ORDINANCE NO. 1391

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 7 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "FINANCE", BY AMENDING RELEVANT SECTIONS OF ARTICLE III ENTITLED "PROCUREMENT CODE", TO REDUCE THE CURRENT DOLLAR THRESHOLD REQUIRED FOR THE CITY MANAGER AND CITY ATTORNEY TO ENTER INTO CONTRACTS WITHOUT THE AUTHORIZATION OF THE CITY COUNCIL; AND FURTHER UPDATING THE TITLE OF DIRECTOR OF THE PURCHASING DEPARTMENT TO MANAGER OF THE PURCHASING DEPARTMENT; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, on October 23, 2007, the Mayor and City Council adopted the City of North Miami ("City") Procurement Code under Ordinance No. 1244 ("Procurement Code"), to among other things, provide a unified purchasing system with centralized responsibilities to maximize, the purchasing value of public funds, while preserving the integrity of the procurement process for supplies and services for public use; and

WHEREAS, the Procurement Code currently sets the threshold amount to be awarded by the City Manager at One Hundred Thousand Dollars ($100,000.00), without the authorization of the Mayor and City Council; and

WHEREAS, the Procurement Code currently provides no threshold amount allowed to be awarded by the City Attorney when entering into contracts for legal related services, without the authorization of the Mayor and City Council; and

WHEREAS, the proposed amendment will decrease the threshold amount capable of being awarded by the City Manager from One Hundred Thousand Dollars ($100,000.00) to Twenty Five Thousand Dollars ($25,000.00), without the authorization of the Mayor and City Council; and

WHEREAS, the proposed amendment will clarify and delineate the City Attorney's authority to award contracts for legal related services to Twenty Five Thousand Dollars ($25,000.00), without the authorization of the Mayor and City Council; and

WHEREAS, the proposed amendments will further update the occupational title of the person in charge of the Purchasing Department under the supervision and direction of the City Manager, from Director of the Purchasing Department to Manager of the Purchasing Department, consistent with adopted Department of Personnel employee positions and job descriptions; and

WHEREAS, the Mayor and City Council find the proposed amendments provide fair and equitable treatment of all persons offering supplies and services, in accordance with existing federal, state and local laws, rules and regulations.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Amendments to Chapter 29 Code of Ordinances. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 7 of the North Miami Code of Ordinances entitled "Finance", by amending relevant sections of Article III entitled "Procurement Code", to reduce the current dollar threshold required for the City Manager and City Attorney to enter into contracts without the authorization of the City Council; and further updating the title of Director of the Purchasing Department to Manager of the Purchasing Department, as follows:

CITY OF NORTH MIAMI CODE OF ORDINANCES

Chapter 7

FINANCE

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ARTICLE III. PROCUREMENT CODE

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DIVISION 1. GENERALLY

Sec. 7-116. Short title.

This article shall be known and may be cited as the Procurement Code of the City of North Miami.

Sec. 7-117. Purposes.

The underlying purposes and policies of this code are the following:
(1) To provide the city with a unified purchasing system with centralized responsibility that allows for the delegation of purchasing authority;

(2) To provide increased economy in city procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of the city;

(3) To obtain in a cost-effective and responsive manner the supplies, services and construction required by city departments in order for those departments to better serve this city's businesses and residents;

(4) To provide safeguards for the maintenance of a procurement system of quality and integrity;

(5) To provide for increased public confidence in the procedures followed in public procurement;

(6) To ensure the fair and equitable treatment of all persons who deal with the procurement system of this city;

(7) To simplify, clarify, and modernize the law governing procurement by this city;

(8) To foster effective broad-based competition within the free enterprise system;

(9) To permit the continued development of procurement policies and practices; and

(10) To ensure that the city purchase recycled and other environmentally preferable products whenever the products meet the price and performance requirements of the city.

Sec. 7-118. Definitions.

