

RESOLUTION NO. 2012-31-1626

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY THAT CERTAIN ADDENDUM TO THE CONSTRUCTION CONTRACT BETWEEN THE CITY OF MIAMI GARDENS AND SKANSKA USA BUILDING, INC., ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in November, the City Council awarded a Contract to Skanska USA Building, Inc. ("Skanska"), for construction of the City's new City Hall Complex which included an award for the earthwork (Guaranteed Maximum Price #1), and a provision for awarding GMP #2 for the main buildings and related work, and

WHEREAS, since that time, Skanska and City staff have been involved in negotiations regarding GMP2 and as a part of that process, the parties discovered that there are some minor changes that should be made to the Contract, as outlined in the Agenda Cover Memorandum accompanying this Resolution, and

WHEREAS, City staff is recommending that the City Council approve the Addendum attached hereto as Exhibit "A," which outlines the changes to the Contract as negotiated by Skanska and City staff,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens hereby authorizes the City Manager and City Clerk respectively, to execute that certain

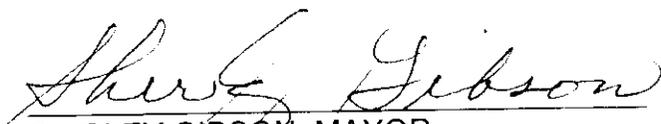
Resolution No. 2012-31-1626

Addendum to the Construction Contract between the City of Miami Gardens and Skanska USA Building, Inc., attached hereto as Exhibit "A."

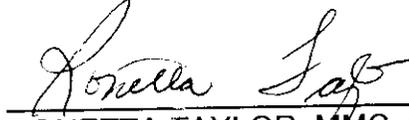
Section 3: INSTRUCTIONS TO THE CITY CLERK: The City Clerk is hereby authorized to obtain two (2) fully executed copies of the subject Agreement with one to be maintained by the City, and one to be delivered to Skanska USA Building, Inc.

Section 4: EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON FEBRUARY 8, 2012.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: Danny Crew, City Manager

MOVED BY: Vice Mayor Campbell
SECOND BY: Councilwoman Davis

VOTE: 7-0

Mayor Shirley Gibson	<u> X </u> (Yes)	<u> </u> (No)
Vice Mayor Aaron Campbell Jr.	<u> X </u> (Yes)	<u> </u> (No)
Councilwoman Lisa Davis	<u> X </u> (Yes)	<u> </u> (No)
Councilman Oliver Gilbert III	<u> X </u> (Yes)	<u> </u> (No)
Councilman David Williams Jr.	<u> X </u> (Yes)	<u> </u> (No)
Councilwoman Felicia Robinson	<u> X </u> (Yes)	<u> </u> (No)
Councilman Andre' Williams	<u> X </u> (Yes)	<u> </u> (No)



City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	February 8, 2012		Item Type:	Resolution	Ordinance	Other	
			(Enter X in box)	X			
Fiscal Impact: (Enter X in box)	Yes	No	Ordinance Reading: (Enter X in box)	1st Reading		2nd Reading	
		X	Public Hearing: (Enter X in box)	Yes	No	Yes	No
Funding Source:	N/A		Advertising Requirement: (Enter X in box)	Yes		No	
Contract/P.O. Required: (Enter X in box)	Yes	No	RFP/RFQ/Bid #:	City Hall			
	Amendment						
Sponsor Name	Danny Crew, City Manager		Department:	City Manager			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY THAT CERTAIN ADDENDUM TO THE CONSTRUCTION CONTRACT BETWEEN THE CITY OF MIAMI GARDENS AND SKANSKA USA BUILDING, INC., ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

In November, City Council awarded a Contract to Skanska USA Building, Inc., for construction of the City's new City Hall Complex. The award included an award for the earthwork (Guaranteed Maximum Price #1 or GMP #1), and a provision for the awarding of a GMP #2 for the main buildings and related work. Since that date, Skanska has commenced GMP #1 activities, while Skanska and the City have been meeting on the award of GMP #2. These talks/negotiations are on-going.

As part of the process, the parties discovered there are some minor changes that should be made to the basic Contract. Some are for clarification and some are being made at the request of City staff for purposes of cost savings. These changes are as follows:

