

ORDINANCE NO. 04-51

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING ORDINANCE NO. 03-30 PERTAINING TO PURCHASING PROCEDURES; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the “Town”) adopted Ordinance No. 01-03 on May 22nd, 2001, establishing its purchasing procedures (the “Purchasing Procedures”); and

WHEREAS, the Town first amended the Purchasing Procedures by adopting Ordinance 03-30 on January 14th, 2003; and

WHEREAS, the Town Council desires to further amend the Purchasing Procedures with regard to the use of contracts approved by other local governments.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:¹

Section 1. **Amendments to Code.** Chapter ___ of the Town Code is hereby amended to read as follows:

CHAPTER ____.

PURCHASING PROCEDURES

Section 1. Definitions. For the purposes of this Ordinance, the following words and phrases shall be defined as follows:

^{1/} Provisions added to existing text are shown by underline; provisions deleted from existing text are shown by ~~strikethrough~~.

- a. **Invitation to Bid (ITB).** A formal solicitation in which proposer will only submit a price for services being proposed.
- b. **Professional Services.** Services, the value of which is substantially measured by the professional competence of the person or persons performing them, and which are not susceptible to realistic competition of cost of service alone. Professional Services shall include, but not be limited to, services customarily rendered by architects, engineers, lobbyists, surveyors, certified public accountants, ~~finance~~financial services, planning services, code enforcement services, building and permitting services, information and technology services, and management consultants.
- c. **Minor Facilities Maintenance Items.** Items requiring regular and reoccurring maintenance, such as, but not limited to, pest control, air conditioning repair, and cleaning, that individually are less than \$1,000 per month.
- d. **Request for Qualifications.** An informal solicitation or request for information, where oral or written responses are obtained from vendors, without formal advertising or receipt of sealed bids.
- e. **Request for Proposals (RFP).** A formal ~~invitation~~to bidsolicitation on a project which includes a statement of the services sought and the contractual terms and conditions applicable, including the criteria for award.

- f. **Responsible Bidder.** Any person, firm or corporation submitting a bid for a Town project who maintains a permanent place of business, has adequate equipment and personnel to do the work within the time limits that are established, has adequate financial status to meet the obligations to perform the work and has not defaulted on a prior contract with the Town.
- g. **Responsive Bidder.** Any person, firm or corporation submitting a bid for a Town project who bid form is complete and includes all required attachments and enclosures, free from exclusions or special conditions and has no alternative bids for any items, unless alternative bids are requested in the bid specifications.
- h. **Sole Source.** A vendor who is the only acceptable provider of a particular product or service.

Section 2. Purchasing Procedures.

- A. **Purchasing Agent.** The Town Manager or his/her designee shall be the chief purchasing agent of the Town. The purchasing agent shall contract for all purchases, and shall store and distribute all supplies, materials and equipment required by any office, department or agency of the Town. The purchasing agent shall establish and enforce specifications, inspect or supervise the inspection of all deliveries and have full and complete charge of, and be responsible for, all supplies, materials, and equipment purchases for the Town.

B. **Purchasing Limitations.**

- (1) Purchases up to ~~\$1,000~~\$2,500. Purchases of, or contracts for, materials, supplies, equipment, improvements or services for which funds are provided in the budget, where the total amount to be expended is not in excess of ~~\$1,000~~\$2,500 may be made or entered into by the Town Manager without submittal to the Town Council and without competitive bidding. Single purchases or contracts in excess of ~~\$1,000~~\$2,500 shall not be broken down to amounts of less than ~~\$1,000~~\$2,500 to avoid the requirements of this subsection.

- (2) Purchases of more than ~~\$1,000~~\$2,500 but up to \$10,000. Purchases of or contracts for materials, supplies, equipment, improvements or services for which funds are provided in the budget, where the total amount to be expended is in excess of ~~\$1,000~~\$2,500, but which do not exceed \$10,000, may be made or entered into by the Town Manager without submittal to the Town Council, but shall require compliance with the Procurement Procedures set forth in Section C of this Chapter. Single purchases of contracts in excess of \$10,000 shall not be broken down to amounts of less than \$10,000 to avoid the requirements of this subsection.