For the purposes of this code, the following terms, phrases, words and their derivations shall have the meaning given herein. The word "shall" is always mandatory and not merely directory. Words not defined shall be given the meaning provided under their common and ordinary meaning unless the context suggests otherwise.

Addendum means a document that is subsequently issued to add, supplement, delete, modify or clarify information, directions, instructions, specifications, terms or conditions to a solicitation.

Amendment means a modification, deletion, or addition to an executed contract.

Architectural, engineering, landscape architectural, and surveying and mapping services are those professional services within the scope of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by F.S. § 287.055.

Award means the acceptance of a bid, offer, or proposal by the city.

Bid means a written offer submitted to the city by a prospective offeror to furnish specific services, supplies, or construction in response to an invitation for bid.

Bid bond means a sum of money, which could be in a form of a cashier's check, irrevocable letter of credit, money order or a bond issued by a surety, deposited with a bid or proposal guaranteeing the bidder or offeror will not withdraw the bid or proposal for a specific period of time, will furnish bonds as required, and will accept a contract, if awarded, or forfeit the bid bond.

Bid waiver means a process, whereby supplies or services may be procured without a formal competitive bidding process when determined to be in the best interest of the city.

Blanket purchase order means a purchase order under which a party agrees to provide supplies or services to the city on a demand basis. The blanket purchase order generally establishes a maximum dollar limit, prices, terms, conditions, and the period covered, with no specified quantities. Shipments are to be made as required by the city. Acceptance of a blanket purchase order by a supplier or service provider shall constitute a contract.

Business means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, professional association or any other private legal entity operated for profit or nonprofit.

Change order means a written alteration to a contract or purchase order in accordance with the terms of the contract, which revises the quantities or scope of services, and may include an extension of time to complete the contract.

Competitive sealed proposal means a method for acquiring supplies or services that permits discussions and negotiations with responsible offerors, changes and modifications to proposals, and judgmental factors to be used to evaluate the relative merits of competing proposals.

Cone of silence means a prohibition on any communications between a potential offeror, bidder, service provider, lobbyist, or consultant and certain members of city staff regarding a particular request for proposal (RFP), request for qualifications (RFO), invitations for bids (IFB), or any other advertised solicitation from the time a solicitation is advertised to contract award or recommendation and does not include written communications on file with the city clerk.

Contract means a legally binding written promise enforceable by law between two (2) or more competent parties to perform or not to perform a specific act or acts. Contract means all types of city agreements, regardless of what they may be called, for the procurement of supplies, services, or construction.

Contract modification means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

Contractual services includes, but shall not be limited to, all gas, water, electric light and power services; uniform and cleaning (janitorial) services; pest control, security guard, tree trimming, ground landscaping and maintenance services; and the leasing, rental, repair or maintenance of equipment, supplies, machinery and other city-owned property.

Construction means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvement of any kind to any public real property. It does not include routine repair, operation, or maintenance of existing real property.

Cooperative purchasing means:

(1) Procurement conducted on behalf of two (2) or more governmental entities; or

(2) The combining of requirements of two (2) or more governmental entities in order to obtain the benefits of volume or bulk purchasing and/or reduction in administrative expenses.

Debarment means the exclusion of a person or business from participating in a procurement activity for an extended period of time, as specified by law, because of an illegal or irresponsible action.

~~*Director of the purchasing department* means the person holding the position as director of the purchasing department of the city.~~

Electronic posting means the posting of solicitations, determinations and other matters related to procurement on a centralized internet website designated by the city for this purpose.

Emergency procurement means a purchase made to alleviate a circumstance threatening the health, welfare, or safety of city residents under contain conditions defined as an emergency by the city which would not allow time for the competitive bidding process.
Energy efficient product means a product in the upper twenty-five (25) percent of efficiency for all similar products, or if there is applicable federal appliance or equipment efficiency standards, a product that is at least ten (10) percent more efficient than the minimum federal standard.

