

City of Coral Gables City Commission Meeting
Agenda Item H-1, H-2 and H-3
February 26, 2008
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Slesnick 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, David Brown
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
City Clerk Staff, Billy Urquia
Alberto Delgado, Public Works Director

H-1 [Start: 10:09:21]

Resolution accepting the bid of Miami Skyline Construction Corp., in the sum of \$109,600.00, as the lowest and most responsive bid for the replacement of the fence at Salvadore Tennis Center, Coral Gables, Florida.

H-2

Resolution accepting the bid of Welch Tennis Courts, Inc. in the sum of \$132,499.00, as being the lowest and most responsive bid for the light fixture replacement at Salvadore Tennis Center, Coral Gables, Florida.

H-3

Resolution accepting the bid of Miami Skyline Construction Corp., in the sum of \$300,800, as the lowest and most responsive bid for the renovation of eight (8) clay courts and conversion of five (5) existing hard courts to clay at Salvadore Tennis Center, Coral Gables, Florida.

City Manager Brown: Mr. Delgado.

Commissioner Cabrera: I move to approve.

Mayor Slesnick: Been moved by Mr. Cabrera; I have a second.

Commissioner Withers: Second.

Mayor Slesnick: Second by Mr. Withers.

Mr. Delgado: This project has a long history because more than a year ago we awarded this project as a design build project, and the City was not able to negotiate with the two, actually the two vendors for a price under the proposed budget, which is seven hundred thousand dollars (\$700,000); five hundred thousand dollars (\$500,000) is coming from the General Obligation Bond and two hundred thousand dollars (\$200,000) is coming from the Florida Recreation Development Assistance Program Funding, but after deciding not to go with the process, we decided to bid it out and now kind of divided the project in three sections: one is fencing; the other one is lighting; and the other one is actually tennis courts resurfacing; and we have been able to receive bids from different general contractors, and now the project is within budget, the total amount of this project is five hundred and forty-two thousand eight hundred. So we are in that range, and we still have some electrical work that have to be done. So we expect to be under six hundred thousand dollars (\$600,000) in the entire project, which is one hundred thousand (\$100,000) less than the money than we have available for that, so that open that for other things that we can do in that particular park.

Vice Mayor Kerdyk: Can I stop you there, can you please do the bathrooms outside near Salvador Park playhouse...

Mr. Delgado: They will do the ADA....[inaudible]....

Vice Mayor Kerdyk: You are going to do those for sure.

Mr. Delgado: ...[inaudible]....There is funding from the A.D.A....for that.

Vice Mayor Kerdyk: You know the ones out by where Salvadore ends, the bay area there, they are terrible.

Commissioner Cabrera: The restroom – at Salvadore and Granada.

Mr. Delgado: Granada we are done already; Granada we already....

Commissioner Cabrera: That's good because I was there on Sunday and it was really bad.

Mr. Delgado: Granada is a major project it's going to done completely with state of the art bathrooms, ADA compliance....

Commissioner Cabrera: OK – great.

Mr. Delgado: The One Solano Park also we are addressing the bathrooms.

Vice Mayor Kerdyk: The ones outside near the playground.

Mr. Delgado: Exactly, yes, the ones outside, exactly.

Vice Mayor Kerdyk: Very good.

Mr. Delgado: So we are glad to tell you that right now, if we proceed with this contractor we would be able to save money from the budget, you know, and really we would be within budget; things that we couldn't accomplish...design, built process before, the estimates were in the nine hundred thousand range.

Vice Mayor Kerdyk: And assuming we pass this today, how long a time period until we see the work being done and completed?

Mr. Delgado: The work is done, supposed to be done in four (4) months; it's a four (4) month project.

City Manager Brown: Mr. Delgado: What's the start-up time?

Mr. Delgado: The start-up time is within a month; I would say that we can start in a month once we sign all the contract work and everything, so hopefully we would be breaking ground in April.

Vice Mayor Kerdyk: April.

Mr. Delgado: I would say, and then about four months to complete.

Vice Mayor Kerdyk: You are making all the tennis courts clay, you said right?

Mr. Delgado: Yes, of course they are going to be clay, and they are going to be completely, you know, refurbished entirely, so the tennis courts are going to be brand new.

Commissioner Cabrera: I'm curious, as I look at H-1, I can't help then, but move over to H-2, and then look at H-3, and on two out of the three of these resolutions Miami Skyline Construction Corporation is the lowest bidder. But then I notice that on the middle proposal, which is the pro shop building renovations they are the highest bidder, but only by four thousand dollars (\$4,000).

Mr. Delgado: Yes, that's right.