- (3) Purchases in excess of \$10,000. The Town Council shall approve all purchases of or contracts for materials, supplies, equipment, public improvements or services where the total amount to be expended is more than \$10,000.
- (4) The Town Manager may not purchase or contract for any item or service which exceeds any departmental budget appropriation until such time as the Town Council amends the budget to increase the appropriation to the applicable level.
- (5) Notwithstanding the provisions of this subsection, for purchases exceeding \$10,000 and made by the use of grant funds, then the approval of the Town Manager shall be sufficient, if provisions of the grant agreement are followed and the grantor of the funds approves the purchase.
- (6) All change orders exceeding \$10,000 must be approved by the Town Council. For change orders up to \$10,000, the approval of the Town Manager shall be sufficient, but reported to the Town Council within 30 days of approval by the Town Manager.

C. **Emergency Purchases.**

- (1) In the event of or in anticipation of a natural disaster or catastrophic event, the Town Manager is authorized to declare a state of emergency for purchasing purposes ~~as specified in Chapter 252.~~

- (2) In the event that a situation arises that could cause a disruption of services, loss of Town funds or damage to Town property, the Town Manager is authorized to declare a state of emergency for purchasing purposes as specified in Chapter 252, Florida Statutes.
- (3) During the emergency period specified in Sections 1 and 2, all normal purchasing procedures and requirements shall be suspended and the Town Manager, or his designee, shall be empowered to secure any needed emergency supplies, materials, equipment or services using the most efficient and effective procurement methods.
- (4) The Town Manager, or his designee, may request another municipality to purchase for the Town any needed emergency supplies, materials or equipment or the Town may purchase from another municipality any needed emergency supplies, materials or equipment such municipality has available.
- (5) Purchases made during an emergency shall be reported by the Town Manager at the next regularly scheduled Town Council meeting with a full written report of the circumstances of the emergency.
- (6) Purchases made during an emergency shall not exceed \$50,000.

D. **Professional Services.** All contracts for professional services for

the Town which exceed \$25,000, except for those professional services exempted in Section H of this Ordinance, shall be awarded using the following procedure:

- (1) Depending upon the type of service, the Town Manager shall issue a Request for Proposal (RFP) or Request for Qualifications (RFQ);
- (2) The Town Manager will review and evaluate the RFPs or RFQs received by the Town and make a written recommendation to the Town Council. The Town Manager's recommendation will rank the top three (3) candidates, if at least three (3) are available;
- (3) The Town Council may interview potential candidates;
- (4) The Town Council may award a contract for Professional Services subsequent to the recommendation of the Town Manager and interviews by the Town Council.
- (5) Notwithstanding the provisions of this subsection, if the Town has an existing contract for Professional Services, the Town Council may renew the contract annually without utilizing the competitive purchasing procedures, provided that the services rendered have been satisfactory, after a recommendation to that effect has been made by the Town Manager.

E. Procurement Procedures.

- (1) The Town Manager shall direct that bid proposals which provide specifications for the purchase or contract be prepared.

- (2) The Town Manager shall attempt to solicit sealed bids from at least three persons or entities engaged in the business of furnishing such materials, supplies, equipment and public improvements or rendering such services.
- (3) The Town Manager may publish a public invitation to bid.
- (4) ~~Bids~~ITBs shall be awarded to the lowest responsive, responsible bidder, as determined by the Town Council and/or the Town Manager as the case may be, subject to the right of the Town Council to reject any and all bids, and to waive any irregularity in the bids or bidding procedures.
- (5) RFPs shall be awarded to the highest ranked proposer based on the criteria specified in the RFP document.
- (6) All ~~invitations to bid~~ITBs/RFPs shall include a reservation by the Town of the right to reject any and all bids and to waive any irregularities in the bids or bidding procedures.

F. Bid Opening Procedure; Awarding Of Bids.

- (1) Sealed bids shall be opened by the Town Manager or his/her appointed representative in the presence of two witnesses. The opening of the sealed bids shall be recorded by the Town Manager or his/her representative at the date and time specified in the bid proposal. The names of the witnesses and of the Town Manager or his/her representative together with a copy of the bid proposal and

the date and time of the opening of the bids shall be filed with the Town Clerk.