Environmentally preferable products means products that have fewer or reduced negative impacts on human health or the environment compared to competing products that serve the same purpose. This composition may consider raw materials acquisition, production, manufacturing, packaging, distribution, operation, maintenance, reuse and disposal of the product.

Environmentally preferable services means services that have a more beneficial or less adverse impact on human health and the environment when compared with competing services.

Governmental agencies means any agency or association of agencies of federal, state or local government, any public authority which has the power to tax, any other public entity created by statute and any other entity which expends public funds for the procurement of supplies, services or construction.

Informal quotation means an informal price quotation by an offeror to the city to furnish specific supplies or services at a stated price that will not require a sealed bid, public opening, or public reading of bids.

Invitation for bids (IFB) means all documents, whether attached or incorporated by reference, utilized for soliciting competitive bids. The IFB is used when the purchasing department is capable of specifically defining the scope of work of a service that is required or the precise specifications defining the supply or commodities required.

Irregularity means a minor or immaterial defect in a bid that is matter of form rather than substance. A variation of a bid or proposal from the exact requirements of the solicitation, which can be corrected or waived without being prejudicial to other bidders, and has no material effect on the price, quality, quantity or delivery schedule for the supplies or services.

Liquidated damages mean a specific sum stated in the contract to be paid by the party who is in default, or who breaches the contract, to the other party in settlement for damages.

Lowest responsible bidder means the bidder that submitted a responsive bid at the lowest price of all the responsive bids submitted, and whose past performance, reputation, and financial capability is deemed acceptable.

Manager of the purchasing department means the head of the city's purchasing department, but subordinate to the city manager.

Payment bond means a bond issued by a surety guaranteeing payments to all persons supplying labor or material for the completion of work under contract by the successful bidder or offeror. A payment bond is also referred to as a labor and material bond.

Performance bond means a bond issued by a surety to a successful bidder or offeror, to protect the city from loss to due to the bidder's or offeror's inability to complete and fulfill the contract requirements as agreed.

Pre-bid conference/pre-proposal conference means a meeting held with prospective bidders or offerors prior to their submittal of bids or proposals, to clarify any ambiguities, answer non-technical questions, and ensure all bidders or offerors have a common basis of understanding regarding the supplies or services required.

Preference means when two (2) products or services are equal in performance characteristics and price, the city, in making purchasing decisions, will favor the more environmentally preferable product or service or the more energy efficient product.

Post-consumer recovered materials means a finished material that would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. Examples of post-consumer recovered materials include, but are not limited to: old newspapers, office paper yard waste, steel and/or aluminum cans, glass, plastic bottles, oil, asphalt, concrete, and tires.

Procurement means the buying, purchasing, renting, leasing, or otherwise acquiring any supplies or services for public purposes. It includes, but is not limited to, all functions which pertain to the obtaining of supplies, services, materials, equipment, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Professional services means services rendered by members of a recognized profession or persons possessing a specialized skill. Such services are generally acquired to obtain advice, information, instruction, training, or direct assistance. Professional services shall include, but not be limited to, services customarily rendered by architects, engineers, surveyors, auditors, software and systems applications, planning, consultants, appraisers, and medical-related providers. Professional services include those services procured pursuant to F.S. § 287.055.

Proposal means an executed document submitted by an offeror to the city in response to a request for proposals or request for qualifications to be used as a basis for negotiations for entering into a contract.

Public notice means the dissemination of information to interested parties using methods that are reasonably available, prior to the date and time of the event. Such methods may include a publication in a newspaper of general circulation in the city, electronic or paper mailing lists, and internet site(s) designated by the city and maintained for that purpose.

Purchase order means the city's official document to formalize and authorize a purchase transaction with a contractor. It should contain a description of supplies and/or services ordered, encumbered funds from specific budget code, applicable terms as to payment, discounts if any, date of delivery or performance, insurance and other factors or conditions relating to the transaction. Acceptance of a purchase order by a contractor shall constitute a contract.