Commissioner Cabrera: So, are there any benefits to working with one contractor on all three of these?- versus working with one contractor on two, and then assigning the third project to a different contractor that was only lower by less than four thousand dollars (\$4,000).

Mr. Delgado: The problem that we had was they were the low bidder, so it's difficult to not justify, even if its just four thousand dollars (\$4,000).

City Manager Brown: With an RFP.

Commissioner Cabrera: I hear you, but listen to me, when I participate in an RFP, which I have in the insurance world, what happens is that if you have multiple products or services that you might be bidding on, you might in fact not get the lowest bid on everyone of them, but the client then sees the opportunity to then negotiate based upon the fact that you have, in this case two out

of three where the lowest bidder is Miami Skyline, by the way I don't insure Miami Skyline; I will not be getting any bribes on this one (in jest - laughter); but the point is Miami Skyline comes in at lower than everybody else on two out of three.

Commissioner Withers: Obviously Miami Skyline is going to have people on the job site already...

Commissioner Cabrera: All the time.

Mr. Delgado: And we understand that gap, but this is another point, lighting is a complete separate item; so lighting is only related to the lighting, so they are not going to be actually mixing up with the fencing and the tennis courts. So the tennis courts and the fencing are together; lighting is something that....

Commissioner Cabrera: But Mr. Delgado, Commissioner Withers is absolutely right, I'm sure that these contractors are going to come in and put up some sort of trailer, they are going to have equipment, they are going to have personnel, doesn't it make more sense from a common sense standpoint to have one contractor versus two contractors, when the second contractor that won the bid was just slightly below; I don't know. I'm not going to fall on the sword.

Mr. Delgado: I agree with that, and this is the way – the problem is the low bidder process, you know, we cannot requalify.

Commissioner Withers: Well let's ask Liz, can we go out and give Miami Skyline the bid for the lighting with the understanding that they are going to have to drop their price ten thousand dollars, because they are already on the job site? I just made up that number; I'm not saying that's the number.

City Attorney Hernandez: You have the authority to waive specific sections of the Procurement Code by a four-fifth vote and direct the Manager to enter into negotiations and bring back a recommendation to you; that's your authority under the Code.

Commissioner Cabrera: The only reason I brought this up was when I looked at the numbers, Miami Skyline was substantially lower on H-1, they were substantially lower on H-3, and they were just slightly higher on H-2.

City Manager Brown: Why don't we do this?- why doesn't the Commission direct me with the four-fifth's vote to meet with Skyline, and if they'll drop their bid to below, then we'll move forward; if they won't drop their bid, then we'll approve as stated?

Commissioner Cabrera: I mean its three grand...

Commissioner Withers: I understand that.

City Manager Brown: They shall do that.

Mayor Slesnick: You know what, I would rather if we decide that its good business to do Skyline for all three, I'd rather waive the Code and pay them the extra four thousand dollars; I think it kind of smells to kind of go out there and say, hey can you drop your bid four thousand. I think if we have a good business reason and a good reason to make a decision, we have the ability by four-fifth's votes to waive the low bid requirement, then we should go there, because I was just pointing out to Ralph, they could have raised their price on H-3 twenty thousand dollars and still been the low bidder there, and made up more than they would loose on the four and the same is true – look at this on H-1 they could raise it fifty thousand dollars and still be the low bidder.

Commissioner Cabrera: And Don, what I want the Commission to understand is, I'm not bringing this up because I have any bias to this company, I don't know who they are, but the point that I'm trying to make is that in my own personal dealing with governments, this is a common practice that a government will go back to a bidder whom they think can do the job, and may not be the lowest bidder in all areas and negotiate with that bidder. So, this is not an oddity, this is not something that is not done, it's done everyday in government, and I would say in good government practices.

Vice Mayor Kerdyk: There is one issue that Mr. Delgado needs to respond to that deals with something different than just the amount of money that we are going to pay; it's the responsiveness and the ability of that contractor to put up lights...

Commissioner Cabrera: If they can't do it, if they can't do it, I agree with you.

Vice Mayor Kerdyk: Well, not can they do it, but does he feel comfortable with them doing it, is also another question that I think – does he feel as comfortable with them doing as he does the other bidder of Welch Tennis Courts, because for four thousand dollars I don't mind going one way or another, but I certainly want the product to be as good as possible, to me that's the number one situation, and I see the difference between the courts and the lights as two different components, totally.

Mr. Delgado: Both contractors are capable of doing it.

Vice Mayor Kerdyk: So you have no problem.

Mr. Delgado: So there is no doubt about the quality of work regarding any of the general contractors, both general contractors – actually both general contractors have been checked....

Vice Mayor Kerdyk: And you are happy with the both of them?