- (2) Whenever required by the bid proposal, all bid bonds, cash, insurance, checks or other security accompanying the bid shall be received and maintained for safekeeping by the Town Manager or his designee. The Town Manager shall be responsible for the return of the bid bonds, cash, insurance, checks or other security of unsuccessful bidders.
- (3) Upon completion of the bid opening and reading, all bids received will be deposited with the Town Manager or his/her designee for tabulation and/or recommendation to the Town Council.
- (4) Upon submission of the bid tabulation and recommendation to the Town Manager or Town Council, as the case may be, the Town Manager or the Town Council shall either accept, reject or refer for additional review the bid tabulation and recommendation.

G. Waiver of Procurement Procedures.

- (1) The Town Council may, by majority vote, waive the procurement procedures outlined in this Chapter if the Town Council, after recommendation from the Town Manager, determines that it is impractical to use the procurement procedures.
- (2) The Town Council or the Town Manager, depending upon the dollar amount, is authorized to enter into contracts for materials, supplies,

equipment, public improvements or services without competitive bidding by utilizing existing contract terms and prices entered into by other local, state or federal governmental authorities, provided that (a) the governmental authority has followed a competitive bidding procedure leading to the award of the contract in question which is substantially similar to the competitive bidding procedure outlined in this Ordinance; and (b) in each instance, when the Town is accepting a local government contract, the Town Manager or his designee has reviewed at least three (3) other local government's contracts, reviewed at least three (3) separate providers, and verified the performance of the contractors in each of those cases.

- (3) The Town Council or the Town Manager, depending upon the dollar amount, may waive competitive bidding in the event that the services are available only from a sole source. When this situation exists, "Sole Source" is to be indicated on the purchase order at the time the purchase order is submitted.

H. Exemptions From Procurement Procedures. The following shall be exempt from the procurement procedures outlined in this Ordinance or shall follow applicable procedures required by state or federal law:

- (1) Transactions described in Section B(1) of this Ordinance.
- (2) Contracts for professional services under \$25,000.

- (3) Contracts for materials, supplies, equipment, public improvements or services where procurement of such services is specified by state or federal law.
- (4) Contract for those Professional Services specified in Article III of the Town Charter, as well as hiring of Town employees under Article III of the Charter.
- (5) Contracts for Professional Services that fall within the provisions of the Consultant's Competitive Negotiations Act (architects, engineers, surveyors and landscape architects).
- (6) Purchases made during Emergencies as outlined in Section 2(c).
- (7) Purchases from public or private utilities.
- (8) Minor Facilities Maintenance Items.

Section 2. Repeal Of Conflicting Provisions. All provisions of Ordinance No. 01-03 which are in conflict with this Ordinance are hereby repealed.

Section 3. 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 4. 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 relettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 5. Effective Date. This Ordinance shall become effective upon adoption on second reading.

The foregoing Ordinance was offered by **Councilmember Collins**, who moved its adoption on first reading. The motion was seconded by **Vice Mayor Alonso** and upon being put to a vote, the vote was as follows: 5-1-1

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	No
Councilmember Nancy Simon	Absent
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

PASSED AND ADOPTED on first reading this 11th day of **May, 2004.**

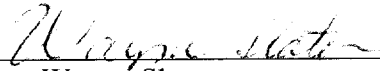
The foregoing Ordinance was offered by **Councilmember Collins**, who moved its adoption on second reading. The motion was seconded by **Councilmember Thomson**, and upon being put to a vote, the vote was as follows: 6-1

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	No
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	Yes

Vice Mayor Roberto Alonso
Mayor Wayne Slaton

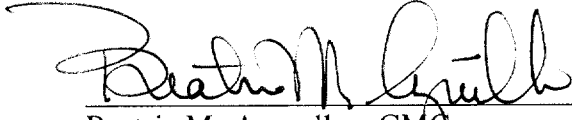
yes
yes

PASSED AND ADOPTED on second reading this 8th day of June, 2003.



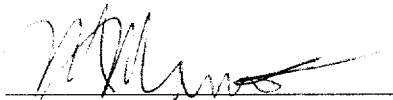
Wayne Slaton
MAYOR

ATTEST:



Beatris M. Arguelles, CMG
TOWN CLERK

Approved as to form and legality for the use
and benefit of the Town of Miami Lakes only:



Weiss, Serota, Helfman, Pastoriza, Guedes
Cole & Boniske, P.A.
TOWN ATTORNEY

F:/702001/Ordinances/amending purchasing procedures II 09.16.03