Real estate or *real property* means land and anything growing on, attached to, or erected on it, including any leasehold interest.

Recycled product means a product manufactured with the maximum practicable amount of recovered material for new, reused, or reconstituted products that meet the quality standards to be used in the marketplace.

Request for proposals (RFP) means all documents, whether attached or incorporated by reference, utilized for soliciting competitive sealed proposals.
Request for qualifications (RFO) means all documents, whether attached or incorporated by reference, utilized for obtaining qualification and performance data, including but not limited to financial capability, reputation, experience, and competency.

Responsible bidder or offeror means a bidder or offeror who has the capability, as determined by the city, to perform fully the contract requirements with the experience, integrity, capacity, facilities, equipment, and reliability which will assure good faith performance.

Responsive bidder means a person who has submitted a bid that conforms in all material respects to the invitation for bids.

Signature means a manual or electronic identifier or the electronic result of an authentication technique attached to or logically associated with a record that is intended by the person using it to have the same full force and effect as manual signature, pursuant to state law.

Small purchase means any purchase made by the ~~director~~ manager of the purchasing department not exceeding five thousand dollars ($5,000.00) with the use of informal quotations and without the use competitive bids or proposals.

Sole source means the award for supplies or services to the only known capable supplier, occasioned by the unique nature of the supplies or services, the city's particular requirement, the supplier's capability or market conditions.

Solicitation means an invitation for bids, request for proposals, request for quotations or any document used to obtain bids or proposals for the purpose of entering into a contract.

Specification means a description of the physical or functional characteristics, or of the nature of a supply, service, or construction item; the requirements to be satisfied by a product, material, or process indicating, if appropriate, the procedures to determine whether the requirements are satisfied.

Supplies mean all property, including but not limited to equipment, materials, and printing, excluding services and real property.

Surety means an insurer authorized to do business in this state which is legally liable for the debt, default, or failure of a bidder, offeror or contractor to satisfy the obligations of a contract.

Surplus property means any tangible property no longer having any use to the city. This includes obsolete supplies, scrap materials, and supplies that have completed their useful life cycle.

Tabulation of bids means the charting of bids and bidding data, listing items offered, prices, and delivery schedules, submitted in response to a solicitation.

Termination for convenience means an action by which the city, in accordance with contract provisions, unilaterally cancels all or part of the contract in the best interest of the city, and with no reflection on the contractor's performance.
Termination for default means an action by which the city, in accordance with contract provisions, unilaterally cancels all or part of the contract work due to the contractor's failure to perform in accordance with the terms and conditions of the contract.

Using agency is any department, division, board, committee or other sub-agency of city government using supplies or procuring contractual services as provided for in this code.

Sec. 7-119. Applicable law and good faith requirement.

All contracts awarded by virtue of this code, and all procurement by the city pursuant to this code, shall be governed by and construed under the laws of the state of Florida and the Code of the city. This code requires all parties involved in the negotiation, performance, or administration of city contracts to act in good faith.

Sec. 7-120. Application of this code.

(a) *Application to procurement.* This code shall apply to every purchase of supplies, services, real property and construction services obtained by the city council, the city manager, the city clerk, the city attorney and all city departments regardless of the source of funds, including state, federal, county assistance monies, except for the purchase of real or lease properties governed by the Housing Program Guidelines and as otherwise specified by law. Nothing in this code or in the regulations promulgated hereunder shall prevent the city from complying with terms and conditions of any grant, gift, bequest, or cooperative agreement.

(b) *Authority of city council.* The city council shall award contracts as it deems necessary in the best interests of the city, and may waive any conditions imposed by the provisions of this code upon a four-fifths-vote where it finds such waiver to be necessary in order to proceed with the issuance of a contract, proposal or bid which is in the best interests of the city.

Sec. 7-121. Exemptions.

