learned from many Commissioners along the way is, they want a high level of service, they do not want their phone ringing at home from unhappy constituents as a result of problems with service. So that also colors my perspective. When I step back and look at the big picture, I don't know why this Commission or prior Commissions have selected Waste Management for 30-plus years, but I've got to believe they've received a high level of service for a price that they believe was acceptable. That seems to have been borne out in 2000; you went out with an RFP, you had tough competition to quote Mr. Melton, and yet at the end of the day the Commission concluded the best response provided to the City was that of Waste Management. In this case, as I said I worked on many contracts, many negotiations, and I never thought we would get remotely close to the concessions that we got in this instance. We got great concessions; you have a far better contract than what you have today; you got far better economic terms in the contract; you have far better enforcement mechanisms. Those all give me a great deal of comfort. At the end of the day when I consider the basic question you've asked, is it possible you could get a better price?- conceivably sure, and I agree there is no way to know without issuing an RFP. On the other hand, do I think it's going to be significantly better?- no sir I don't. Do I think you run the risk of a transition?- and Mr. Cabrera I certainly appreciate your comments about transitions, but I have clients who have had transitions that have gone very poorly and they have had lots of phone calls at home, thousands of phone calls to their staff everyday for months. Now hopefully that wouldn't happen here, but it is a very real risk, and the question is...

Commissioner Cabrera: But it's a risk in any relationship.

Mr. Dee: Absolutely.

Commissioner Cabrera: It's a risk in any relationship, so if we want to turn it into a larger disruption kind of argument, we can, but it's seriously in any kind of relationship when you make the change, the key is how you manage that change.

Mr. Dee: Yes, and I appreciate that. I quite frankly don't know anything about General Hauling other than what we've been able to pick up on the Internet; my assumption is that they are such a small local company they might not qualify to even do the project. The suggestion that you would have multiple haulers in this community is probably not a good idea for the reasons that the City Manager has identified. Waste Pro has done a good job in other communities around the state, but again they don't have a presence in Dade County. What that means to you is, if you go out with an RFP process, they have to go out and buy equipment, that's a new capital expense and it, puts them in a competitive disadvantage, that means their rates or the rates for your citizens are going to go up. I just went through an RFP process in Polk County earlier this year, the incumbent there was Republic, Waste Pro was one of the companies that came in to bid, and unfortunately what they found out there was because the incumbent already had the equipment and the services in place, and because they knew the community, the incumbent was able to offer prices that were about 30 percent lower than the prices that were offered by Waste Pro. Waste Pro was very competitive, but the incumbent was able to do much more because of their familiarity with the community and because of their prior investment in capital. Given that experience, I would expect the same thing to play out here if you had an RFP, they would come in, they would be competitive, they are a fine company, but they probably would not be able to compete with Waste Management.

Commissioner Cabrera: How do we really know that?- how do we know that? If I go back to my analogy that I used a few minutes ago about a client leaving me January 1, they really had no clue unless they went out and talked to someone else about the enhanced services that they were going to provide, they didn't, and so I was in a position where I did the best I could, but the free market enterprise took over and that was the end of that. The second part of my question is, which is really the most important part, what do you think caused Waste Management to give us such great concessions?

Mr. Dee: I'm sure there are a couple of things; one is, it's a tough economic environment, no question; second thing is, they've got a long standing history with this community that I'm sure they want to maintain; third is, in the economic downturn that having hauling contracts provides revenue stability for them, and this is a way of maintaining revenue for their company.

Commissioner Cabrera: Would you say the fourth one is, that they probably got a little bit scared that we might in fact go out to bid and perhaps they did not want that open marketplace kind of competition, because after all as good as they are, they realize that the downturn in the economy and the current climate of the marketplace could put them in a very unfavorable position, would you agree with that statement?

Dr. Dee: Absolutely, yes sir.

