

**ORDINANCE NO. 17 - \_\_\_\_**

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES  
FLORIDA, AMENDING AND RESTATING ORDINANCE NO  
12-142 PERTAINING TO PURCHASING PROCEDURES;  
AUTHORIZING THE TOWN MANAGER TO TAKE ALL  
NECESSARY ACTIONS TO IMPLEMENT THE REVISED  
RULES AND REGULATIONS; PROVIDING FOR  
INCORPORATION OF RECITALS; 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") procurement procedures ("Procurement Procedures") are currently provided in Ordinance No. 12-142; and

**WHEREAS**, said Ordinance allows bidders to earn local preference points during the formal bid evaluation process; and

**WHEREAS**, on February 7, 2017, the Town Council directed staff to provide changes to local preference in order to make it easier for businesses to qualify for local preference; and

**WHEREAS**, staff has suggested modifications that will allow for a more uniform and simplified qualification process by offering two schemes for qualifications based on ownership or situs of the business; and

**WHEREAS**, staff has further suggested modifications that will create uniformity in the application of preference points; and

**WHEREAS**, the Town Council has determined it is in the best interest to revise the procurement code as it relates to local preference as provided herein.

**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 is true and correct and are incorporated herein by this reference.

**Section 2. Amendments to Code.** Ordinance No. 12-142 is hereby amended as follows:

**Chapter \_\_\_\_\_.****Procurement 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)** means an advertised competitive solicitation which includes minimum qualifications and a definitive scope of work or precise specifications, where award(s) is made to the lowest responsive and responsible bidder.
- b. **Bidder or Proposer** means an individual or business that submits a bid or proposal in response to a solicitation issued by the Town.
- c. **Competitive Negotiations** means a one or two-step solicitation issued under the Competitive Sealed Procurement process where proposals are sought and the Town enters into competitive negotiations to determine the proposal that is most advantageous to the Town.
- d. **Change Order or Modification** is a unilateral or bilateral written order amending a Contract.
- e. **Contract** means all types of binding agreements, including purchase orders, executed by the Town Manager or his designee.
- f. **Contractor or Vendor** means any individual or business having a contract with the Town.
- g. **Cooperative Procurement** means procurement conducted by or on behalf of more than one public procurement entity.
- h. **Local Business** means a Bidder/Proposer having a business located within the boundaries of the Town from which the goods or services will be furnished.
- i. **Professional Services** means any service where the Town is obtaining advice, instruction or specialized work from an individual or business specifically qualified in a particular area where the main thrust is in intellectual ability, and whose profession is regulated by the State of Florida. Such services do not lend themselves solely to price competition but to qualifications and price.
- j. **Public Entity** means any agency of the federal, state, any local government, or any non-profit organization.
- k. **Request for Qualifications (RFQ)** means a formal solicitation typically used for Professional Services where the initial ranking and selection is based on businesses

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qualifications without price being used as a factor.

- l. **Request for Price Quote (RPQ)** means an informal solicitation where written responses are obtained from businesses, without formal advertising or receipt of sealed bids.
- m. **Request for Proposals (RFP)** means a formal solicitation where the ranking and selection is based on a combination of business qualifications and price.
- n. **Responsible Bidder or Proposer** means any person, firm or corporation who has the capability in all respects to fully perform the contract requirements.
- o. **Responsive Bidder** means any individual or business who has submitted a response which conforms in all material respects to the solicitation.
- p. **Single Source Procurement** means the purchase of a good or services for which there is no other vendor who can compete and an equal product or service is not available from any other source.
- q. **Standing** means a Bidder or Proposer who believes it has been injured by the Town's action and should it prevail in its Protest would be considered the lowest responsive and responsible Bidder or most qualified Proposer and would be eligible for the award of a Contract, if the Town were to award a Contract as result of a solicitation.
- r. **Submittal** means the document(s) submitted by a Bidder or Proposer in response to a solicitation.