Unless otherwise ordered by administrative regulation, the following supplies and services are exempted from this code and may or may not, be procured through the purchasing department, but shall nevertheless be procured, whenever possible, in accordance with the requirements of this code:

(1) Dues and memberships in trade or professional organizations;
(2) Registration fees for trade and career fairs;
(3) Subscriptions for periodicals and newspapers;
(4) Advertisements;
(5) Postage;
(6) Expert witnesses, legal services, special magistrates, mediator services, paralegal services;
(7) Real estate brokerage and appraising, options of title or abstracts of titles for real property;
(8) Title insurance for real property;
(9) Public utility services from regulated utilities, including but not limited to electric, water and sewer;
(10) Copyrighted materials or patented materials including but not limited to technical pamphlets, published books, maps, testing or instructional materials;
(11) Fees and costs of job-related seminars and training;
(12) Lectures by individuals;
(13) Meeting rooms;
(14) Works of art for public places, and art design and conservation services;

(15) Hotel accommodations and travel services on city business;
(16) Purchase of public transportation services;
(17) Purchase of tickets for special events, tourist attractions and amusement parks;
(18) City sponsored events as authorized in the yearly city budget;
(19) Entertainment services (including banquets and similar food services) and, artistic services for city sponsored events; and
(20) Purchases of motor vehicle license plates from a government regulated entity or a government agency.

Secs. 7-122—7-127. Reserved.

DIVISION 2. PROCUREMENT ORGANIZATION

Sec. 7-128. Centralization of procurement authority.

Purchasing department. Except as otherwise provided in this code, all rights, powers, duties, and authority relating to the procurement of supplies and services, and the management, control, sale and disposal of supplies, and the procurement of services defined in F.S. § 287.055, Consultant's Competitive Negotiations Act, now vested in or exercised by any department are hereby transferred to the purchasing department. The purchasing department is the centralized agency with established duties and responsibilities for all procurement and contracting for goods, materials, equipment, construction, contractual services, professional services, consultant services, a combination of goods and services, for performance of the city's procurement functions, and for implementation of the provisions of this code.

Sec. 7-129. Authority.

(a) City manager. As the chief administrative officer of the city, the city manager or designee shall have the authority to:

(1) Promulgate administrative regulations necessary to implement this code;

(2) Perform all the duties of the ~~director~~ manager of the purchasing department;

(3) Appoint ~~director~~ manager of the purchasing department;

(4) Delegate authority to other city departments, as provided in this code;

(5) Recommend to the city council all contract awards in excess of ~~one hundred thousand dollars ($100,000.00)~~ twenty five thousand dollars ($25,000.00);

(6) Recommend to the city council all purchases of motor vehicles for city use;

(7) Execute on behalf of the city contracts, agreements, change orders and contract modifications approved by the city council;

(8) Approve purchases and awards up to ~~one hundred thousand dollars ($100,000.00)~~ twenty five thousand dollars ($25,000.00), except purchases of motor vehicles for city use;

(9) Approve change orders and contract modifications for supplies and services which exceed fifteen (15) percent of the original contract amount; and

(10) Approve and sign off on all purchase orders ~~under one hundred thousand dollars ($100,000.00)~~ up to twenty five thousand dollars ($25,000.00).

(b) City Attorney. Unless otherwise specified elsewhere in the city code, the city attorney shall have the authority to enter into individual contracts to procure goods and services relating to the provision of legal services, in the amount not to exceed twenty five thousand dollars ($25,000.00). Any contract exceeding twenty five thousand dollars ($25,000.00) shall require authorization by resolution of the city council.