Mr. Delgado: And we are happy; the general contractors are no problem, you know, with the ability to perform the work. It's a decision that you need to make....

Commissioner Cabrera: Look, whatever you want to do; I don't want to fall on the sword on this thing, but....

Mayor Slesnick: But you brought up a good point, but let me ask you this, let's talk about the two contractors; did we do business with any of these people already?

Mr. Delgado: We checked references....

Mayor Slesnick: No, no, I'm just asking do we have a business relationship with either of these two companies?

Mr. Delgado: OK, we have no business with Gavarrete, Inc., this is the one that we...

Mayor Slesnick: Skyline or Welsh?

Mr. Delgado: No, we haven't done business with them as far as the City, but we have checked references, you know.

Mayor Slesnick: That wasn't my point Alberto; my point was if we had an ongoing business relationship, I don't want to interfere with some ongoing business that's been productive for the City; if we have no business relationship, then I think Commissioner Cabrera's point is even better taken. Let me ask if we can accept a motion on H-1, do we have that?

City Manager Brown: You do, you have Commissioner Cabrera and Commission Withers.

Mayor Slesnick: Any other discussion on H-1? Please Mr. Clerk call the roll.

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

[Start: 10:20:08 a.m.]

Mayor Slesnick: On H-3, if I could have a motion on H-3.

Vice Mayor Kerdyk: Moved.

Mayor Slesnick: It's been moved by Mr. Kerdyk.

Commissioner Cabrera: Second.

Mayor Slesnick: Seconded by Mr. Cabrera. Mr. Clerk.

Commissioner Withers: Yes

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Mayor Slesnick: Yes
(Vote: 5-0)

Mayor Slesnick: It's my understanding from the feeling of the discussion that we are going to send H-2 back to the Manager for further thought, consideration and to bring back his recommendation, whether it's to stick with Welch or to go to Skyline. Is that the feeling of the Commission?

Vice Mayor Kerdyk: Yes.

Mayor Slesnick: We are not going to do anything on H-2, is that the feeling?

Commissioner Anderson: Do we need to take the vote on the four-fifth to override the Procurement Code?

Mayor Slesnick: Well, no, if we are not going to take any action yet.

Commissioner Anderson: To give the Manager the ability.

Commissioner Cabrera: What do you want to do?

Commissioner Anderson: I don't have any dog in this fight.

Mayor Slesnick: You heard the discussion David, what are you looking for, you have heard the discussion.

City Manager Brown: You send it back to me for four thousand dollars, we can – I thought the Commission right now could right now approve Skyline, and we'll go forward because I think you ought to give us the authority to go forward so we don't have to wait another two to four weeks to get this done.

Mayor Slesnick: Based on the discussion of the Commission, it is apparent that the Commission's desire maybe in fact to waive the requirement of the Procurement Code to go with the low bidder, and to take the second – make sure – to take the third highest bid, lowest bid which is Miami Skyline Construction, which is a difference of about four thousand dollars (\$4,000), based on the fact that they are being awarded the bids for the other two components of the project, and as Commissioner Cabrera points out, it makes good business sense to have the same contractor on the site doing all three components. So I'd like a motion to award the contract on H-2 to Miami Skyline Construction Corporation. Is there a motion?

Commissioner Withers: I'll move it.

Vice Mayor Kerdyk: I'll second.

Mayor Slesnick: It's been moved by Mr. Withers seconded by Mr. Kerdyk. This will require a four-fifth vote of the Commission in order to – Madam City Attorney just to make sure that will be sufficient, we don't need a separate motion, do we to waive the Code, we can do it by....

City Attorney Hernandez: You need to waive the provision of the Code to the extent that they require award to the most the lowest, most responsive and responsible bidder, and for the reasons announced award it to the second low bidder.

City Manager Brown: Third low.

City Attorney Hernandez: Third.

Mayor Slesnick: Mr. Withers and Mr. Kerdyk having heard the City Attorney...

Commissioner Withers: That's my motion.

Mayor Slesnick: That's your motion. OK, we've all heard that, the mover and the seconder adopt the City Attorney's language in their motion. Any further discussion?

Mr. Clerk.

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Commissioner Withers: Don, let me just comment; I don't know, because we should look at our... because Ralph has a very good point, I don't know if its even talked about in our Procurement Code, but its very common in industry that if you are bidding on a project, you have the opportunity to bid on the project as a whole, or you have the opportunity to bid on components of the project, and the reason that's done is because people can maybe deliver two components of a project at a lower price if they know they are doing them together. This might have been an example that we send an RFP out for all three components....

Mr. Delgado: The purpose was to get the best price so that people specializing in each area would be the best price.....[inaudible].