**Section 2. Exemptions.** The following shall be exempt from the Procurement Ordinance:

- a. Federal or State of Florida funded procurements where their rules and regulations supersede this Ordinance.
- b. Contracts for those Professional Services specified in Article III of the Town Charter, as well as hiring of independent contractors under Article III of the Charter.
- c. Procurements for utility services.
- d. Real estate property.
- e. Persons retained as expert consultants.
- f. Town-sponsored events at venues not owned by the Town, inclusive of rental of the facility, and all other associated goods and services.
- g. Entertainment services for Town-sponsored events
- h. Purchase of groceries.
- i. Donation of goods and services from 50 I (C)(3) not-for-profit organizations
- j. Service on any of the Town Committees.
- k. Artistic Services.

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**Section 3. Authority and Duties of the Procurement Manager.** The Town Manager shall have the authority to appoint a chief procurement officer who shall have authority for the implementation of procurement policies, procedures and the day-to-day management of procurement activities in accordance with the provisions of Florida Statutes applicable to local government entities, including but not limited to Florida Statutes §255 and §287, as may be amended from time to time and as further stated in this Ordinance, which shall include:

- a. Procure or supervise the procurement of all goods and services.
  - (1) Determine the best procurement methodology.
  - (2) Issues solicitations.
  - (3) Determine if solicitation responses are responsive and assist in the determination of responsibility.
  - (4) Manage the evaluation, selection and award process.
  - (5) Recommend the award of solicitations, except for solicitation where proposals are reviewed by an Evaluation Committee and the recommendation of award is provided by the Evaluation Committee.
  - (6) Recommend the renewal of contracts by the Town Manager.
  - (7) Assist in the development of specifications/Scope of Work and ensure, to the extent practical, that they are competitive.
- b. Development/implementation/administration of procurement policies and procedures, and operations manuals.
- c. Determine the methods of selection and appropriate contractual terms and conditions for each type of procurement.
- d. Sell, trade, exchange, or otherwise dispose of Town owned surplus or obsolete personal or capital property.
- e. Manage contract compliance including but not limited to contract performance, payment of subcontractors, and resolution of disputes, claims, and protests.
- f. Manage the evaluation vendor/contractor performance process in accordance with Section 15 of this Ordinance.
- g. Perform other duties as may be assigned or directed by the Town Manager or designee.

The Town Manager and Mayor retain sole authority to execute contracts, agreements, purchase orders, and change orders.

**Section 4. Authority to Award.** Approval authority is based on the value of the award and

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requirements for goods or services shall not be broken down into lesser amounts to avoid approval authority.

a. Town Manager shall be authorized to award the following without submittal to the Town Council:

- (1) Contracts for goods and services, excluding professional services, up to \$25,000 procured in accordance with the small purchase provisions of the Ordinance.
- (2) Contract for professional services up to \$25,000.
- (3) Change Orders where the Town Council has authorized the Town Manager to expend additional budgeted funds, for the goods or services, at the time of the initial award; where it does not exceed the Town Manager's approval authority; and change orders not exceeding \$10,000.
- (4) Emergency procurements procured in accordance with the provisions of this Ordinance. All such purchases exceeding \$15,000 shall be reported to the Town Council within thirty (30) business days of such action.
- (5) Purchases made with the use of grant funds up to \$50,000.
- (6) Exercise contract options to renew where such authority has been delegated at the time of initial award approval by the Town Council, if required.
- (7) Reject all Submittals or waive any minor irregularities contained in the Submittals or in the solicitation process.

b. Town Council:

- (1) All contracts exceeding the Town Manager's authority
- (2) Change Orders in excess of the Town Manager's authority.
- (3) The Town Council may reject the Town Manager's recommendation of award and reject all Bids or Proposals.

#### **Section 5. Procurement Methodology.**

a. Small Purchases

- (1) Purchases not exceeding \$5,000 shall require, at a minimum, obtaining one (1) written quotation.
- (2) Purchases between \$5,000.01 and \$15,000 shall require issuing an RPQ to a minimum of three (3) Contractors or Vendors. Award will be made to the lowest responsive and responsible Bidder.
- (3) Purchases of professional services equal to or less than \$25,000 shall require, at a minimum, obtaining one (1) written quotation, unless otherwise stipulated by

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Florida Statute.