Commissioner Cabrera: See that's what I have a problem with. I'm a business person, I'm not a lawyer, I have a business, I run my own business, and when I look at our Charter, I don't have a Charter, I have some principles that I base my business on, when I look at our Charter and one of the underlying purposes of it is to foster effective broad base competition within the free enterprise system, I say wow! That's a pretty powerful commentary from our Constitution, and when I read, to provide for increase public confidence in the procedures followed in public procurement, that's another strong statement. You and I are meeting for the very first time in a public forum, and I'm very glad that we are, and I know that you have a fine firm, because I looked you up yesterday when I found out that you were the consultant through a third party, I didn't find out from anyone in the City. So I appreciate...excuse me

City Manager Salerno: You said you did not find out...

City Attorney Hernandez: I retained your services...I apologize for not advising.

Commissioner Cabrera: OK, but I didn't know; apology accepted. I found out when I received the agenda,

City Manager Salerno: That's correct.

Commissioner Cabrera: You know, I have to be very careful how I speak because the people that works for me are very quick to point out my mistakes. So I found out on Thursday evening as I sat down to enjoy three and-a-half hours of agenda reading, I found out who you were, so I stand corrected; Madam City Attorney I accept your apology. I'm going to be quiet because I'm going to save some of my comments, so I can later be corrected some more. So I'm going to stay quiet for now. Did you want to say something, one last comment? OK, thank you sir.

City Manager Salerno: If I could add one more thing to David's comments there, and I echo what David said today, is when you are in a bidding environment on a service, we don't buy the cheapest attorney in the world, why?- we sure as heck could get cheaper attorneys around, we don't buy that because we are buying a service, you know. The problem with...don't take any

offense Mr. Neal, but solid waste companies are notorious for gaming the system, OK, they game the system; they look for every advantage in a contract and try to drive a truck through it, that is not always, but by and large that's what they do, and in a procurement process other than this, you do not know whether the person that you would select, whether if it isn't Waste Management, I can tell you that they have....I get no complaints which is a – never had that situation where I haven't had a complaint; I can't recall a complaint from them, they get complaints, they take care of them before it reaches the Manager's office. That's the situation, why?- because they haven't had every nickel hasn't been squeezed out of the contract, but when you get a company in a competitive environment, they have to squeeze every single nickel out of the contract, you have to expect them to game that contract to find any leverage they can, and cut back on the service because they are in the business of making a profit, they are not non-profit corporations. I can't tell you the exact reasons why Waste Management agreed to all the concessions that I had, I think that I am a fairly good negotiator, but as David said that was negotiated. I'm just trying to tell you there are down sides and in this particular case where we had upwards to a million-six on the table that will start accruing to this City in two weeks, in two weeks, we will start getting the benefits of that. To delay any time is directly costing us at the rate of \$140,000 per month, and I've already said that process in my opinion, is going to take a year, so coming up with an alternative to what I think has been recommended by staff has a direct financial cost of upwards to \$1.6 million less in our coffers.

Vice Mayor Kerdyk: David, right?

Mr. Dee: Yes sir.

Vice Mayor Kerdyk: Just to reiterate one more time. This is...you think this contract is as good as we are going to get, basically is what you are telling me, as a consultant this contract is good as we are going to get.

Mr. Dee: Yes sir. I'm not the consultant, I'm your lawyer, the consultants I believe would agree that we've squeezed Waste as hard as we could and we got far more out of them than I ever expected, and I guess Mr. Cabrera if your offer still stands, you asked if I had anything else to add, and I've had plenty of other Commissions wrestling with the same issue, and I've had plenty of other Commissions....when I was young and full of spit and vinegar, I used to tell everybody, you've got to go for an RFP every time, and I've had plenty of Commissions make it clear to me, that no actually we're happy even though we've got Procurement Codes too, we're happy to waive them in this particular instance to maintain the relationship, and to maintain the high quality of service that we've got in the past, but that's your choice, that's a philosophical issue, but yes, the answer to your question is absolutely.

Vice Mayor Kerdyk: Does the consultant have anything further he'd like to add?

City Manager Salerno: David Gregory, come on up.