~~(b)~~ (c) ~~Director~~ Manager of the purchasing department. Consistent with the provisions of this code and the implementing regulations, the ~~director~~ manager of the purchasing department under the supervision of the city manager, shall have all rights, powers, duties, and authority relating to the procurement of supplies, services and construction for the city, including to:

(1) Procure or supervise the procurement of all supplies, services and construction needed by the city in a manner provided by this code;

(2) Draft or cause to be drafted invitations for bids, requests for proposals, requests for qualifications, and other solicitations as may be permitted by law, and to prepare specifications or scope of work for same;

(3) Establish and maintain programs for specification development, contract administration, and inspection and testing of supplies, services and quality of construction;

(4) Determine the lowest responsive and responsible bidder or offeror;

(5) Recommend to the city manager all contract awards ~~in excess of fifty thousand dollars ($50,000.00)~~ establishing the highest rank pursuant to required selection criteria;

(6) Approve all purchases and awards of up to ~~fifty thousand dollars ($50,000.00)~~ five thousand dollars ($5,000.00);

(7) Recommend to the city manager all change orders and contract modifications ~~that exceed~~ up to fifteen (15) percent of the original contract amount for supplies and services;

(8) Approve change orders and contract modifications for supplies and services which do not exceed ~~fifteen (15)~~ five (5) percent of the original contract amount;

(9) Determine the method of selection for type of procurement;

(10) Standardize, to the extent possible, contract clauses, terms and conditions, and documents;

(11) Subject to the provisions of this code and with the approval of the city manager, adopt operational procedures, which may be amended from time to time;

(12) Maintain complete and accurate records of all requisitions, solicitations, purchase orders, contracts, change orders, leases, disposition of supplies, determinations and other actions, including any transactions by designees or other departments;

(13) Have the authority to delegate any or all duties to individual purchasing department staff; and

(14) Perform such other duties as may be provided for in other sections of this code, or as directed by the city manager.

Secs. 7-130—7-135. - Reserved.

DIVISION 3. SOURCE SELECTION AND CONTRACT FORMATION

Sec. 7-136. Cancellation of competitive sealed bids or proposals.

The city shall have the right to cancel any or all invitations for bids, requests for proposals, requests for quotations, or other solicitations, with or without cause. The city shall have the right to reject any or all bids, proposals, or quotations in whole or in part as may be specified in the solicitation documents, when it is in the best interests of the city.

Sec. 7-137. Competitive sealed bidding.

(a) *Conditions for use.* Competitive sealed bidding shall be used for the award of contracts over ~~fifty thousand dollars ($50,000.00)~~ twenty five thousand dollars ($25,000.00), or ~~one hundred thousand dollars ($100,000.00)~~ seventy five thousand dollars ($75,000.00) for construction contracts, when the city is capable of specifically defining the scope of work required or capable of establishing precise specifications.

(b) *Invitation for bids (IFB).* An invitation for bids shall be issued and shall include specifications, scope of work, and all contractual terms and conditions applicable to the procurement.

(c) *Public notice.* Adequate public notice of the invitation for bids shall be given at a reasonable time prior to the date set forth therein for the opening of bids.

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

(e) *Bid opening.* Bids shall be opened publicly in the presence of one (1) 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 in accordance with F.S. Chapter 119, Public Records Act.

(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 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 ~~director~~ manager of the purchasing department after consultation with the city attorney.

(h) *Bid evaluation.* The ~~director~~ manager of the purchasing department shall recommend award to the lowest responsive and responsible bidder whose bid meets the requirements set forth in the invitation for bids.

(i) *Award.* Consistent with the provisions of section 7-129, 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 may include authority for subsequent options for renewal. Options for renewal shall be exercisable at the option of the ~~director~~ manager of the purchasing department if, after review of past performance under the contract, the ~~director~~ manager determines that exercise of the option renewal is in the best interest of the city.

(1) In the event the lowest responsive and responsible bid exceeds available funds, the ~~director~~ manager of the purchasing department, or city manager is authorized, when time or economic considerations preclude re-solicitation of bids, to negotiate an adjustment in price with the lowest responsive and responsible bidder, in order to bring the bid price within the amount of available funds.

(2) The ~~director~~ manager of the purchasing department 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 and are not contrary to the interest of the city or fair treatment of other bidders.

