

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2022-61

AN ORDINANCE OF THE CITY COMMISSION AMENDING THE CITY OF CORAL GABLES CODE, CHAPTER 2 “ADMINISTRATION”, ARTICLE VIII “PROCUREMENT CODE”, SECTION 2-696 “PROCEDURE TO PROVIDE PREFERENCE TO CORAL GABLES-BASED VENDORS IN CONTRACTS FOR GOODS AND GENERAL SERVICES” TO ADD A PREFERENCE FOR MIAMI-DADE COUNTY-BASED VENDORS, DEFINE PRINCIPAL PLACE OF BUSINESS AND EXPAND AND CLARIFY THE PREFERENCE IN COMPETITIVE BIDS , PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City has had a preference for Coral Gables-based vendors since 2006; and

WHEREAS, in order to provide additional clarity and preferences for Coral Gables-based and Miami-Dade County-based vendors the City Commission wishes to amend the City Code as indicated in the attached ; and

WHEREAS, the City Commission is aware and the Code is clear that should state or federal law prohibit the use of a local preference in procurement methodology, or should any other funding entity prohibit that use the City would not utilize the local preference in order to assure the City’s compliance with all relevant laws; and

WHEREAS, this Code provision should allow local Coral Gables-based and Miami-Dade County- based vendors with the opportunity to provide the City with their lowest pricing and allow the City the opportunity to work with more local vendors;

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

SECTION 1. That 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. That Chapter 2 “ Administration”, Article VIII “Procurement Code”, Section 2-696 “Procedure to Provide Preference to Coral Gables-Based Vendors in Contracts for Goods and General Services” in the City Code of Coral Gables, Florida be amended as indicated in the attached Exhibit A¹:

SECTION 3. All Ordinances or parts of Ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. 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 City Code; 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 6. If the City Code of the City of Coral Gables Tables of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This Ordinance shall become effective immediately upon its passage and adoption herein.

¹ Deletions are indicated by ~~strikethrough~~. Insertions are indicated by underline.

PASSED AND ADOPTED THIS TWENTY-FIFTH DAY OF OCTOBER, A.D., 2022.

(Moved: Anderson / Seconded: Menendez)

(Yeas: Menendez, Anderson, Fors, Jr., Mena, Lago)

(Unanimous: 5-0 Vote)

(Agenda Item: F-3)

APPROVED:

DocuSigned by:

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VINCE LAGO
MAYOR

ATTEST:

DocuSigned by:

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BILLY Y. URQUIA
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

DocuSigned by:

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MIRIAM SOLER RAMOS
CITY ATTORNEY

EXHIBIT A

Sec. 2-696. Procedure to provide preference to Coral Gables and Miami-Dade County-based vendors in contracts for goods and general services.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bid means 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, requests for qualifications, requests for quotes and requests for information.

Coral Gables-based vendor or business means a bidder or proposer that has a local business tax receipt issued by the city at least ~~six months~~ one year prior to the bid, which authorizes said vendor to provide the subject goods and/or general services, and has its principal place of business located in the city at which it will provide the goods or perform the general services to be purchased. Post office boxes are not verifiable and shall not be considered as a principal place of business. The chief procurement officer shall administratively resolve any issues relating to a vendor's status as a Coral Gables-based vendor, and his or her decision on whether a vendor is a Coral Gables-based vendor shall be final. Vendors shall affirm in writing their compliances with the foregoing at the time of submission of their bid or proposal to be eligible for consideration as a Coral Gables-based vendor under this section.