- b. Competitively Sealed Procurements. Procurements in excess of \$15,000 shall require the use of competitive sealed bidding, except as otherwise provided in this Ordinance.
  - (1) The solicitation documents will be made available on the Town's website. A newspaper advertisement may also be issued for the solicitation.
  - (2) ITBs shall be awarded to the lowest responsive and responsible Bidder as determined by the Town Manager.
  - (3) Competitive negotiations will be awarded to the Proposer providing the most advantageous Proposal to the Town, as determined by the Town Manager.
  - (4) RFPs and RFQs shall be awarded to the highest ranked firm, as determined by the Town Manager, except where the Town Manager determines that such award is not in the best interest of the Town or where the Town and the highest ranked proposer are not able to reach a mutual contractual agreement.
  - (5) Submittals will be received by the Town Clerk or designee. The Town Clerk or designee will open the Submittals at the stated time in the presence of the Procurement Manager or designee. The name of the Bidder or Proposer shall be read aloud and recorded in writing.
- c. Architectural and Engineering Services. All such services shall be procured in accordance with Florida Statute 287.055, which is also known as the "Consultant Competitive Negotiation Act" or "CCNA".
- d. The Town Manager may request authorization from the Town Council to waive the requirements of this Section where the Town Manager has made a written recommendation where, based on specific circumstances, it is not practical to comply with the requirements of this Section for a specific solicitation(s).

#### **Section 6. Emergency Procurements.**

- a. The Town Manager may suspend all normal procurement procedures and requirements and authorize the emergency procurement of goods or services, using the most efficient and effective procurement methods, when there exists a clear and present danger to public health, safety, welfare, or other substantial loss to the Town. The Town Council shall be notified, after the fact, of such procurement in excess of \$25,000. Such notification shall include the basis for the emergency, the contractor's name, the amount and type of contract, and the number of the purchase order or contract, if any.
- b. Declared State of Emergency Procurements.

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- (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 and suspend all normal procurement procedures and requirements and authorize the emergency procurement of goods or services, using the most efficient and effective procurement methods.
- (2) 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.
- (3) Purchases made during an emergency exceeding \$25,000 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.
- (4) Purchases made during an emergency, other than a declared federal emergency in excess \$50,000 shall be reported to the Town Council at the next regularly scheduled Town Council meeting together with a written report of the circumstances relating to the emergency. Purchases made during a declared federal emergency shall be consistent with 44 CFR 13.36.

**Section 7. Contracts with other Public/Non-Profit Entities.** The Town Manager may authorize the purchases of goods and services from current contracts of other public, governmental, state/federal funded or non-profit entities, where the contracts have resulted from a formal competitive procurement process. The Procurement Manager shall conduct a market analysis to determine that the pricing under the contract is the most advantageous procurement method available to the Town. Procurements in excess of \$25,000 shall require the approval of the Town Council.

**Section 8. Single Source Procurement.** Purchase of goods or services may occur without competition when the Town Manager makes a written determination that the required goods or services are available from only one source.

**Section 9. Cooperative Procurement.** The Procurement Manager may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of goods and services with one or more public entities. Cooperative procurement may include, but is not limited to, joint or multiparty contracts between public entities.

**Section 10. On-Line Procurement.** The Town, through the Procurement Manager, may engage in electronic on-line bidding to obtain competitive bids from Bidders for the purchase of goods or services where the Town Manager determines that electronic on-line bidding is more advantageous to

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the Town than other procurement methods.

**Section 11. Donations/In-Kind Services.** The Town Manager is authorized to accept donations and in-kind services up to an estimated value of \$25,000 on behalf of the Town. Donations/in-kind services in excess of \$25,000 shall require Town Council approval. The Town Manager shall be authorized to accept donations and in-kind services of any value from 501(c)(3)(s) and shall report such donations in excess of \$25,000 to the Town Council within thirty (30) business days of receipt.

**Section 12. Sale or Disposal of Surplus/Obsolete Property.** Any property owned by the Town which has become obsolete, or which has outlived its usefulness, or which has become inadequate for the public purposes for which it was intended, or which is no longer needed for public purposes, may be disposed of in accordance with the following procedures: The disposal of goods procured with grant, bond or loan proceeds shall be exempt from these procedures, where disposals of the goods from such proceeds must comply with the requirements of the funding source.

