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CITY OF GAINESVILLE
CITY COMMISSION

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11 APR 28 PM 12:06

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April 28, 2011

VIA HAND DELIVERY

The Hon. Craig Lowe, Mayor
City of Gainesville
200 East University Avenue
Gainesville, Florida

RE: Selection of Contractors for the City of Gainesville Tennis Complex
Located at Albert Ray Massey Park

SCHEDULED BEFORE THE GAINESVILLE CITY COMMISSION MAY 5, 2011

Dear Mr. Mayor:

The above-referenced item was on the City of Gainesville's ("City") April 21, 2011 Agenda as item 100862. Due to the aggrieved party's belated filing of a 29-page PowerPoint Presentation, the City Commission deferred this item until May 5, 2011 in order to allow staff an opportunity to review the PowerPoint. Staff has now reviewed the proposed PowerPoint and advised that 17 of the slides are to be removed from it prior to presentation to the City Commission.

The issues for determination by this Commission have been correctly framed by the City's staff, which are whether to:

- 1) Deny TLGC Tennis, LLC's appeal;
- 2) Approve award of Tennis Professional Services Contract to Mike Oransky Tennis;
and
- 3) Authorize the City Manager or designee to execute all contract documents with Mike Oransky for Tennis Professional Services, subject to approval by the City Attorney as to form and legality. Or in the alternative, to turn down the bid award and request the City staff to go out to bid for Professional Tennis Services at City facilities, including Joyce Oransky Tennis Center and Pro Shop.

The aggrieved party has not pointed out any mistake or anything which was overlooked or misconstrued in his initial bid protest of January 19, 2011. There is no basis in the record before this Commission to overturn the findings of the Director of PRCA on January 27, 2011 denying the bid protest, or the decision of the City Manager issued on February 8, 2011 denying the bid protest.

It is essential for the orderly administration of due process for the Commission to only accept comments during this appeal hearing on the issues above. The manner in which the tennis program has been run in the past, personal attacks on Mr. Oransky, or raising of racial overtones are not before this Commission and comments relating to these things should not be allowed. Mr. Oransky has successfully run and built the tennis program for the City of Gainesville for approximately 29 years. He is very grateful to have had that opportunity and looks forward to continuing the successful program in the future. Should the Commission or City staff wish to discuss the manner in which the program is run, he would be happy to do so. However, that is not the proper subject of the proceeding scheduled for May 5, 2011.

As correctly pointed out by staff, Section 41-582 of the City's Purchasing Procedures requires that a timely protest include, "*all relevant information which the alleged aggrieved party feels is pertinent.*" The bid protest submitted by Mr. Jeffrey Braswell, in his letter of January 19, 2011, raises one and only one basis of the bid protest that, "*the City's determination that Mr. Abgoulaye Toure' does not meet the minimum requirements of the RFP.*" There were two exhibits attached to the initial bid protest: 1) Mr. Toure' resume; and 2) a to whom it may concern letter. As stated in my letter of January 24, 2011, to Diane Holder, Sr. Buyer for the City's Budget and Finance Department (copy attached as Exhibit "1"), the submission of the two documents in the bid protest is an effort to modify his response to the request for proposal after the fact and in violation of paragraph g on page three of the Request For Proposal. This unauthorized attempt to modify Mr. Toure's bid response has also been recognized by City staff.

Staff has allowed slides in the PowerPoint which were submitted with the original bid protest. However, staff also pointed out that the aggrieved party was presenting additional issues and remedies contrary to procedure (41-581).

To the extent the Commission considers these additional items, it is pointed out as follows:

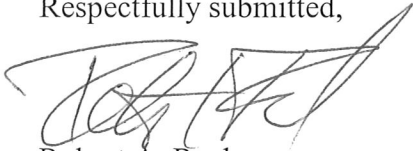
- 1) Mr. Toure' is again holding himself out as TLCG Tennis, LLC. I have again checked the Secretary of State's website and no such entity is listed as either a Florida corporation or a foreign corporation authorized to transact business in the State of Florida. (See attached Exhibit "2"); and
- 2) Mr. Toure' states that he is certified USPTA Professional. Attached hereto as Exhibit "2" is a print out of the local member of the USPTA members. Mr.

Toure' is not among them.

Any contention that the aggrieved party (unsuccessful bidder) may make that the City Commission should consider other documents which he received pursuant to public records requests, has no basis in law or in fact. Merely because a document is in the possession of the City that does not make it available for review in connection with a bid protest. Rule 41-582 specifically places the burden on the aggrieved party to include all information he deems relevant at the time of the bid protest so that the decision can be made on all the documents which the aggrieved party deems to be important. There are hundreds of thousands, if not millions of documents which are public records housed at the City. To take the position that merely because such documents exist at the City that they should be considered on the third review of a bid protest flies in the face of fundamental fairness, due process, and the City's purchasing procedures.

Again, Mr. Oransky looks forward to a continued, successful relationship with the City of Gainesville and respectfully request that the staffs' recommendation to the City Commission be approved.

