



To: Michael Pounds

From: Craig E. Leen, City Attorney for the City of Coral Gables 

RE: Legal Opinion Regarding Negotiations With Lowest Responsive/Responsible Bidder

Date: February 26, 2013

It was good meeting with you, Cindy, and Pamela earlier today. It is my understanding that the City would be negotiating as to price, and would not materially change the scope of work. It is also my understanding that the City is engaging in such price negotiations so that the price does not exceed the funds allocated for this project. Further, the City has an agreement with the United States to have the work conducted.

Section 2-766(1)(1) of the City Code states:

"The city manager may conduct negotiations limited to the lowest responsive and responsible bidder regarding contractual terms and conditions. Said negotiations are permissible only to the extent that they do not materially alter the contemplated contract (scope of work) and are not contrary to the interest of the city or fair treatment of other bidders."

Pursuant to my authority under section 2-201(e)(1) and (e)(8), it is my view that section 2-766(1)(1) expressly permits such negotiations. Here, the City would be negotiating with the lowest responsive and responsible bidder as to price, and would not materially alter the scope of work through those negotiations. The negotiations are obviously in the best interests of the City as they would assist the City in keeping the price within the allocated amount, and would facilitate the City in performing its agreement with the United States. The negotiations are also fair to other bidders as such bidders have already been given a full opportunity to bid regarding the same scope of work (which you have indicated would not be materially altered through the negotiations). It is logical that the lowest bidder would be the one most able to provide the lowest price as to the same general scope of work.

Hernandez, Cristina

From: Leen, Craig
Sent: Tuesday, February 26, 2013 6:03 PM
To: Hernandez, Cristina
Subject: FW: Section 2-766 (I) (1) - Negotiation with the Lowest Responsive/Responsible Bidder
Importance: High

Please place in opinion folder.

Craig E. Leen
City Attorney
City of Coral Gables
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Coral Gables, Florida 33134
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Email: cleen@coralgables.com

From: Leen, Craig
Sent: Tuesday, February 26, 2013 6:03 PM
To: Pounds, Michael
cc: Thornton Richard, Bridgette; Gomez, Diana; Birdsill, Cynthia; Katsaris, Pamela
Subject: RE: Section 2-766 (I) (1) - Negotiation with the Lowest Responsive/Responsible Bidder
Importance: High

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Please let me know if you have any questions.

Craig E. Leen
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From: Pounds, Michael
Sent: Tuesday, February 26, 2013 5:19 PM
To: Leen, Craig
Cc: Thornton Richard, Bridgette; Gomez, Diana; Birdsill, Cynthia; Katsaris, Pamela
Subject: Section 2-766 (I) (1) - Negotiation with the Lowest Responsive/Responsible Bidder

Craig:

As we discussed in our meeting, I would like to know if the City Manager and/or designee may negotiate under Section 2-766 (I)(1) with the lowest responsive/responsible bidder as to the price they bid if the contemplated contract (scope-of-work) is not materially altered? For example, specifications for the project and the costs associated thereof are subject to negotiation as long as the overall project is not materially altered.

Mike Pounds
Chief Procurement Officer
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Miami, FL 33155
Phone (305) 460-5101