- a. The Town Manager may donate, sell or trade such property to non-profit organizations, or governmental/public entities without issuing a competitive solicitation where the value of such property does not exceed \$5,000. Donation of such property to non-profit organizations, or governmental/public entities without issuing a competitive solicitation where the value of such property exceeds \$5,000 shall require the prior written approval of the Town Council.
- b. For such property that is available for sale to a for-profit business or individual(s), or between the values of 5,000.01 and \$15,000 the Town Manager shall utilize the Small Purchase procedures and the award shall not be subject to Town Council approval.
- c. The sale of such property, valued in excess of \$15,000, may be disposed through a sealed competitive solicitation, auction, or on-line auction. Such sale shall be subject to the prior approval of the Town Council.

**Section 13. Local Preference.** ~~Local business, as defined in the Section 1 of the Ordinance, may be entitled to a preference, for competitive solicitations in excess of \$5,000, based on the following~~ Local businesses, as defined in Section 1 of this Ordinance, may apply for a preference for competitive solicitations in excess of \$5,000. Preference will be given if the Bidder/Proposer submits the Town's Local Preference Form and provides documentation that establishes the following:

- a. ~~Qualifications. A Bidder/Proposer having a business located within the boundaries of the Town from which goods or services will be furnished may be entitled to preference where it meets the following requirements:~~

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- (1) Bidder/Proposer ~~shall~~ possesses a current business tax receipt and certificate of use issued at least six (6) months prior to the issuance of the solicitation and affirms that services shall be provided solely from the place of business located in the Town of Miami Lakes; or
- (2) At least ~~ten~~ forty percent (~~10%~~ 40%) of the Bidder's/Proposer's ~~workforce~~ ownership must reside in the Town prior to the issuance of the solicitation.

~~Where the Bidder/Proposer has multiple places of business, the goods or services shall be provided solely from the place of business located in the Town of Miami Lakes.~~

The Bidder/Proposer seeking Local Preference shall have the burden of proof to demonstrate that it qualifies for preference. Failure to submit the Local Preference Form or the required supporting documentation with Bidder/Proposer's submittal shall result in a rejection of the request for Local Preference.

- ~~(3) Bidder/Proposer seeking Local Preference shall have the burden of proof to demonstrate that it qualifies for the preference. Bidder/Proposer must submit with its Bid/Proposal the Town's Local Preference Form ("Form"). Failure to provide the Form or a complete Form at the time of submission or provide additional information requested by the Town it deems necessary to determine eligibility shall result in rejection of the request for Local Preference.~~

a. Exemptions to Local Preference

- (1) Upon written justification of the Town Manager and approved by the Town Council for solicitations which are subject to award by the Town Council.
- (2) Procurement of goods/services which include funding from other entities that preclude the application of the Town's Local Preference.
- (3) Single Source, Emergency, Cooperative and On-Line Procurements as defined by this Ordinance.
- (4) Procurements exempt from the Procurement Code.

b. Preferences.

- (1) Awards Based Solely on Price. The lowest Bidder, who is entitled to preference under the Local Preference provisions of this Ordinance, who ~~i-s~~ within five percent (5%) of the lowest responsive and responsible Bidder ("Lowest Bidder"), who is not entitled to preference, and is determined to be responsive and responsible, shall be provided the opportunity to offer a price that must be at least five percent (5%) less than the Lowest Bidder. Such Bidder, upon

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providing written confirmation providing a price meeting this requirement shall be considered the lowest responsive and responsible Bidder.

- (2) ~~All Other Awards Based Solely on Qualifications.~~ A Proposer entitled to preference under the Local Preference provision of this Ordinance shall have an additional ~~five (5) points or~~ five percent (5%) of the total available points, ~~whichever is less,~~ added to its ~~total point~~ ranked point score received during the evaluation process.

- ~~(3) Awards Based on Qualifications and Price. In addition to the preference the Proposer may be entitled to under (2) above, the Proposer shall be entitled to an additional three (3) points or three percent (3%) of the total points allocated for the price components, whichever is less, added to its total point score received during the evaluation process.~~

**Section 14. Tie Bids and Proposals.** The Town Manager is authorized to determine the lowest responsive and responsible Bidder/Proposer where there is a tie in the Bid Price or the ranking of Proposers based on the following order of precedence:

- a. Drug Free Policy that complies with the requirements of Florida Statute 287.087.
- b. Local business with the greatest percentage of employees residing within the Town boundaries
- c. Prior work performance with the Town and other business factors, such as, financial stability, record of performance with other public entities

