

ORDINANCE NO. 01-12

AN ORDINANCE OF TOWN OF MIAMI LAKES, FLORIDA, REQUIRING THE INCLUSION OF AN AUDIT CLAUSE IN ALL CONTRACTS, SERVICE AGREEMENTS, OR OTHER PROCUREMENT FORMS; REQUIRING THE INCLUSION OF AN AUDIT CLAUSE IN ANY AGREEMENT WITH ANY SUBCONTRACTOR EMPLOYED OR RETAINED IN CONNECTION WITH TOWN BUSINESS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, history has demonstrated that governments entering into contracts with vendors for the providing of goods and services have, on occasion, been forced into court to resolve differing opinions; and

WHEREAS, too frequently these lawsuits turn into long and costly lawsuits that remove the possibility of financial recovery; and

WHEREAS, private industry has alleviated part of the problem by including a right to audit in their contracts; and

WHEREAS, the Town Council has determined that it is in the best interest of the Town to include an audit clause in all of the Town's contracts, service agreements or other procurement documents.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

(Coding: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.)

Section 2. The Town of Miami Lakes Right to Audit Ordinance is created to read as follows:

Section 1 The Right to Audit Agreement

(a) ~~The Right to Audit Clause shall be included in all purchase orders, contracts, service agreements, or any other procurement forms issued by the Town of Miami Lakes.~~

(b) ~~As a minimum, all of the aforementioned procurement and service agreements will contain the following statement:~~

~~"The provider shall establish a reasonable accounting system which enables ready identification of provider's cost of goods, or services, and use of funds. The Town of Miami Lakes may audit the provider's records any time before three years after final payment to verify the Town of Miami Lakes payment obligation and use of the Town of Miami Lakes funds. This right to audit shall include subcontractors in which goods or services are subcontracted by for the provider. The provider shall insure the Town of Miami Lakes has these rights with the subcontractor(s)."~~

Section 1.01. Each contract, service agreement or other procurement form issued by the Town of Miami Lakes shall contain the following statement:

"The Town of Miami Lakes shall have the right to audit the [insert name(s)] records any time during the term of this agreement and for the three (3) years immediately following the completion of this agreement or final payment by the Town."

Section 1.02 Any person doing business with the Town of Miami Lakes that receives a contract, service agreement or other procurement form from the Town

is required to include the following statement in any agreement with any subcontractor employed or retained in connection with its business with the Town:

“The Town of Miami Lakes shall have the right to audit the [insert name of subcontractor(s)] records any time during the term of this agreement and for the three (3) years immediately following the completion of this agreement or final payment by the Town.”

Section 3. Repeal Of Conflicting Provisions. All provisions of the Code of Miami-Dade County as made applicable to the Town by Article VIII, Section 8.3 of the Town Charter which are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Miami Lakes Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Councilmember _____, who moved its adoption on first reading. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	_____
Councilmember Robert Meador, II	_____
Councilmember Michael Pizzi	_____
Councilmember Nancy Simon	_____
Councilmember Peter Thomson	_____
Vice Mayor Roberto Alonso	_____
Mayor Wayne Slaton	_____

PASSED AND ADOPTED on first reading this _____ day of _____, 2001.

The foregoing Ordinance was offered by Councilmember _____, who moved its adoption on second reading. The motion was seconded by Councilmember _____, and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	_____
Councilmember Robert Meador, II	_____
Councilmember Michael Pizzi	_____
Councilmember Nancy Simon	_____
Councilmember Peter Thomson	_____
Vice Mayor Roberto Alonso	_____
Mayor Wayne Slaton	_____

PASSED AND ADOPTED on second reading this 13th day of November, 2001.

Wayne Slater

ATTEST:

Beatris M. Arguelles
BEATRIS M. ARGUELLES
TOWN CLERK

APPROVED AS TO FORM:

Tim B. [Signature]
ACTING TOWN ATTORNEY