



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

STEPHANIE KOPELOUSOS
INTERIM SECRETARY

February 19, 2007

John G. Van Langinham, Esquire
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550


FILED
07 FEB 21 PM 1:37
DIVISION OF
ADMINISTRATIVE
HEARINGS

MIC DEVELOPMENT, LLC
DOAH CASE NO.: 06-1916BID
DOT CASE NO.: 05-339

Dear Mr. Van Langinham:

Enclosed is a copy of the Final Order, filed February 19, 2007, in the above-styled case.

Sincerely,


James C. Myers
Clerk of Agency Proceedings
(850) 414-5393

jcm:m

Attachment(s)

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida

FILED
07 FEB 21 PM 1:37
DIVISION OF
ADMINISTRATIVE
HEARINGS

MIC DEVELOPMENT, LLC,

Petitioner,

vs.

DOAH CASE NO.: 06-1916BID
DOT CASE NO.: 05-339

DEPARTMENT OF TRANSPORTATION,

Respondent.

FINAL ORDER

This proceeding was initiated by the filing of a Notice of Intent to Protest on June 14, 2005, by **Petitioner, MIC DEVELOPMENT, LLC** (hereinafter **MIC DEVELOPMENT**), pursuant to Section 120.57(1), Florida Statutes, in response to a Notice of Department Action rejecting all proposals issued by certified letter dated May 31, 2005, by the **Respondent, DEPARTMENT OF TRANSPORTATION** (hereinafter **DEPARTMENT**). **MIC DEVELOPMENT'S** Petition for Formal Written Protest was filed on June 23, 2005. On August 11, 2005, the **DEPARTMENT** forwarded a referral to the Division of Administrative Hearings (hereinafter **DOAH**) for the sole purpose of adjudicating the timeliness of the Notice of Intent to Protest filed by **MIC DEVELOPMENT** and was assigned to Administrative Law Judge John G. Van Laningham. Judge Van Laningham heard the narrow issue of timeliness on January 30, 2006. On April 20, 2006, a Recommended Order was entered urging the **DEPARTMENT** to refer the matter to **DOAH** for a final hearing on the merits of the protest.

The **DEPARTMENT** complied, and forwarded the matter to DOAH on May 22, 2006.

A formal administrative hearing on the merits was held in this case in Miami, Florida, on October 30 and 31, 2006, before Judge Van Laningham. Appearances on behalf of the parties were as follows:

For Petitioner: Joseph M. Goldstein, Esquire
Shutts & Bowen, LLP
Wachovia Center, Suite 2100
200 East Broward Boulevard
Fort Lauderdale, Florida 33301

For Respondents: Thomas Barnhart, Esquire
Office of the Attorney General
The Capitol, Plaza Level 01
Tallahassee, Florida 32399

At the hearing, the parties offered Joint Exhibits 1-26 and 28-37, which were admitted into evidence. **MIC DEVELOPMENT** presented the testimony of David C. Garrett, Nick Serianni, Steven E. Thompson, Gary Donn, Korouche Mohandes, and John Martinez, and the depositions of Gus Pego and Javier Rodriquez. The **DEPARTMENT** presented the testimony of Nick Serianni, and offered Respondent's Exhibits 1-17, which were admitted into evidence. The transcript of the hearing was filed November 29, 2006. On December 11, 2006, the **DEPARTMENT** filed its Proposed Recommended Order. **MIC DEVELOPMENT** filed its Proposed Recommended Order on December 12, 2006. Being timely filed, the Proposed Recommended Orders were considered for the Recommended Order. On January 18, 2007, the Recommended Order was filed by Judge Van Laningham. No exceptions to the Recommended Order were filed.

STATEMENT OF THE ISSUE

As stated by the Administrative Law Judge in his Recommended Order, the issue presented was:

[W]hether Respondent acted illegally, arbitrarily, dishonestly, or fraudulently when it decided to reject the sole proposal it had received in response to a solicitation asking "master developers" to submit competitive proposals for the development of various commercial projects that Respondent plans to make part of the Miami Intermodal Center, a complex of major transportation facilities being built near the Miami International Airport.

FINDINGS OF FACT

1. After review of the record in its entirety, it is determined that the Administrative Law Judge's Findings of Fact in paragraphs 1 through and including 42 are supported by competent, substantial evidence. As such they are adopted and incorporated as if fully set forth herein.

2. A total of One Thousand Three Hundred Five and 3/100 Dollars (\$1,305.03) of taxable costs has been incurred by the **DEPARTMENT** for transcript and mailing costs and charges.

CONCLUSIONS OF LAW

1. The **DEPARTMENT** has jurisdiction over the subject matter of and the parties to this proceeding pursuant to Chapters 120 and 337, Florida Statutes.

2. The Conclusions of Law in paragraphs 43 through and including 51 of the Recommended Order are fully supported in law. As such, they are adopted and incorporated as if fully set forth herein.

ORDER

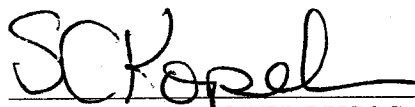
Based upon the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that the Respondent, **DEPARTMENT OF TRANSPORTATION**, adopts the Administrative Law Judge's Recommended Order in its entirety. It is further

ORDERED that the bid protest filed by Petitioner, **MIC DEVELOPMENT, LLC**, is denied and that the Respondent's, **DEPARTMENT OF TRANSPORTATION**, decision to reject all proposals for the joint development of the Miami Intermodal Center is affirmed. It is further

ORDERED that the motion of the **RESPONDENT, DEPARTMENT OF TRANSPORTATION**, is granted and One Thousand Three Hundred Five and 3/100 Dollars (\$1,305.03) taxable for court costs shall be paid by the **PETITIONER, MIC DEVELOPMENT, LLC**, to the **RESPONDENT, DEPARTMENT OF TRANSPORTATION**, within thirty (30) days of the date of this order.

DONE AND ORDERED this 19 day of February, 2007.


STEPHANIE KOPELOUSOS
Interim Secretary
Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida 32399

FILED D.O.T. CLERK
2007 FEB 19 PM 2:27

NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.100(d), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, HAYDON BURNS BUILDING, 605 SUWANNEE STREET, M.S. 58, TALLAHASSEE, FLORIDA 32399-0458, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

Copies furnished to:

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