**Section 15. Contract Administration.**

- a. Day to Day Management. Departments shall be responsible for the day to day management of all contracts and the initial resolutions of performance related issues. All issues related to contract interpretation shall be handled by the Procurement Manager. Where the vendor's performance potentially places it in default of its contract the Department shall work with the Procurement Manager and the Procurement Manager shall notify the vendor in writing that its performance has placed it in potential default, and the Procurement Manager shall assist the Department Director in the resolution of the performance issues.
- b. Disputes. The Town Manager shall establish a procedure for the resolution of contract disputes, including applicable timelines, which provides provisions for the vendor to initially request a review and decision by the Procurement Manager, and then allow for an appeal of the Procurement Manager's decision to the Town Manager. The procedures

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shall mandate that this process must be followed prior to the vendor seeking relief through judicial means.

- c. Evaluations. The Town Manager shall establish a vendor performance evaluation program that will then be used in considering contract terminations, contract renewals, and future procurement awards.

**Section 16. Protests.** The Procurement Manager shall establish written policies and procedures for protests of solicitations of \$15,000 or less. Protest and resolutions of a solicitation shall follow the following procedures for solicitations in excess of \$15,000:

- a. Filing of Protest

- (1) The written protest must be filed with the Procurement Manager, with a copy to the Town Clerk, based on the following timeframes.

- i. A prospective Bidder/Proposer who perceives that it is precluded from submitting a response to a solicitation due to the requirements of the solicitation, including the terms and conditions, specifications or drawings, may file a protest with the Procurement Manager. The protest shall be submitted to the Procurement Manager, with a copy to the Town Clerk, within four (4) business days after the solicitation is either posted on the Town's website or an announcement is placed in a newspaper, whichever is earlier.
    - ii. A prospective Bidder/Proposer who has Standing under the solicitation may protest the recommended award to the Procurement Manager. The protest shall be submitted to the Procurement Manager, with a copy to the Town Clerk, within four (4) business days after notice has been sent to the Bidder/Proposer of the Town Manager's or Procurement Manager's, as applicable, written recommendation of award. A time stamped copy of a facsimile transmission, delivery receipt by e-mail, proof of mailing by the postal service, or private delivery service shall constitute proof of notification.

A written protest received by the Procurement Manager after the stipulated timeframe shall not be considered.

- (2) The written protest cannot challenge the minimum qualifications, evaluation criteria or relative weight of assigned points, or the scoring of Submittals during the evaluation process based on the evaluation criteria.

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- (3) The written protest shall state with specificity the facts and law upon which the protest is based, and shall include all pertinent documents and evidence and shall be accompanied by the required filing fee(s) as provided below. This shall form the basis for review of the written protest and no facts, grounds, documentation or evidence not contained in the protester's submission to the Procurement Manager at the time of filing the protest shall be permitted in the consideration of the written protest or any appeal thereof.
- b. *Authority to resolve protests.* The Procurement Manager shall have the authority to settle and resolve timely protests. During the evaluation of the protest the Procurement Manager shall have the authority to obtain written clarification of the supporting documentation and evidence from the party submitting the protest, hereinafter referred to as a "Protestor". The Procurement Manager shall have fifteen (15) business days to issue a written decision on the protest. A copy of the decision will be forwarded to the Protestor and filed with the Town Clerk.
- c. *Appeal of Procurement Manager's written decision.* The Protestor may appeal the Procurement Manager's written decision by filing a written request of appeal to the Town Manager, with a copy to the Town Clerk, within three (3) business days of notification of the Procurement Manager's written decision. Such notification shall comply with the timeline and proof of delivery as stipulated in a( I )ii above. The Town Manager shall have fifteen (15) business days to issue a written decision on the protest, which shall be based on the pertinent documents and evidence submitted with the initial filing of the protest together with any clarifications obtained by the Procurement Manager. A copy of the decision will be forwarded to the Protestor and filed with the Town Clerk.
- d. *Appeal of Town Manager's written decision.* The Protestor may appeal the Town Manager's written decision to the Town Council by filing a written request for an appeal hearing to the Town Clerk, with a copy to the Town Manager, within three (3) business days of notification of the Town Manager's written decision. Such notification shall comply with the timeline and proof of delivery as stipulated in a(1)(ii) above. The following procedures shall apply for an appeal hearing to the Town Council:
- (1) The appellant shall submit a written request that an appeal hearing be scheduled before the Town Council. The request must state the basis for the request, and demonstrate that the appellant has standing to bring the appeal. The basis for demonstrating standing in order to obtain an appeal hearing