Commissioner Withers: And I agree, but what I'm saying maybe the RFP could have had all three components as one giving the people the opportunity to bid on two of the components. Sometimes I can bid a project if I know I'm doing two components of the project because I'm already on site, because you are already mobilized to do that, the cost to do the individual components...I think that's what Ralph is saying.

Mr. Delgado: And that's a good point, and unusually we follow that, but in this plan in particular because of the long history that we had, we tried to consolidate everything and we couldn't get a good price when we were consolidating all the places, we decided to completely split it.

Commissioner Withers: But do we have that in our Procurement Code where we can do that?

City Attorney Hernandez: Yes.

Mr. Delgado: We can have as....we can have alternate – we can say you can bid it as one, two, or three...

City Manager Brown: That's included.

Commissioner Withers: So, why don't we do that here then?

Mr. Delgado: It's because in that one we wanted to make sure that everyone specializing in this area was going....

Commissioner Withers: We still could have done that.

Mr. Delgado: We wanted to make sure of that happening, you know, in that way when you advertise that....we call for electrical, they go for electrical, and they know this is electrical.

Commissioner Withers: I would bet you, I would bet you, that if all three of these components were sent out on RFP, and Miami Skyline bid on all three components, I bet you...

Mr. Delgado: Well that's a company that...[inaudible]...looked at the others, and you say that they are not the same bidders in all, you know, up to bidding one, and that person probably wouldn't be in the other two because....

Commissioner Withers: But that's OK, that's the whole point of this Alberto, you can bid on the component of the job that you want to do, we can make the decision. I'll bet you would have found Miami Skyline doing all three at the same time together would have been less than what they bid on individually.

Commissioner Cabrera: Absolutely. Then you have one company who is then held accountable for all the jobs. Here's what we are talking about, if we are just simply doing the math, if you take the top bidders on each one, the total number is five forty-two eighty nine, excuse me, five forty-two eight ninety nine, or five hundred and forty three thousand; if you take Miami Skyline on two out of the three and give them the third contract they are at five forty seven two hundred, this is a difference of forty-three hundred dollars, OK, to get a single contractor, a single trailer, a single point of contact, a single point of accountability....

Commissioner Withers: One coordination.

Mr. Delgado: But we were fortunate to get a company that could do everything, that's what I want to bring you, before we were not as fortunate...

Commissioner Withers: Right, I remember.

Mr. Delgado:that company, we were fortunate to get a company that was able and capable of doing the three different, because they are completely three different projects that have to specialize, but we were fortunate to get a company....

Commissioner Cabrera: I commend Procurement on the fact that we had as many as three bids on each and every one of these projects, so I think this is a step in the right direction.

Mayor Slesnick: Was Parks and Recreation part of the consideration?

Mr. Delgado: Yes, they are part of this and we are going to be talking to them as far as...

Mayor Slesnick: And they are comfortable with Miami Skyline.

Mr. Delgado: Well, we checked the reference of that company, Miami Skyline, and they check the company. We are going to be looking into the sub-contractors also to make sure that they use, for example, in this case electrical, and the tennis courts to see that they use the tennis sub-contractors.

Commissioner Withers: You know Alberto, I know it delays the project, but maybe we want to when we have multiple components like this, do an ITN, an "intent to negotiate", and bring folks in, I don't know, I'm just thinking of a way because Ralph hit on something, I think, if we are doing docks, if we are doing....

Mr. Delgado: Actually the Procurement Code says that you need to award the project and then you need to sit down with whatever is awarded to negotiate, we can do that, we can award and we can negotiate.

Commissioner Withers: You can send out an "intent to negotiate" that gives you the authority, I think you can, can you Liz?

City Attorney Hernandez: Yes.

Commissioner Cabrera: That's what I've always experienced in my business, you know, you are always down to one or two finalists, even when you are the finalist, I've gone to negotiations and all of a sudden the government I'm dealing with says, well you know what, if you don't lower your numbers, we are going to bring the second rank carrier and they are going to then negotiate along side of you, and then they put you in a terrible position. So we obviously avoided those kinds of competitive situations, because we didn't want to bring anyone back in and loose the bid.

Mr. Delgado: But in this particular project we went to that route first a year ago, we got the two design bids, you know. We exhausted all our efforts with the first one; we have to go to the second one, we exhausted everything, and still we couldn't get that project below the seven hundred thousand dollars budget, the lowest was nine hundred thousand. That's why we went ahead and decided to go this route.

Mayor Slesnick: Let's end this though on a positive note because Alberto, we compliment you and congratulate you and Procurement, and Parks to having suffered through all of what you just told us to finally bring this in under budget.

Commissioner Cabrera: Yes, good job, well done.

[End:10:29:10 a.m.]