Miami-Dade County-based vendor or business means a bidder or proposer that has a valid business tax receipt issued by Miami-Dade County at least one year prior to bid or proposal submission, and its principal place of business is located within the limits of Miami-Dade County. The vendor must own or lease the principal place of business and the address or another principal place of business where the owner maintains the appropriate business permits, must have served as the place of employment for at least three full time employees of the vendor for the continuous period of one year prior to the bid or proposal submission. Miami-Dade County-based vendors who provided goods or services which are exempt from Miami-Dade Business Tax Receipt requirements shall be required to submit documentation, to the City's satisfaction, demonstrating the physical business presence of the firm within the limits of Miami-Dade County for at least one year prior to bid or proposal submission. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a Miami-Dade County-based vendor unless it contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way. This may include, but not be limited to, the retention and expansion of employment opportunities and the support and increase to the County's tax base. Vendors shall affirm in writing their compliance with the foregoing at the time of submission their bid or proposal to be eligible for consideration as a Miami-Dade County-based business under this section.

General services means support services performed by an independent contractor requiring specialized knowledge, experience, or expertise.

Goods includes, but is not limited to, supplies, equipment, materials and printed matter.

Principal Place of Business means the nerve center or the center of overall direction, control, and coordination of the activities of the bidder. If the bidder has only one business location, such business location shall be its principal place of business.

- (b) *Exemptions.* The provisions of this section do not apply to:

- (1) Purchases or contracts with an estimated cost of \$50,000.00 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.
- (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.
- (8) State or Federal law prohibits the use of local preferences.
- (9) The work is funded in whole or in part by a governmental entity where the laws, rules, regulations or policies prohibit the use of local preferences.

(c) Preference in purchase of personal property and general services by means of competitive bid, . Except where federal or state law, or any other funding source, mandates to the contrary, Coral Gables shall give preference to local businesses in the following manner:

1) Competitive bid. In any competitive bid process where award, if any, is to be made to the responsive and responsible bidder offering the lowest bid (the "Low Bidder" and "Low Bid" respectively), the following shall apply:

A) if the Low Bidder is not a Miami-Dade County-based business, then any and all responsive and responsible Miami-Dade County -based businesses submitting a price within five (5) percent of the Low Bid, the Low Bidder, and any and all responsive and responsible Coral Gables-based businesses submitting a price within five (5) percent of the Low Bid, shall have an opportunity to submit a best and final bid which is at least (1) one percent lower than the Low Bid in accordance with the relevant Procurement Division regulations.

B) if the Low Bidder is a Miami-Dade County-based business which is not a Coral Gables-based business, then any and all responsive and responsible Coral Gables-based businesses submitting a price within five (5) percent of the Low Bid and the Low Bidder shall have an opportunity to submit a best and final bid which is at least one (1) percent lower than the Low Bid in accordance with the relevant Procurement Division regulations.

C) Awards, if any, shall be made to the responsive and responsible bidder offering the lowest best and final bid.

D) Ties in best and final bid scenarios shall be resolved in the following order of priority: Coral Gables-based businesses, Miami-Dade County-based business, another business.

E) If no best and final offer is required in accordance with the provisions above, award, if any, shall be made to the lowest responsive and responsible bidder

F) If following the application of the rules above, a tie occurs between two or more Miami-Dade County businesses, then they will have the opportunity to proceed to negotiations. The most advantageous negotiated proposers' deal will move forward for award.

~~(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 Coral Gables-based vendor, who is within five percent of the lowest and best bidder, by way of an opportunity of providing said goods or general services for the lowest responsive bid amount.~~

- ~~(d) *Preference must be asserted.* Said five percent local preference. Any claim of Coral Gables-based or Miami-Dade County-based preference must be asserted by the party seeking it at the time of submission of the bid or proposal. the time the competitive bid is made 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 local preference to a particular purchase, contract, or category of contracts in excess of \$100,000.00 for goods and general services may be waived upon written recommendation of the city manager or his or her designee. and approval of the city commission . The application of the local preference to a particular purchase, contract or category of contracts in excess of \$50,000.00, but not exceeding \$100,000.00 may be waived upon written recommendation of the chief procurement officer and approval of the city manager.~~

(Code 2006, § 2-777; Ord. No. 2010-22, § 2, 9-14-2010; Ord. No. CAO 2020-006, 2-14-2020)