



City of Miami Springs, Florida

The Miami Springs City Council held a **SPECIAL MEETING** in the Council Chambers at City Hall on Tuesday, June 2, 2009, at 7:30 p.m.

1. Call to Order/Roll Call

The meeting was called to order at 7:30 p.m.

The following were present:

- Mayor Billy Bain
- Vice Mayor Bob Best
- Councilman Daniel Espino
- Councilman George V. Lob

Absent: Councilwoman Jennifer Ator

Also Present:

- City Manager James R. Borgmann
- Assistant City Manager Ronald K. Gorland
- City Attorney Jan K. Seiden
- Chief of Police Peter G. Baan
- City Planner Richard E. Ventura
- City Clerk Magalí Valls

2. Invocation: Councilman Lob offered the invocation.

Salute to the Flag: The audience participated.

3. Approval of Contract with Carivon for the Curtiss Mansion Historic Restoration

City Manager Borgmann stated that this is a request for Council approval of a contract and agreement between the City of Miami Springs and Carivon Construction Company for the renovation of the Curtiss Mansion.

The City Manager explained that during the City Council Regular Meeting of April 13, 2009, Carivon was selected as the successful bidder and Council directed the Administration to begin negotiating a contract, a copy of which is provided for Council's review.

City Manager Borgmann acknowledged Curtiss Mansion, Inc. (CMI) representatives who were present, Roy Rodríguez of TGS&V Enterprises and Manny Pérez-Vichot who assisted the City as part of the selection committee. He explained that City Attorney Jan K. Seiden participated in the negotiations and they are ready to address Council's comments or questions.

A two-part bid was requested because funds are available for the first phase of the project and there is an understanding that the second phase would begin if funds become available within 180 days after the first phase, according to Mr. Borgmann. It is his understanding that Carivon is willing to extend the 180 days if needed.

City Attorney Jan K. Seiden explained that decisions would have to be made based on certain occurrences. Not only was CMI involved in the review process, but it is important to note for the record that CMI established their own committee of professionals who were highly qualified to assist the City in setting up the bid documents for the Request for Proposals (RFP). They also worked through all the amendments and questions that were raised during the process.

City Attorney Seiden clarified that the agreement is an award for both phases of the contract, based on the bid specifications, and there is a provision that provides that both parties understand that although both were awarded, the City has the sole and exclusive option of proceeding with phase two should funds become available.

City Attorney Seiden stated that the contract was negotiated with the assistance of the CMI group, Carivon and City Staff. Documentation shows that there is some urgency to begin the project because CMI was contacted by the Florida Department of Transportation (FDOT) asking why the project had not started and they should not get the impression that they have the right to take back the funding. He emphasized that it is important to get the project started.

Since the award there has been correspondence from Dooley Mack who was a bidder on the project for various documents, according to Attorney Seiden. A fax was received from them on May 28th requesting further documentation that would support the determination that their bid was unresponsive and why they were not considered in the award of the contract. It is important to note that correspondence was received almost two months after the actual award by Council and the only delay in signing the contract was putting it in the proper format. It was surprising that as part of their letter, in addition to their request for documentation, they stated that the letter should be considered as a bid protest to the award to Carivon.

Attorney Seiden reiterated that the review and evaluation committee was composed of the CMI committee because they prepared the specifications and were aware of what was needed for the job, and it only made sense for them to evaluate the bids. The committee was comprised of Roy Rodríguez, Manny Pérez-Vichot and other members of the CMI Board of Directors, all of whom have exceptional credentials in regard to the process.

City Attorney Seiden explained that the substance of the committee's recommendation is provided in documentation. There are two documents that are specific. The first is a letter addressed to him dated March 5, 2009 from Roy Rodríguez that explains how each bidder was treated and evaluated and the second is a spreadsheet to further support their position and the committee's recommendation.

Attorney Seiden stated that the City did not participate that much in the evaluation of the bids and it was important for Mr. Rodríguez to be present and explain for the record what his feelings are, why Dooley Mack was determined to be unresponsive and why the bid protest is not justified under the circumstances. The City followed all proper bid procedures and used expertise in securing proper bid specifications. The documentation outlines the bid numbers and why Carivon was awarded the contract as opposed to the other bidders.

Roy Rodríguez of 564 Palmetto Drive stated that on the bid form under Item # 3, subsection A, it clearly reads:

“Submit one original and four copies, make all bids upon the forms provided, properly executed and all items filled out. Do not change the wording or the bid form and do not add wording in the bid form. Unauthorized conditions, limitations or provisions attached to the proposal shall be cause for rejection of the proposal. Alterations or erasures of any other forms must be explained in the bid over the signature of the bidder.”

Mr. Rodríguez explained that the copy of Dooley Mack's bid package shows that they are missing two of the pages from the bid form that were not submitted. Further, a questionnaire was required to be submitted with the bid form and they only provided one of the two pages, which meant that their bid was incomplete. Even if they had submitted all required documents, their bid would not have been competitive with Carivon.

City Attorney Seiden clarified that Dooley Mack's bid was higher for the first phase, but the bids were evaluated on the total for both phases and they would in fact have been lower than Carivon. Link was the lowest bidder, but they were eliminated because their bid for the base price was beyond the amount of funds available. Dooley Mack was in fact second, even though their actual base bid was \$80,000 higher than Carivon, but this amount was never considered. It was noted on the spreadsheet that Dooley Mack's bid bond was not sealed and the bid form was incomplete.

Mr. Rodríguez stated that the two-page questionnaire was incomplete and Dooley Mack did not provide any Disadvantaged Business Entities (DBE) information or certification of non-compliance, which is an FDOT requirement.

To answer Councilman Espino's question, Mr. Rodríguez confirmed that Dooley Mack did not respond to the time element breakdown.

City Attorney Seiden stated that Dooley Mack was excluded because they did not properly complete and respond to the bid forms required as part of the process.

City Attorney Seiden explained that the letter of March 5, 2009 delineates how all the bidders were evaluated and it includes a summary of tabulation. The letter is a summation of the information on the spreadsheet. It mentions that CSI, ABC Construction, Miami Skyline and Dooley Mack failed to provide the proposed project durations as required in the proposed bid form and some of them have other issues that would eliminate them from the process. SA Consultants was eliminated because they failed to complete the bid breakdown. Link and Design Build Inter-American could not be considered because their base bids exceeded available funds. Carivon, H.A. Contracting and U.S. Construction were all determined to be responsive and it was simply a matter of computing the numbers.

In response to Vice Mayor Best's question, Mr. Rodríguez stated that of the ten bid bonds only one was not sealed and one was submitted for 5% instead of the required 10%.

Vice Mayor Best said that Attachment F in the documentation shows that the bid bond for seven contractors was not sealed.

Mr. Rodríguez explained that Attachment F was prepared before he came to the City and verified the original documents.

City Attorney Seiden clarified that the current documentation shows that ABC Construction's bond was not sealed, Miami Skyline's bond was only 5% and Dooley Mack's bid form was incomplete. The comments in regard to Dooley Mack were as follows:

1. Addendum attached not reaffirmed on bid form.
2. Bid form incomplete.
3. DBE not listed.
4. Incomplete questionnaire.

Mayor Bain asked if anyone present cared to comment on the agenda item. There were no speakers.

Vice Mayor Best moved to approve the contract. Councilman Espino seconded the motion which was carried 4-0 on roll call vote.

4. Adjourn.

There being no further business to be discussed the meeting was adjourned at 7:50 p.m.

Billy Bain
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

Approved as written during meeting of: 6/22/2009.

Transcribed from tape by S. Hitaffer.