Respectfully submitted,



Robert A. Rush

RAR/ask

xc: Commissioner Thomas Hawkins
Commissioner Jeanna Mastrodicasa
Commissioner Scherwin Henry
Commissioner Lauren Poe
Commissioner Warren Nielsen
Commissioner Randy Wells
Marion J. Radson, City Attorney
Mike Phillips, Director of Parks, Recreation and Cultural Affairs
Ronald D. Combs, Assistant City Attorney
Mr. Mike Oransky

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January 24, 2011

Diane Holder, Senior Buyer
Budget & Finance Department
Purchasing Division
City of Gainesville
PO Box 490 Station 32
Gainesville, FL 32602

Re: Mike Oransky
RFP# RECX110013-DH

Dear Ms. Holder:

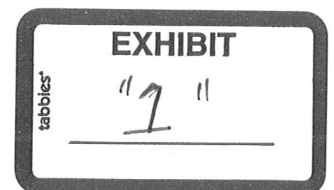
I represent Mike Oransky regarding the above-referenced RFP. I understand that a protest has been filed and that the City will be conducting a hearing on Thursday, January 27, 2011. I understand that Mr. Oransky has no right to present any evidence or testimony at that hearing, nor would I be given an opportunity to present anything. To that end, until that process is done I have no objection to you or any other members of the purchasing division talking directly to Mr. Oransky if any questions arise.

I just wanted to give you some additional information from my review of the bid protest as it relates to the City's RFP.

As stated in Mr. Oransky's letter to you, TLGC Tennis, LLC does not have the requisite minimum qualifications as it comes to directing overall management of the municipal tennis program. I can find no listing at all for TLGC Tennis, LLC with the Secretary of State's office. It could be a foreign company, but I don't see that it's registered to do business in the State of Florida.

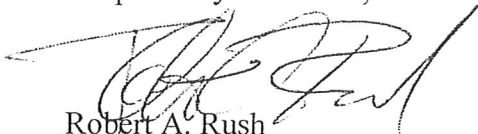
I also note that the "format of the protest" as set forth in your procedural manual under paragraph 4 requires that the protestor "include a power of attorney and/or corporate seal which verifies that the protestor has legal authority to act on behalf of his or her company, corporation or recognized legal entity." I do not find where that has been complied with in this protest.

In addition to the above, it appears that the unsuccessful bidder is now trying to supply additional information that was not included in the original application, and as such, should not be considered pursuant to paragraph G of the RFP procedures.



If you have any questions, or if you have any additional information you need from me, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert A. Rush', written in a cursive style.

Robert A. Rush
RAR/das

FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

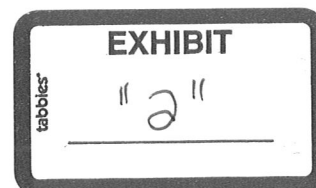
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Corporate Name	Document Number	Status
TLC FUND I, LTD.	A95000000025	INACT
TLC FUNDING, A VIATICAL SETTLEMENT COMPANY, INC.	P95000063819	INACT
TLC FUNDING, ELDER PROGRAM INC.	P99000053563	INACT
TLC FUNDING, LIFE SETTLEMENTS, INC.	P00000027786	INACT
TLC FURNISHINGS, INC.	P01000079342	INACT
TLCG, INC.	P03000067782	ACT
T.L.C. GENERAL CONTRACTING, INC.	P96000022064	INACT
TLC GLOBAL BUSINESS, INC.	P08000037033	ACT
TLC GLOBAL CONSULTING GROUP, LLC	L08000056708	INACT/UA
TLC GLOBAL OUTREACH, INC.	N07000006310	INACT
TLC GOLFVIEW HOLDINGS, LLC	L04000021457	INACT
TLC GRAPHICS, INC.	P05000142247	INACT
TLC GRAPHICS & PRINTING, INC.	P99000092724	INACT
TLC GRAVESIDE CARE, INC.	P06000028941	ACT
TLC GRILLERS CORP.	P01000071677	INACT
TLC GROCERY DELIVERY LLC	L11000017003	ACT
TLC GROOMING, LLC	L04000059869	NAME HS
THE T.L.C. GROUP, INC.	P00000014899	ACT
T.L.C. GROUP, INC.	S88741	INACT
TLC GROUP LLC.,	L04000049821	ACT
TLC GROUP, INC.	F99000002219	CROSS RF
TLC GROUP/CALIFORNIA, INC.	F99000002219	INACT
TLC GROUT CLEANING INC.	P05000069792	INACT
TLC GROVES, INC.	695069	ACT

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Gainesville	FL	32608-6330	Freddie Johnson	freddiejohnson.usptapro.com	(352) 870-5139
Gainesville	FL	32608-7455	Bob Langer	boblanger.usptapro.com	(352) 331-5708
Gainesville	FL	32608-4382	Jake Lawhead	jakelawhead.usptapro.com	
Gainesville	FL	32608-7986	Mike Oransky	mikeoransky.usptapro.com	(352) 376-8250
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Gainesville	FL	32607-3481	Ed Schmidt	edSchmidt.usptapro.com	
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