

# **Special City Commission Meeting**

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive October 22, 2008

Mayor Matti Herrera Bower Vice-Mayor Richard L. Steinberg Commissioner Saul Gross Commissioner Jerry Libbin Commissioner Edward L. Tobin Commissioner Deede Weithorn Commissioner Jonah Wolfson

City Manager Jorge M. Gonzalez City Attorney Jose Smith City Clerk Robert E. Parcher

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#### ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

R2A Award Contract, Central Florida Equipment Rentals, Inc., ITB 43-07/08

R7A 2:00 p.m. 2<sup>nd</sup> Rdq. Approve Development Agreement w/ Berkowitz Development Group, Inc.

R9A Discuss Sunset Islands 1 & 2 Flooding, Drainage, Scope of Work, & RFQ. A

Meeting called to order at 2:22:46 p.m.

### 2:25:06 p.m.

### Addendum:

Commissioner Tobin stated that he added item R9A as an emergency because it affects the health, safety and welfare of the residents of the Sunset Islands I and II and it deals with a very minor issue; the Request for Qualifications (RFQ) language. He stated that he knows someone who just saved the City almost a million dollars on a project, and believes that that person can save another million dollars, but the Request for Qualifications (RFQ) needs to be phrased in a certain way.

Motion made by Commissioner Tobin to add Item R9A as an emergency item to the agenda; seconded by Commissioner Gross; Voice vote: 7-0.

### **REGULAR AGENDA**

## 2:25:30 p.m.

R2A Request For Approval To Award A Contract To Central Florida Equipment Rentals, Inc., Pursuant To Invitation To Bid 43-07/08, For Infrastructure Improvements On Lenox Avenue And 6<sup>th</sup> Street, Based On A Total Lump Sum Bid Of \$837,368; With Previously Appropriated Funding Available From RDA South Pointe Fund 379, In The Amount Of \$628,026, Previously Appropriated In The Fiscal Year 2001-2002 Capital Budget; And From Capital Reserve Fund 304, In The Amount Of \$209,342, Previously Appropriated In The Fiscal Year 2007-2008 Capital Budget; As Part Of The Flamingo Neighborhood – Bid Pack A Project.

(Procurement)

**ACTION:** Request authorized. Motion made by Commissioner Gross; seconded by Commissioner Weithorn; Voice vote: 7-0. Jorge Chartrand to handle.

Jorge Gonzalez, City Manager, introduced the item and stated that this item has been evaluated quite extensively by staff, by the City's outside experts, and by citizen experts who have all suggested that the price was high. No one expected the bid to come in at \$837,368 but that is terrific and the City should take advantage of the market conditions.

Mayor Bower stated that this is very good and complimented Commissioner Tobin and the citizen who were involved in saving the City approximately \$800,000.

Commissioner Tobin asked about change orders. He added that the entire City Commission should get the credit on this, including Bill Goldsmith, Fred Karlton, and the Capital Improvement Projects Oversight Committee (CIPOC). He asked Tim Hemstreet, Assistant City Manager, if this project has been analyzed; is he anticipating any change orders and is he confident that if there are any change orders they will not be in the hundreds of thousands of dollars.

Tim Hemstreet, Assistant City Manager, responded that based on the understanding of the contractor's bid and discussions with the contractor through the process, it is not foreseen that any large change orders will be required. He explained that there may be some change orders for incidental work or because of rain or weather events that may cause additional time.

Discussion continued.

Commissioner Libbin congratulated Commissioner Tobin, the Capital Improvement Projects Oversight Committee (CIPOC), Commissioner Weithorn, and Bill Goldsmith. He stated that supporting the idea to revamp the CIP Committee worked. He is glad this was done because it proved to be very beneficial.

Commissioner Weithorn stated, for the record, that there are four current members and one former member of the Capital Improvement Projects Oversight Committee (CIPOC) present at this meeting. She stated that looking at the bids, going through the details, and exploring the market was done by the Committee. This was able to be done because they have the expertise to do it and she wanted to recognize them.

Discussion continued.

Mayor Bower requested the City Attorney to follow this bidding of construction projects very carefully and added that she does not want any bid protests filed because of a change in the bidding process. The City must not favor one group of bidders over another group of bidders.

Discussion continued.