**ITEM K-17) CONSENT AGENDA
RESOLUTION
New City Hall Contract**

1. The current contract provides for unlimited liquidated damages from delay by the contractor. Damages for late completion amount to \$3,000 per day. Currently, damages are to be paid from Skanska's profit line-item up to the maximum in that line-item (\$900,000). After that, Skanska would have an umbrella insurance policy to cover any additional damages. The cost of this insurance policy is almost \$250,000, which will be charged to the City as part of their GMP. By capping the damages at \$900,000, Skanska (and thus the City), will save the \$250,000. Thus lowering the GMP price. The current \$900,000 amount represents almost a year's delay. This amount should be sufficient, considering that unlimited damages are costly and unnecessary.
2. The current Contract provides for an early completion bonus for the contractor. Because of delays experienced to date, it is clear that the City will not make the original move-in date. Because of this, City staff believes that the approved early completion bonus is not in the City's best interest. City staff proposed, and Skanska has agreed, to revert to an earlier version of an early completion bonus that matches early completion bonuses with late fees. Completing early is still important; however, this change will equalize the incentive monetarily and will serve the City better.
3. The original bid called for the contract to include a "Project Contingency." This is a sum of unallocated money to be used to cover certain changes in costs as the construction proceeds. The language in the existing Contract should be clarified as to just how the contingency works. The revision does this by tying the use of the contingency to the plans and specifications and giving the City review and approval right on requests from the contractor to use these funds. Any funds left in this account at project end are split by the City and Contractor on a 75%/25% basis, which is not a change from the existing Contract.
4. The final item is a housekeeping item. The City's RFQ called for a minimum of \$1,000,000 in liability insurance. Skanska has provided a policy with \$2,000,000, twice our requirement. This change will acknowledge the additional protection as a contractual requirement.

Recommendation:

That City Council approves the attached resolution.

Attachment:

Addendum

**ADDENDUM TO CONSTRUCTION CONTRACT BETWEEN THE CITY OF MIAMI GARDENS
and SKANSKA USA BUILDING, INC.**

THIS ADDENDUM ("Addendum") is incorporated into that Construction Contract between the City of Miami Gardens ("City"), a Florida municipal corporation hereinafter referred to as "City" and Skanska USA Building, Inc., a Delaware corporation hereinafter referred to as "Contractor".

WITNESSETH

WHEREAS, on October 11, 2011, the City entered into a contract for City Hall Municipal Complex.

WHEREAS, the City desires to amend the Contract,

NOW, THEREFORE, and consideration of the premises and mutual covenants herein named, the parties are to agree as follows:

1. Article 3, Section 3.5 of the Contract shall be deleted and replaced with the following language:

3.5 – CITY is authorized to deduct liquidated damages from monies due to CONTRACTOR for the Work under this Contract in the cumulative value not to exceed the amount of Nine Hundred Thousand Dollars (\$900,000).

2. Article 4, Section 4.6 of the Contract shall be deleted and replaced with the following language:

4.6 - CONTRACTOR may earn an Early Completion Bonus. If Substantial Completion for Phase 2 (City Hall, the Council Chambers, the Mechanical Building, the Parking Garage and the Off-site Road Work) is achieved prior to three hundred fifty (350) calendar days after the Notice to Proceed, adjusted for any approved extensions, CONTRACTOR shall earn an Early Completion Bonus. The Early Completion Bonus earned shall be computed at Three Thousand dollars (\$3,000.00) per calendar day multiplied by the number of calendar days Substantial Completion occurs prior to three hundred fifty (350) calendar days after the Notice to Proceed, adjusted for any approved extensions. CONTRACTOR shall receive payment of the Early Completion Bonus, less any liquidated damages due the CITY pursuant to Article 3.4 of this Agreement, at Final Payment.

3. Article 8, Section 8.25 of the General Conditions of the Contract shall be deleted and shall be replaced with the following language:

8.2.5- The Project Contingency is a dollar amount equal to 2.5% of the dollar amount of GMP2 as defined in Article 4 of the Contract. The Project Contingency shall be used by the Contractor with the City's written approval, which shall not be unreasonably withheld, for changes in prices for identified allowances or discrepancies in the Construction Documents and/or Specifications, and to pay any costs incurred by the Contractor in connection with the performance of the work, which are not specifically covered by any line item in the schedule of values. Any savings from the Project Contingency shall be shared 75% to City and 25% to Contractor.

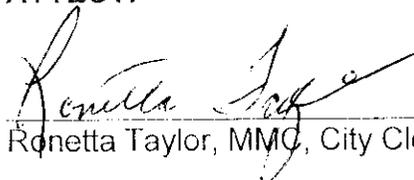
4. **Article 12, Section 12.2.1 of the General Conditions of the Contract** shall be deleted and shall be replaced with the following language:

12.2.1 Contractor shall secure and maintain from the date of the Contract for Construction and for a period of at least three (3) years from the date of Final Completion of the entire Work commercial general liability insurance ("CGL") with a combined single limit of not less than \$2,000,000 per occurrence.

5. **INCONSISTENCY.** In the event of an inconsistency or contradiction between the terms hereof and the terms of the Contract, to which this Addendum is attached, the terms hereof shall control.
6. **CONFLICT:** In the event of any conflicts between this Addendum and the Contract, this Addendum shall control. In all other respects, the Contract shall remain in full force and effect.
7. **EFFECT OF ORIGINAL CONTRACT.** All terms of the Contract not affected by this Addendum shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year set forth below their respective signatures.

ATTEST:



Ronetta Taylor, MMC, City Clerk

CITY OF MIAMI GARDENS



Dr. Danny Crew, City Manager

Date: 4/29/12

WITNESS:

Laurel Gaston
Print Name

[Signature]

SKANSKA USA BUILDING, INC.
By: Russell Sheppard

Print Name: Russell Sheppard

Approved as to form and legal
Sufficiency:
[Signature]
Sonja K. Dickens, City Attorney