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before the Town Council shall be limited to:

- i. The decision does not follow established law or legal precedent.
    - ii. The decision was not based on the requirements of the solicitation.
    - iii. The decision was biased, arbitrary and/or capricious.
  - (2) The Town Clerk will place the request for an appeal hearing on the next available Town Council Agenda. Prior to the Town Council meeting the Town Manager shall provide to the Town Council a written overview of the facts of the solicitation together with the decision rendered by the Town Manager. The Town Council's decision at this meeting will be to determine if the appellant has Standing and there is sufficient merit for the Town Council to schedule an appeal hearing on the Town Council Agenda.
  - (3) Where the Town Council determines that there is standing and sufficient merit, to hear the appeal, the Town Clerk shall schedule the appeal on the next available Town Council Agenda.
  - (4) The Town Manager will provide the Town Council with a detailed report of the solicitation, the specifics of the appellant's protest, and the details of the findings and determinations of the Procurement Manager and the Town Manager including any clarification material obtained in response to a request by the Town, prior to the appeal hearing by the Town Council. The appellant shall be provided the opportunity to make a presentation to the Town Council, which shall be limited solely to the facts and details included in the initial protest submittal and including any clarification material obtained in response to a request by the Town. The appellant shall be precluded from introducing any details, documents or information not included in the initial protest submittal except for any clarification material obtained in response to a request by the Town. The Town Council shall base its decision on the existing record and facts as set for hearing.
- e. *Compliance with Protest Procedures.* Failure to comply with the stipulated timeframes for submission of the Notice of Intent to file a protest or the written protest, together with the required documentation and evidence, and the filing fee(s) stipulated below shall constitute the forfeiture of the Protestor's right to protest. The Protestor shall not be entitled to seek judicial relief without first having followed and fully complied with the procedures and requirements set forth in this Section.
- f. *Costs and Filing Fees.*

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- (1) Written Protest. The written protest must be accompanied by a filing fee in the form of a money order or cashier's check in the amount of \$100.00, where the value of award is estimated to be, or is less than \$15,000. For protests where the value of award is estimated to be, or is \$15,000 or greater the money order or cashier's check in amount equal to \$500.00 or 2% of the value of the Bid/Proposal, whichever is greater up to a maximum of \$2,500.
  - (2) Appeal to the Town Manager. The written appeal to the Town Manager must be accompanied by a filing fee in the form of a money order or cashier's check in the amount \$100.00, where the value of award is estimated to be or is less than \$10,000. For appeals where the value of award is estimated to be, or is \$10,000 or greater, the money order or cashier's check in amount equal to \$500.00 or 2%, whichever is greater, up to a maximum of \$2,500.
  - (3) Appeal to the Town Council. The written request for an appeal to the Town Council must be accompanied by a filing fee in the form of a money order or cashier's check in the amount \$500.00, or 2%, whichever is greater, up to a maximum of \$2,500.
  - (4) Refund of Filing Fees. All costs resulting from a protest shall be borne by the Protestor. If a protest is upheld by either the Procurement Manager or Town Manager, as applicable, the filing fee shall be refunded to the Protestor less costs incurred by the Town. If the protest is denied or the request for an appeal hearing before the Town Council is denied, the filing fee shall be forfeited to the Town in lieu of payment of costs incurred by the Town.
  - (5) Changes to the Filing Fees. The Town may amend the filing fees from time to time upon approval of the Town Council through the budget process or by resolution.
- g. Stay of Procurement. Upon the receipt of a written protest, the Town shall not proceed further with the solicitation pending resolution of the protest, unless the Town Manager issues a written determination that the solicitation process must continue to protect public safety, health, welfare, or the loss of funding.

**Section 17. Suspension and Debarment.** The Town Manager shall, after written notice to a business or individual having a contract with or seeking to do business with the Town, have the authority to suspend or debar such Vendor, Contractor, individual, or company from receiving award of contracts from the Town.