Commissioner Gross stated that this situation is different than the average situation when work is being done in the neighborhoods because the neighborhood projects are bid out. What is different about this situation is the developer was doing an adjacent project and offered to do the public works improvements in the streets that are adjacent to his project. For coordination purposes it seemed appealing to do that and the idea of negotiating a price with the developer was explored and supported by the City's JOC contractor. He stated that what was learned is that it is best to go out for bids. He stated that the JOC contractor analysis is a big problem because he relies on the JOC contractor, who is also serving as a consultant to the City, and is surprised that the JOC contractor was so far off with their estimate. He suggested, as a procedural issue, to re-educate the JOC contractor based on the current state of the economy and what is happening with the construction market. Tim Hemstreet to handle.

Discussion continued.

Commissioner Gross responding to concerns expressed by Commissioners Libbin and Tobin, stated that there may be some coordination issues with the developer and suggested that in order to avoid change orders that a meeting be held with Central Florida Equipment Rentals and the developer to discuss issues and write something into the contract to make sure the projects are coordinated. **Tim Hemstreet to handle.** 

Gus Lopez, Procurement Director, explained the JOC agreement. He added that one of the recommendations of the CIPOC subcommittee is to issue a new solicitation because the unit price book has not been updated in two (2) years.

Discussion continued.

William Goldsmith spoke.

Vice-Mayor Steinberg thanked the Capital Improvement Projects Oversight Committee (CIPOC) and Commissioner Weithorn for having the foresight to recognize the need to change the direction of the G. O. Bond Oversight Committee to the Capital Improvement Projects Oversight Committee (CIPOC).

Commissioner Weithorn stated that nine (9) bids were received and all were below the original dollar cost. Going out for bid is exactly what the City should be doing. She added that JOC is a methodology used for smaller jobs; it does not take into account economizes-of-scale. She stated that she appreciates the confidence this Commission has in the CIPOC.

Fred Karlton spoke.

Handout or Reference Materials:

Email from Maria Estevez dated October 15, 2008 to Linda K. Stolfo, RE: ITB 43-07/08.

#### R7 – Resolutions

### 3:06:35 p.m.

R7A A Resolution Approving On Second Reading, In Accordance With Chapter 163, Florida Statutes (The Florida Local Government Development Agreement Act), A Development Agreement Between The City Of Miami Beach And Berkowitz Development Group, Inc., For The Construction Of Public Right-Of-Way Infrastructure Improvements, Including Curb, Gutter, Sidewalks And Drainage, On Lenox Avenue And On Sixth Street. 2:00 p.m. Second Reading Public Hearing

(Community & Economic Development) (First Reading September 10, 2008) (Open & Continued From October 7, 2008)

**ACTION:** Title of the resolution read into the record. Public Hearing held. Motion made by Commissioner Libbin to reject the amendment to the Development Agreement; seconded by Commissioner Tobin; Voice vote: 7-0. Kevin Crowder to handle.

William Goldsmith stated that he was happy the City saved money on the 5<sup>th</sup> and Alton project; however, he stated that the project has tree grates for \$48,300. He also suggested exploring the possibility of closing 6<sup>th</sup> Street as an additional cost savings. He added that there are possible deductible alternative bid items such as substituting four inch sidewalk for a six inch sidewalk, which is not a good idea, and substituting milling and resurfacing for complete road construction is a bad idea.

Discussion continued.

Commissioner Gross stated that Public Works should look at the tree grates and if the ones on Lincoln Road are the best then maybe that is what should be done. He requested staff to decide this. The other issue is that if 6<sup>th</sup> Street is closed, how will the people have access to the church. He is curious if the solution recommended by giving access from a different location is feasible. **Tim Hemstreet to handle.** 

Discussion continued.

Motion made by Commissioner Libbin to reject the amendment to the Development Agreement; seconded by Commissioner Tobin; Voice vote: 7-0.

Jorge Gonzalez, City Manager, explained that the City still owes the developer about \$60,000 or \$70,000 for the engineering cost. There will be an item on this at a subsequent City Commission meeting.

### R9 - NEW BUSINESS AND COMMISSION REQUESTS

2:23:15 p.m. 3:19:10 p.m.

