

ORDINANCE NO. 115

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING ORDINANCE NO. 04-51 PERTAINING TO PURCHASING PROCEDURES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the “Town”) purchasing procedures (the “Purchasing Procedures”) are currently provided in Ordinance No. 04-51; and

WHEREAS, the Town Council has determined it is in the best interest of the Town to improve the economic climate within the Town by contracting with local businesses in appropriate situations, as provided herein; and

WHEREAS, the Town Council has deemed it necessary to provide a mechanism whereby local businesses may be given a reasonable preference in the procurement of certain goods and services for the Town; and

WHEREAS, the Town Council has determined that this ordinance shall enhance the opportunity for success by local businesses in a manner which benefits the Town and its residents and creates enhanced employment opportunities for Town residents; and

WHEREAS, the Town Council desires to amend the Purchasing Procedures to provide for a local preference as well as to make other changes to the procedures.

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

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Amendments to Code. Chapter _____ of the Town Code is hereby amended to read as follows:¹

Chapter _____.

Purchasing Procedures

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

- a. **Invitation to Bid (ITB).** A formal solicitation in which proposer will only submit a price for services being proposed.

- b. **Miami Lakes Business.** A business that maintains an operating fixed office or distribution point located within the Town of Miami Lakes, which office or distribution point has been actively occupied and operated for at least one (1) year prior to bid or proposal submission and which would be the source of the services or goods sought, and for which a current local business tax receipt or certificate of use has been issued by the Town of Miami Lakes at least one year prior to bid or proposal submission to do business within the Town of Miami Lakes that authorizes the business to provide the materials, supplies, equipment, public improvements or services to be purchased, or any business in which the owner or the primary shareholder of the entity owning the business maintains his/her primary residence within the Town of Miami Lakes. Post Office Boxes shall not be acceptable for the purpose of establishing a physical location pursuant to this definition.

¹ Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~.

c. **Miami Dade County Business.** A business that maintains an operating fixed office or distribution point located outside the Town of Miami Lakes, but within Miami Dade County, which office or distribution point has been actively occupied and operated for at least one (1) year prior to bid or proposal submission and which would be the source of the services or goods sought, and for which a current local business tax receipt or certificate of use has been issued by Miami Dade County at least one year prior to bid or proposal submission to do business within Miami Dade County that authorizes the business to provide the materials, supplies, equipment, public improvements or services to be purchased. Post Office Boxes shall not be acceptable for the purpose of establishing a physical location pursuant to this definition.

- d. **Non-Local Business.** Any business which does not qualify as a Miami Lakes Business or Miami Dade County Business.
- e. **Primary Shareholder.** A person who owns at least 75% of the total assets or capital stock of the business entity which seeks the local preference provided by this Chapter.
- ef. **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, financial services, planning services, code enforcement services, building and permitting services, information and technology services, and management consultants.
- eg. **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.
- eh. **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.
- ei. **Request for Proposals (RFP).** A formal solicitation on a project which includes a statement of the services sought and the contractual terms and conditions applicable, including the criteria for award.
- fj. **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.

- gk. **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.
- hl. **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 \$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 \$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 \$2,500 shall not be broken down to amounts of less than \$2,500 to avoid the requirements of this subsection.

- (2) Purchases of more than \$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 \$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~~E 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.
- (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.
- (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 HI 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, and 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) 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 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.
- (7) Notwithstanding the provisions of this subsection, if the Town has an existing contract, the Town Manager or Town Council, ~~as the case may~~ ~~be~~ ~~whomever~~ approved the original contract, may renew the contract annually without utilizing the competitive purchasing procedures,

provided that the services rendered, or goods purchased, have been satisfactory, and after a recommendation to that effect has been made by the Town Manager to the Town Council, or by the Department Director responsible for overseeing the contract to the Town Manager.

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 and the name of the bidder and bid amount read aloud. 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) The Town Manager shall, if applicable under the provisions of Section G, Local Business Preference, provide an opportunity for the submission of

best and final bids, which bids shall be evaluated under the provisions of the Local Business Preference section and utilized in bid tabulation and/or recommendation.

- (45) 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. Local Business Preference

- (1) A local preference procedure, as set out in this section, for competitive ITBs greater than \$2,500~~10,000~~, or RFPs or RFQs, shall be utilized, except as provided below.
- (2) Application of these local preference procedures to a particular purchase, contract, or category of contracts for which the Town Council is the awarding authority may be waived in the ITB, RFP or RFQ, upon written justification and recommendation by the Town Manager and approval of the Town Council.
- (3) No local preference shall be given for those purchases or contracts exempted in Section I of this Ordinance or to the purchase of materials or services when the funding source includes funds received from the federal government, State of Florida, or any other governmental entity unless expressly authorized by such other governmental entity.
- (4) No local preference shall be given for those materials or services procured as provided in Section H of this Ordinance.

(5) Any business seeking to avail itself of the local preference procedures of this Section shall execute an affidavit, in a form made available by the Town's purchasing agent, certifying that it meets the definition of the relevant local business provided in this Chapter. Said affidavit must be accompanied by documentation supporting the business' claim that it is a Miami Lakes Business or Miami Dade County Business. It is the responsibility of any vendor claiming to be a Miami Lakes Business or Miami Dade County Business, as defined in this Chapter, to include a copy of the completed affidavit as well as any supporting documentation in any bid, quotation or proposal. The Town Manager, or his or her designee, or the applicable selection committee, shall have the responsibility of determining whether a business is a Miami Lakes Business or Miami Dade County Business as defined in this Chapter.