Mr. Gregory: I'm David Gregory with R.W. Beck, and I would just concur with what's been said by our team and the Manager is that we looked at this agreement and the prices that we were able to negotiate with Waste Management, and we also looked at some of the comparison prices of other communities that have exclusive agreements also, this is a better agreement than what other folks have. So I've also been in situations where as solid waste manager we've gone out to bid and the prices have come back higher than what was negotiated, gone out to bid and have prices come back lower than what was negotiated. So again, it's a philosophical decision, but from a solid waste management perspective, we got a good agreement here.

Vice Mayor Kerdyk: So you would feel comfortable if you didn't think it was a good contract standing up here and telling us it was not a good contract.

Mr. Gregory: I wouldn't stand up here and tell you it was a good contract, unless I thought it was a good contract.

Vice Mayor Kerdyk: I figured that.

Commissioner Cabrera: I believe him; I believe him.

Vice Mayor Kerdyk: No, I do too.

Commissioner Cabrera: It's a fine organization. I don't want you to think for a moment that I don't believe that you folks have done your job; I'm never going to take that away from you. You are a professional organization with lots of years of experience; I go back to what I said earlier, you know, this argument about time sensitive, well you can extend the current contract, if the current vendor will agree to it. This issue with regards to a better business deal, I believe it's a better business deal; I believe that the new cost reductions and the additional services that are being provided by the Waste Management organization are a fabulous, fabulous new gift, if you will, to the City of Coral Gables, but I also believe in the free marketplace, I also believe in fostering competition, it's something that I have to get up every morning and do, and I've never had a 37-year relationship with anyone, with the exception of my parents, and I got to tell you, I think it's a wonderful time, and I'm not saying they would be the winners of an RFP process, but I just think that everybody would sharpen their pencils, and again, I say this not as somebody that's trying to throw stones at the City Manager or your team, as someone who has direct

business experience for the last 27 years both in the corporate world and as a private business owner. So that's the only way I can base it on.

Mayor Slesnick: We have two more speakers before we close this, Russell Mackie had filed a card and take some comments; Russell Mackie representing Waste Pro, 4701 N.W. 35<sup>th</sup> Avenue, Miami.

Mr. Mackie: Thank you again, Russell Mackie, Regional Vice President for Waste Pro of Florida. I just wanted to clarify a couple of things before I got into the Waste Management offer. I would feel very comfortable putting both of your consultants that you hired on the spot and ask them right now if Waste Pro is qualified to provide the service? They've evaluated our company in numerous other cities around the State of Florida and found us more than qualified. As far as us coming in after Waste Management or coming in to cities, we've taken 38 municipalities from Waste Management; all 38 of those will say Waste Pro service is far superior to Waste Management's. We have letters of recommendations from every single one of those cities, so the comment that Waste Pro might not be qualified is far off base and misleading at best. With the deal – yes, it's a great deal; you negotiated a really good deal, but let me tell you about some of the other deals around the State of Florida. Waste Management had the City of Riviera Beach, didn't want it to go out to bid, tried to negotiate, they were charging \$16.50 a unit, it went out to bid, their price went down to \$10.10. We could go up to the City of Lauderhill where they provided service; their rates went down 38 percent. I'm at a loss, but I could give you city after city after city where the rates are coming in; the City of Miramar, the rate came in 45 percent under; Dania the prices went down; Miami Beach the prices went down; Village of Key Biscayne the prices went down; the only way to know is to go out to bid. It's not a year long process and I respectfully disagree with you on that. You know from "soup to nuts," you could be ready in four months here, and if it's a year-long process in many other cities Waste Management has agreed to a one year renewal while that process went out. They did it in the City of Riviera Beach; they are not going to walk away from the revenue, and I'm speaking for them now, but you're not up against the wall here, you are not backed into a corner, you have options here. My company is not the only other company that is going to show up to put a number in here. So I just thank you for the opportunity to put those comments on the record.

Mayor Slesnick: Thank you. And lastly, he didn't sign up to speak, but since he's now been instated as a lobbyist, Jason did you want to say anything?

