

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2016-31

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES AMENDING THE CITY CODE, CHAPTER 2, ENTITLED "ADMINISTRATION," ARTICLE XIII ENTITLED "PROCUREMENT CODE," BY ADDING A NEW SECTION 2-778, SUSTAINABLE (GREEN) PROCUREMENT AND ADDING A NEW SECTION 2-779, PROCEDURE TO PROVIDE A PREFERENCE FOR SUSTAINABLE PROCUREMENT IN THE PURCHASE OF GOODS AND GENERAL SERVICES; PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is in the best interest of the City to update the Procurement Code to provide for a Sustainable Procurement Preference policy to promote the use of environmentally preferable goods and general service ; and

WHEREAS, the purpose of these new Sections of the Procurement Code are to promote the procurement of environmentally preferable products or services throughout all city departments in order to foster the practice of responsible purchasing choices that reduce impacts on the public health and environment and support markets for environmentally preferable products or services.

WHEREAS, the Chief Procurement Officer has analyzed the current procurement code, comparing it with other City procurement codes in regard to Procurement preference policies, and recommends the amendment contained herein;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The City Commission does hereby approve an amendment to the City of Coral Gables Code as follows:

Sec. 2-778. Sustainable (Green) Procurement in General:

- (a) All city departments, whenever practicable, or when specific procurement guidelines have been developed, shall designate environmentally preferable products or services when procuring products or general services from vendors or contractors.
- (b) All city departments, whenever practicable, shall require outside vendors or contractors to use environmentally preferable products or services in the performance of services for the city.
- (c) The Chief Procurement Officer shall include in the annual report on the operation of the city's procurement system to the city manager, an annual report on the progress of Sustainable Procurement activities in the City.

Sec. 2-779. Procedure to provide a Sustainable (Green) Procurement preference in contracts for environmentally preferable goods and general services.

(a) *Definitions.* For purposes of this section only, the following definitions shall apply:

(1) Bid shall mean a competitive bid procedure established through the issuance of an invitation for bid. The term "bid," as used herein, shall not include requests for proposals (unless specified in the RFP document), requests for qualifications, requests for quotes and requests for information.

(2) General services mean support services performed by an independent contractor requiring specialized knowledge, experience, or expertise.

(3) Goods include, but are not limited to, supplies, equipment, materials and printed matter.

(4) "Environmentally Preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, life cycle cost or disposal of the product or service.

(b) *Exemptions.*

(1) Purchases or contracts with an estimated cost of \$50,000 or less.

(2) Professional services, which are defined, for purposes of this section, as any services where the city is obtaining advice, instruction, or specialized work from an individual, firm, or corporation specifically qualified in a particular area, and also those services procured pursuant to F.S. § 287.055, the Consultants' Competitive Negotiation Act.

(3) Bids for the purchase of, or contract for, the construction/renovation of public buildings, facilities, public works, or other public capital construction projects that are certified under LEED or other approved environmental certifications.

(4) Goods or services provided under a cooperative purchasing agreement or utilization of other agency contracts (piggyback contracts).

(5) Purchases made or contracts let under emergency or noncompetitive situations (sole source, or a special procurements/bid waiver), or for legal services.

(6) The business is determined to be unqualified to perform the work as determined by the City.

(7) The business submits a bid that exceeds the projected budget.

(c) *Preference in purchase of goods or general services.* Except where federal, state or county laws, regulations or policies mandates to the contrary, in the purchase of goods or general services by means of a competitive bid, a preference will be given to a responsive and responsible vendor offering environmentally preferable goods and general services, who is within five (5) percent of the lowest responsive responsible bidder, by way of an opportunity of providing said goods or general services for the lowest responsive responsible bid amount.

(d) *Preference must be asserted.* Said five (5) percent Sustainable Procurement Preference must be asserted by the party seeking it at the time of the competitive bid with the submittal of documentation supporting the assertion that a product is an environmentally preferred product or service, and shall be calculated by the Procurement Division in rating competitive bids.

(e) *Comparison of qualifications.* The preferences established herein in no way prohibit the right of the Chief Procurement Officer, City Manager and/or the City Commission, as applicable, to compare quality of goods or general services proposed for purchase and compare qualifications, character, responsibility and fitness of all person, firms or corporations submitting bids. Further, the preferences established herein in no way prohibit the right of the City Manager and/or the City Commission, as applicable, from giving any other preference permitted by law instead of the preferences granted herein.

(f) *Waiver.* The application of the Sustainable Procurement preference to a particular purchase, contract, or category of contracts in excess of \$100,000 for goods and general services may be waived upon written recommendation of the City Manager and approval of the City Commission. The application of the Sustainable Procurement preference to a particular purchase, contract or category of contracts in excess of \$50,000, but not exceeding \$100,000 may be waived upon written recommendation of the Chief Procurement Officer and approval of the City Manager.

SECTION 3. SEVERABILITY.

If any action, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 4. REPEALER.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made part of the City of Coral Gables Code of Ordinances; and that the sections of this “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. CODIFICATION.

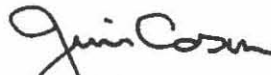
It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances immediately upon the signing of the Ordinance; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. EFFECTIVE DATE

That this Ordinance shall become effective immediately upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS TWENTY-FOURTH DAY OF JUNE A.D., 2016.
(Moved: Lago / Seconded: Quesada)
(Yeas: Quesada, Slesnick, Keon, Lago, Cason)
(Unanimous: 5-0 Vote)
(Agenda Item: E-2)

APPROVED:



JIM GASON
MAYOR

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



CRAIG E. LEEN
CITY ATTORNEY

ATTEST:



WALTER L. FOEMR
CITY CLERK