(6) For ITBs, when:

- a. a responsive, responsible Non-Local Business submits the lowest price bid, and a bid submitted by one or more responsive, responsible Miami Lakes Businesses is within ten (10) percent, or a bid submitted by one or more responsive, responsible Miami Dade County Businesses is within five (5) percent, of the price submitted by the lowest price bid then that lowest bidder and each of the Miami Lakes Businesses and the Miami Dade County Businesses with a bid falling within the percentages described above shall have the opportunity to submit a best and final bid equal to or lower than the amount of the low bid

previously submitted by the Non-Local Business. Notification of the opportunity to submit a best and final bid shall be provided simultaneously by depositing written notification in the U.S. mail and by e-mail to the e-mail address registered on the Town of Miami Lakes Website upon downloading the ITB document. Responses shall be due in a sealed envelope within five-seven (57) business days of the date of mailing and e-mailing the notification~~written notification by the Town Manager.~~ The sealed best and final bids shall be opened in the same manner as provided in F.(1). The Town Manager or his/her designee shall include the best and final bids in the bid tabulation and recommendation; or

- b. a responsive, responsible Miami Dade County Business submits the lowest price bid, and the bid submitted by one or more responsive, responsible Miami Lakes Businesses is within ten (10) percent, then that lowest bidder, any Miami Lakes Businesses within ten (10) percent of the lowest price bid and any Miami Dade County Businesses within five (5) percent of the lowest price bid shall have the opportunity to submit a best and final bid equal to or lower than the amount of the low bid previously submitted by the Miami Dade County Business. Notification of the opportunity to submit a best and final bid shall be provided simultaneously by depositing written notification in the U.S. mail and by e-mail to the e-mail address registered on the Town of Miami Lakes Website upon downloading

the ITB document. Responses shall be due in a sealed envelope within five-seven (57) business days of the date of mailing and e-mailing the notificationwritten notification by the Town Manager. The sealed best and final bids shall be opened in the same manner as provided in F.(1). The Town Manager or his/her designee shall include the best and final bids in the bid tabulation and recommendation.

- (7) For RFPs and RFQs, following the initial rating, five (5) points or five (5) percent, whichever is less, shall be added to the rating of any Miami Lakes Business provided that any cost components required by the RFP or RFQ are equal to or less than those of the initial highest ranked proposer. Three (3) points or three (3) percent, whichever is less, shall be added to the rating of any Miami Dade County Business provided any cost components required by the RFP or RFQ are equal to or less than those of the initial highest ranked proposer. The revised ratings shall be utilized for the final ranking.
- (8) In the case of a tie in the best and final bid, or a tie in the highest ranked proposers, between a Miami Lakes Business and a Miami Dade County Business and/or a Non-Local Business, the Miami Lakes Business shall be designated as the lowest responsive, responsible bidder or the highest ranked proposer. In the case of a tie in the best and final bid or the highest ranked proposers between a Miami Dade County Business and a Non-Local Business, the Miami Dade County Business shall be designated as the lowest responsive, responsible bidder or highest ranked proposer. In

the case of a tie between two or more Miami Lakes Businesses, then the lowest responsive, responsible bidder, or the highest ranked proposer, shall be such local business having the greatest number of its employees that are Town of Miami Lakes Residents. If a tie between two or more Miami Dade County Businesses occurs, then the lowest responsive, responsible bidder, or the highest ranked proposer, shall be such local business having the greatest number of its employees that are Miami Dade County Residents.

GH. 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.

HI. 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 and independent contractors under Article III of the Charter.
- (5) Contacts 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 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that 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 Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

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

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

| | |
|-----------------------------|--------|
| Mayor Michael Pizzi | yes |
| Vice-Mayor Richard Pulido | no |
| Councilmember Mary Collins | yes |
| Councilmember George Lopez | yes |
| Councilmember Robert Meador | absent |
| Councilmember Nick Perdomo | yes |

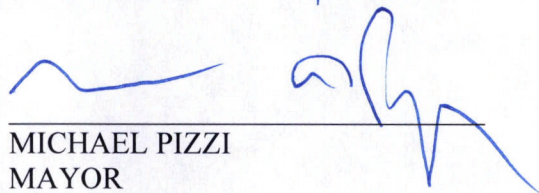
Councilmember Nancy Simon absent

PASSED AND ADOPTED on first reading this 12th day of May, 2009.

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

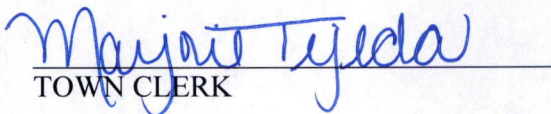
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|-----------------------------|------------|
| Mayor Michael Pizzi | <u>yes</u> |
| Vice-Mayor Richard Pulido | <u>yes</u> |
| Councilmember Mary Collins | <u>yes</u> |
| Councilmember George Lopez | <u>yes</u> |
| Councilmember Robert Meador | <u>yes</u> |
| Councilmember Nick Perdomo | <u>yes</u> |
| Councilmember Nancy Simon | <u>yes</u> |

PASSED AND ADOPTED on second reading this 8th day of September, 2009.



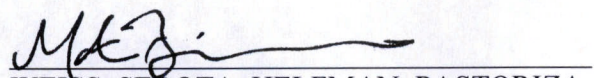
MICHAEL PIZZI
MAYOR

ATTEST:



TOWN CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF MIAMI LAKES ONLY:



WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
TOWN ATTORNEY