Mr. Neal: Sure.

City Manager Salerno: Mayor just before hand. Thank you. I did not say they weren't a qualified company, I said they have no exclusive commercial contracts in Miami-Dade County, that's

what I said, and frankly Miami-Dade County is different than counties, and you don't have any notable commercial experience in Miami-Dade County, that's what I said. You sat with me in the room and you went through a variety of those items, and when I asked and pinned you down on those questions, I talked about how many of those were commercial contracts?- Well, no those were residential contracts. I asked you...we pinned those down, none of those were communities. I will tell you today, none of those communities are getting reimbursed \$425,000 for their administrative costs, they are not getting paid for education, they are not getting paid for street sweeping, they are not getting paid for trash receptacle litter collection, audit fees, and they don't have the yard trash either in those particular instances. That's what – in order to deal with that you've got to talk about those items. So those are most valued; that's a value of approximately...go ahead.

Mr. Mackie: I still respectfully disagree with you.

City Manager Salerno: I expect you to.

Mr. Mackie: That I have 5 commercial routes that I run in Dade County.

City Manager Salerno: I know, that's what you said, I agree; you have 5 trucks in this County, that's what I understand.

Mr. Mackie: We have 700 trucks in the State of Florida, 5 of them happen to be here, 30 years management experience....

Mayor Slesnick: Mr. Mackie thank you.

City Manager Salerno: The point was, he just said it, there are 5 trucks in the entire Miami-Dade County, that's all I was trying to say; in Miami-Dade County there is not a large presence, that's all.

Mayor Slesnick: Alright, OK. Mr. Neal.

Mr. Neal: Good morning, Jason Neal, Waste Management, 2125 N.W. 10<sup>th</sup> Court, Miami-Dade. First and foremost, I don't consider myself a lobbyist, I'm not hired by a third party, I don't represent anyone, I work directly for Waste Management, I've been involved with this community for way back to the time I still had hair on my head. I'm involved with Chamber activities, all kinds of non profits, I'm all over the place, I see everyone up here at different places throughout. So I'm not someone who shows up here on the eve of a contract expiring, hired to represent someone else. That being said, I should have filed the papers earlier, you know

what, I'll take the criticism, I have since corrected that, so that issue hopefully is a mute point. Aside from that, the Manager struck a very aggressive hard deal for us that we had to actually step back and take a look at and decide whether or not we could live with his demands, for lack of a better word. He beat us up, absolutely, I'll sit here and admit it, you know congratulations to him; I don't like being on the other side of the table from him. It's a great deal for the City, we decided we are willing to work off of a lower margin in the interest of being here a long time. We realize these are hard times; the City was in dire need of financial improvement, the timing issue that the Manager referenced I think it's extremely important. The issue is not whether we would agree to an extension, there is already a mechanism in place for that, the issue is the new terms as in the new contract favor the City to over a million and-a-half dollars a year, that's the issue. If this issue is not resolved today and it doesn't start January 1, that's at the City's expense. So that being said, I'll get off my soap box here, but just wanted to clarify those couple of issues. We are happy to be here; we hope to be here for another 10, 20, 30, 40 years, and that's my two cents.

Mayor Slesnick: Thank you very much Mr. Neal.

Mr. Neal: Thank you.

Mayor Slesnick: Mr. Lukis we need to move on – OK, one point.

Mr. Lukis: I know that the City Manager is not saying to you that no one is qualified other than Waste Management to provide these services; we know it's a good deal, but you don't really know if it's the best deal. So I proffer a recommendation with all due respect, you could give them this contract for a year, on these terms and you could still go out for competition to determine what the market dictates. Thank you.

Vice Mayor Kerdyk: I like that suggestion, would you do the year with...

Mr. Neal: I don't think this is the forum to negotiate on the dais here...

