

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CORAL GABLES CITY COMMISSION AMENDING THE CITY CODE, CHAPTER 2, ENTITLED "ADMINISTRATION," ARTICLE XIII ENTITLED "PROCUREMENT CODE" BY AMENDING SECTION 2-766, COMPETITIVE SEALED BIDDING (FORMAL BIDS), TO PROVIDE FOR THE CONSIDERATION OF OTHER FACTORS, IN ADDITION TO PRICE, WHEN DETERMINING THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER; PROVIDING FOR SEVERABILITY, REPEALER AND EFFECTIVE DATE.

**WHEREAS**, it is in the best interest of the City to update the Procurement Code to provide for the consideration of other factors, in addition to price, when determining the lowest responsive and responsible bidder in a formal bid process; and

**WHEREAS**, the Chief Procurement Officer has analyzed the current procurement code, comparing it with other City procurement codes in regard to formal bid procedures, 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 as 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. 2-766. Competitive sealed bidding (formal bids).

(a) *Conditions for use.* Competitive sealed bidding shall be used for the award of all contracts for supplies, services and construction over \$25,000.00, except as otherwise provided for in section 2-765.

(b) *Invitation for bids.* An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement, the time and date for the receipt of bids and of the public opening, and the criteria to be used in determining acceptability of the bid.

(c) *Public notice.* Adequate public notice of the invitation for bids shall be given a reasonable time prior to the date set forth therein for the opening of bids, in accordance with the administrative regulations.

(d) *Pre-bid conferences.* Pre-bid conferences may be held to explain the requirements of the solicitation.

(e) *Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place stated in the public notice and invitation for bids. The amount of each bid and such other relevant information as may be deemed desirable, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection within the time frame specified in the appropriate Florida Statutes, including the Public Records Act, F.S. ch. 119.

<sup>1</sup> Deletions are indicated by ~~strikethrough~~. Insertions are indicated by underlining.

(f) *Bid acceptance and evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used, including past performance. No criteria may be used in bid evaluations that are not set forth in the invitation for bids.

(g) *Correction or withdrawal of bids; cancellation of awards.* Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. Except as otherwise provided by administrative regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the chief procurement officer after consultation with the city attorney. The bidder who withdraws their bid will forfeit their bond.

(h) *Bid evaluation.* The chief procurement officer shall recommend to the city manager the lowest responsive and responsible bidder whose bid meets the requirements set forth in the invitation for bids. The chief procurement officer shall consider other factors, in addition to price, when determining the lowest responsive and responsible bidder. These factors include, but shall not be limited to:

1. The ability, capacity, equipment and skill of the bidder to perform the contract.

2. Whether the bidder can perform the contract within the time specified, without delay or interference.

3. The character, integrity, reputation, judgment, experience, efficiency and litigation history of the bidder.

4. The quality of performance on previous contract(s).

5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract.

6. The sufficiency of the bidder's financial resources to perform the contract or to provide the service.

7. The quality, availability and adaptability of the supplies or contractual services to the particular use required.

8. The ability of the bidder to provide future maintenance and service and the financial impact upon the City to receive such future maintenance and service.

9. The number and scope of conditions attached to the bid.

(i) *Award.* Consistent with the provisions of section 2-828 (Contract award), the bid shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder, whose bid meets the requirements and criteria set forth in the invitation for bids. Awards shall include authority for subsequent options for renewal, if any. Options for renewal shall be exercisable at the option of the city manager if, after review of past performance under the contract, the city manager determines that exercise of the option renewal is in the best interest of the city. The proposal for renewal shall include the price for each year for which the contract may be renewed and the evaluation of the proposals shall include consideration of the total cost for each year as submitted by the vendor.

(1) The city manager may conduct negotiations limited to the lowest responsive and responsible bidder regarding contractual terms and conditions. Said negotiations are permissible only to the extent that they do not materially alter the contemplated contract (scope of work) and are not contrary to the interest of the city or fair treatment of other bidders.

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(2) In the event only one bid is received, the city may award to the sole responsive and responsible bidder, conduct negotiations with the sole responsive and responsible bidder, or re-bid, whichever is in the best interest of the city.

(3) Authority to award to second lowest responsive and responsible bidder. If within 90 days after bids are opened, or any period of time that bids are to remain firm as prescribed in the invitation for bids, the initial award is rescinded or the contract terminated pursuant to section 2-829 (Approval of change orders and contract modifications), the city may elect to award the contract to the next lowest responsive and responsible bidder. After the acceptance period prescribed, the city may award to the next lowest responsive and responsible bidder provided:

a. A determination is made that it is in the best interest of the city to award based upon the bids submitted rather than re-bid; and

b. The next lowest responsive and responsible bidder agrees, in writing, to the extension of the bid for the additional period of time. The city manager has the authority to award to the next lowest responsive and responsible bidder on a contract that does not exceed \$100,000.00 on a single purchase or per annum basis or on a construction contract that does not exceed \$25,000. The city commission has the sole authority to award an annual or multi-year contract exceeding \$100,000.00 to the next lowest responsive and responsible bidder upon recommendation by the city manager.

(Ord. No. O-2003-6, § 2(2-419), 2-11-2003; Ord. No. O-2003-14, § 1(2-419), 4-22-2003; Ord. No. 2003-23, § 2(419), 7-23-2003; Ord. No. 2005-17, § 2(2-419), 8-23-2005; Ord. No. 2005-20, § 2(2-419), 9-13-2005; Ord. No. 2008-27, § 2, 10-28-2008)

### **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. EFFECTIVE DATE.**

This Ordinance shall become effective ten (10) days after final reading and adoption thereof.

**PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2015.**

(Moved by \_\_\_\_\_, Seconded by \_\_\_\_\_)  
(Passed 0/0 vote)

JAMES C. CASON  
MAYOR

ATTEST:

<sup>1</sup> Deletions are indicated by ~~striketrough~~. Insertions are indicated by underlining.

WALTER FOEMAN  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

CRAIG E. LEEN  
CITY ATTORNEY

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