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a. Suspension.

- (1) The Town Manager may, after consultation with the Procurement Manager and Town Attorney, suspend a Bidder/Proposer from receiving award of contracts where the Town Manager believes there is probable cause for debarment. Such suspension shall remain in effect pending a determination on debarment. The maximum period for a suspension shall not exceed six (6) months.
- (2) The Town Manager may, after consultation with the Procurement Manager and Town Attorney, suspend a Bidder/Proposer from receiving award of contracts where the Town Manager deems that the basis for the action warrants a period not to exceed one year.

b. Debarment. The Town Manager may, after consultation with the Procurement Manager and Town Attorney, debar a business or individual from receiving award of contracts for a period of not more than five (5) years. The basis for debarment includes, but is not limited to:

- (1) Conviction for obtaining or attempting to obtain a public or private contract through fraudulent means.
- (2) Conviction of financial crimes or other offenses indicating a lack of business integrity.
- (3) Default on a Town or other public entity contract.
- (4) Repeated failure to perform in accordance with the requirements of Town contract(s), where the failure to perform diminished the quality of the goods or services received by the Town and the Town's documentation clearly reflects the vendor has been notified of their failure(s) to perform, the Vendor has been provided the opportunity(ies) to correct its performance, and has failed to do so.
- (5) Collusion in obtaining or attempting to obtain a Town contract.
- (6) Refusal to perform under a Town Contract.
- (7) Repeated failure to provide insurance or bonds to the Town where required for the award of a contract or required to be maintained by a Town contract.
- (8) Businesses that are owned by or employ an individual that has been debarred by the Town.
- (9) Businesses and individuals debarred by other public or governmental entities.
- (10) Any other reason deemed serious enough by the Town Manager to justify debarment.

c. Documentation of Debarment or Suspension. The Town Manager shall provide a

<sup>1</sup>Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~.

written document stating the basis for the debarment or suspension which shall be forwarded to the business or individual who has been debarred or suspended, with a copy provided to the Town Clerk. Proof of delivery shall be as stated in Section 16(a)(1)(ii). The letter shall also state that the action taken can be appealed to the Town Manager for reconsideration.

- d. Appeal. The business or individual who has been debarred or suspended may submit an appeal once during the term of the debarment or suspension. The appeal must include all documentation to demonstrate that the Town Manager's decision was incorrect, there were mitigating circumstances, or that the business or individual has taken corrective action of a nature that the Town Manager should re-consider the debarment or suspension. Based on the appeal, the Town Manager shall issue a written decision to the appellant, with a copy to the Town Clerk, either denying the appeal, modifying, or terminating the term of the debarment or suspension. Proof of delivery shall be as stated in Section 16 (a)(1)(ii). A business or individual shall only be entitled to one appeal during the term of the debarment of suspension. Any business or individual debarred or suspended may not seek judicial relief without first seeking appeal from the Town Manager.

END

<sup>1</sup>Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~.



**Section 3. Authorization of Town Manager.** The Town Manager is hereby authorized to take all necessary actions to implement the Town of Miami Lakes, Procurement Ordinance.

**Section 4. Repeal of Conflicting Provisions.** All provisions of the Code of the term Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 5. 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 6. Inclusion in the Code.** It is the intention of the Town Council that the provisions of this Ordinance shall become and be made part of the Code of Miami Lakes, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions and that the word "ordinance" may be changed to "article", or other appropriate word

**Section 7. Effective Date.** This Ordinance shall be effective immediately upon its adoption on second reading.

**\*\*\*\*\* THIS SECTION HAS BEEN LEFT INTENTIONALLY BLANK \*\*\*\*\***

<sup>1</sup>Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~.

**FIRST READING**

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

Mayor Manny Cid	_____
Vice-Mayor Tony Lama	_____
Councilmember Timothy Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

PASSED AND ADOPTED on first reading this \_\_\_\_ day of \_\_\_\_\_, 2017

<sup>1</sup>Additions to the text are shown in underline and deletions from the text are shown in ~~striketrough~~.

**SECOND READING**

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

Mayor Manny Cid	_____
Vice-Mayor Tony Lama	_____
Councilmember Timothy Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approve as to Form and Legal Sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi and Associates, P.A.  
TOWN ATTORNEY

<sup>1</sup>Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~.