Commissioner Cabrera: But we do it all the time, we do it all the time. You know what we do? - we make sausage up here, we do; with the Biltmore Hotel; we get put in that kind of position unfortunately. We really had no choice but to give you the approval today because it is what it is, our hands are tied. I can tell you one thing Mr. Melton, your client will never do business in this City again, while the existing City administration exist, I mean, it just is what it is, it's unfortunate but it's true, it's a shame.

Mr. Neal: The arrangement that the Manager had made was based on a long term arrangement, there are a number of things that only make sense on a longer time period. So there is a mechanism in place already for temporary extensions. That's our position on that; and I would like to point out price was mentioned here a number of times. It's not all about price; you are always going to find someone cheaper to do whatever you want. What a lot of people don't realize is a lot of things that happen in this City in this contract that we don't get paid for. You have a lot of shared containers, we have pressure washes that run up and down the alleys six-seven days a week, two or three guys at a time, you know, there are no fees for that. There are a whole lot of things, unusual circumstances here and you can't just put a label on it; and just to correct the record, there was a reference something about the School Board and us reducing our previous fees 50 percent. The fact of the matter is that agreement was a simple agreement, not burdened with many of these other issues that take place in Coral Gables, and it was taken from a competitor, they are not our previous rates, and I don't even know if the 50 percent was accurate. So just clarifying the record on that, but we stand on the record and....

Mayor Slesnick: So you won that contract from a competitor?

Mr. Neal: Yes we did. Yes we did; and I can't speak for other contracts out of Miami-Dade County, my focus is here in Coral Gables; Waste Management is a large company, we work all over North America, but however, this is where I work, and I speak only to Coral Gables and our commitment to Coral Gables. Thank you.

Mayor Slesnick: Thank you. OK. We have a motion.

Commissioner Withers: I'll move approval for the item.

Commissioner Anderson: I'll second.

Mayor Slesnick: It's been moved by Mr. Withers seconded by Ms. Anderson. Any closing comments? Mr. Clerk.

**Commissioner Withers: Yes**

**Commissioner Anderson: Yes**

**Commissioner Cabrera: No**

**Vice Mayor Kerdyk: Yes**

**Mayor Slesnick: No**

**(Vote: 3-2)**

Mayor Slesnick: Passes 3-2. Move forward.

[End: 11:38:04 a.m.]

[Note for the Record: Commission returned to Agenda Item C-9 because the vote requires a four-fifths vote].

Mayor Slesnick: We need to go back to the last vote. Does it require a four-fifths vote?

City Manager Salerno: Yes Mayor.

Mayor Slesnick: OK. The last vote requires a four-fifths vote because it's a...

City Attorney Hernandez: Mr. Mayor, Commissioners pursuant to the provisions of our Procurement Code I need a four-fifths vote of the City Commission to waive the provisions of the Procurement Code in order to award this agreement. So I'm asking the City Commission to once again reconsider this matter so that we have finality to this issue.

Mayor Slesnick: I need a motion from one of the people who voted in the majority to move to reconsider.

Commissioner Anderson: I'll move to reconsider.

Mayor Slesnick: Is there a second?

Commissioner Withers: I will second that.

Mayor Slesnick: All those in favor reconsidering please say aye.

Aye.

Mayor Slesnick: Opposed. OK. I now ask for a motion on the main motion again. We are in reconsideration, so if someone will move the main motion of C-9, the contact as proposed.

Commissioner Withers: I'll move C-9 as proposed Mr. Mayor.

Commissioner Anderson: And I'll second it.

Mayor Slesnick: OK. It's been moved by Mr. Withers seconded by Mr. Anderson.

Mr. Clerk

**Commissioner Cabrera: No**

**Vice Mayor Kerdyk: Yes**

**Commissioner Withers: Yes**

**Commissioner Anderson: Yes**

**Mayor Slesnick: In an effort to try to continue the efforts of this Commission as a body to try to work together, I will vote yes.**

**(Vote: 4-1)**

City Manager Salerno: Thank you Mayor. In summary this represents a 27 percent reduction in benefits to the residents and taxpayers of this City across the board. Thank you.

[End: 11:40:55 a.m.]