Addendum:

R9A Discuss Sunset Island 1 & 2 Flooding, Drainage, Scope of Work, and Request For Qualifications. (Requested by Commissioner Tobin)

### **ACTION: Discussion held.**

Commissioner Tobin asked Mr. Goldsmith to explain the issue regarding the work on Sunset Island I and II.

Mr. Goldsmith explained the issue.

Commissioner Gross stated that the Commission has his email listing the 17 items of things that could be changed on the Request for Qualifications (RFQ), and asked if Mr. Goldsmith could meet with staff to go over the list. He felt that Mr. Goldsmith's comments were good and all he wants to accomplish is to have the 17 issues incorporated into the Request for Qualifications (RFQ).

Mayor Bower stated that she was at the Capital Improvements Projects Oversight Committee meeting when Mr. Goldsmith spoke about the RFQ, which was not on the agenda, but allowed him two minutes to speak. She expressed her concern that Mr. Goldsmith is trying to incorporate items into the RFQ and Mr. Goldsmith stated that he knows someone who is going to respond to the RFQ.

Discussion continued.

Vice-Mayor Steinberg and Commissioner Wolfson stated that historically there have been concerns expressed with RFP's and RFQ's drafted in a way that may limit the number of bidders that can respond. He stated that the Mayor's concern is with people getting involved in the RFP and RFQ process that could lead to steering the job to a specific bidder.

Jorge Gonzalez, City Manager, stated that he has requested staff to look at the email comments and the RFQ to see if the email comments are in the RFQ or are in but stated in a different manner. He explained that the key is that a lot of the email comments are of a technical nature that would be given to the contractor for pricing and not necessarily to the engineer for design.

Commissioner Tobin asked that Mr. Goldsmith be able to present. He stated that Mr. Goldsmith is his expert and he is starting to check prices before money is spent.

Discussion continued.

Mr. Goldsmith stated that he has not looked at the RFQ draft; however, City's engineer CH2M Hill and his consultant met on June 24 in the CIP office and everyone agreed on a work scope. CH2M Hill agreed that valley gutters are needed, and upgrade the existing outfalls were possible.

Tim Hemstreet, Assistant City Manager, stated that at different times Mr. Goldsmith and his engineers have stated that valley gutters should not be used type F curbs.

Commissioner Gross stated that perhaps Mr. Goldsmith is not as familiar with the City's RFQ process. The agreement is to go out with the RFQ to select an engineer with a maximum price; after the engineer is hired he will design the system to the specifications. He is trying to put the specifications in

before the engineer is selected and the price is given. He added that there is enough time after the engineer is selected for Mr. Goldsmith to provide his comments to the engineer.

Tim Hemstreet, Assistant City Manager, stated that part of the qualification process is to evaluate how the design engineer is proposing the solution.

Discussion continued.

Jorge Gonzalez, City Manager, explained that the Request for Qualifications (RFQ) is the right decision. He stated that the conflict is how descriptive it should be. He is advising to let the engineer do the engineering; staff can provide the selected engineer with all the design material that Mr. Goldsmith and CH2M Hill have done. The RFQ includes a maximum price.

Discussion continued.

Commissioner Gross summarized that Mr. Goldsmith's package is more appropriate to be used in negotiating a contract with the engineer than selecting the engineer.

Commissioner Weithorn cautioned staff because there are some recommendations that are very important and are general in nature. He stated that the essence of what Mr. Goldsmith's idea should be included in the RFQ.

Tim Hemstreet, Assistant City Manager, stated that the essence of Mr. Goldsmith's ideas are in the RFQ.

#### Handout or Reference Materials:

- E-mail from Stacy Kilroy to the City Manager and staff dated Tuesday, October 21, 2008 at 11:52 p.m. RE: Request for design/build Contract and Claim of "Bad faith dealings or gross negligence by CIP" Evidence of agreed upon work scope for RFQ Capital improvements project at Sunset Island I and II CIP W. Goldsmith notes as of October 21, 2008 @ 7:00 p.m.
- 2. E=mail from Bill Roy to Carol Dan, Carol Towle, Ellen Peterson, Gladys Gelb, Ira Elegant, Jeffrey Newman, Jimmy Resnick, Joe DiBella, Judy Hyde, Mark Sanders, Phillip (Flip) Walker, Robert Hertzberg and William Roy dated October 22, 2008 at 12:25 p.m.

Meeting adjourned at 3:46:05 p.m.

**End of Regular Agenda**