(3) In the event only one (1) bid is received, the city may award to the sole responsive and responsible bidder, proceed with contract negotiations with the sole responsive and responsible bidder, or re-bid, whichever is in the best interest of the city.

(4) Authority to award subsequent lowest responsive and responsible bidders. If within ninety (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 is terminated, 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, a contract that does not exceed ~~one hundred thousand dollars ($100,000.00)~~ twenty five thousand dollars ($25,000.00). The city council has the sole authority to award contracts exceeding ~~one hundred thousand dollars ($100,000.00)~~ twenty five thousand dollars ($25,000.00) to the next lowest responsive and responsible bidder upon recommendation by the city manager.

Sec. 7-138. Competitive sealed proposals.

(a) *Conditions for use.* A contract may be entered into by competitive sealed proposals:

(1) For procurement of professional services or supplies, except where as otherwise provided for in this code; or

(2) When the ~~director~~ manager of the purchasing department determines that the use of competitive sealed bidding is either not practicable or not advantageous to the city.

(b) *Request for proposals.* Proposals shall be solicited through a request for proposals, which may include a statement of work or specifications, and all contractual terms and conditions applicable to the procurement. The request for proposals shall state the relative importance of price, experience, past performance and other factors.

(c) *Public notice.* Adequate public notice of the request for proposals shall be given at a reasonable time prior to the date set forth therein for the receipt of proposals.

(d) *Pre-proposal conferences.* A pre-proposal conference may be held to explain the requirements of the solicitation to prospective offerors.

(e) *Receipt of proposals.* Proposals shall be publicly opened in front of one (1) or more witnesses, with only the name of each offeror read and recorded. The record and each proposal shall be open to public inspection in accordance with F.S. Chapter 119, Public Records Act.

(f) *Evaluation.* The ~~director~~ manager of the purchasing department shall appoint an evaluation committee. The recommendation of the evaluation committee shall be submitted to the ~~director~~ manager of the purchasing department. In the event only one (1) proposal is received, the evaluation committee may proceed with the evaluation or recommend to the ~~director~~ manager of the purchasing department to reject the proposal, whichever is in the best interest of the city.

(g) *Award.* Consistent with the provisions of section 7-129, an award shall be made to the responsible offeror whose proposal conforms to the solicitation and is determined in writing to be the most advantageous to the city taking into consideration price and the evaluation factors set

forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

(1) After reviewing the evaluation committee's recommendation, the city manager may:

a. Approve the recommendation of the evaluation committee and provide written notice to all offerors. Any contract not exceeding ~~one hundred thousand dollars ($100,000.00)~~ twenty five thousand dollars ($25,000.00) may be awarded by the city manager. Otherwise, the city manager shall submit the recommendation to the city council for approval;

b. Reject the evaluation committee's recommendation and instruct the evaluation committee to re-evaluate and make further recommendations; or

c. Reject all proposals.

(2) After reviewing the city manager's recommendation, the city council may:

a. Approve the city manager's recommendation and authorize the contract or contract negotiations;

b. Reject all proposals; or

c. Reject all proposals and instruct the ~~director~~ manager of the purchasing department to reissue a solicitation.

(3) Renewals, if any, may be exercised in accordance with subsection 7-137(i).

Sec. 7-139. - Architectural, engineering, landscape architectural, or surveying and mapping services.

(a) *Policy.* It is the policy of this city to publicly announce all requirements for architectural, engineering, landscape architectural, or surveying and mapping services as defined in F.S. § 287.055, Consultants' Competitive Negotiation Act, and to negotiate contracts on the basis of demonstrated competence and qualification for the type of services required at fair and reasonable prices.

(b) *Negotiation.* The ~~director~~ manager of the purchasing department shall negotiate a contract with the highest qualified firm for architectural, engineering, landscape architectural, or surveying and mapping services at a compensation that the ~~director~~ manager of the purchasing department determines in writing to be fair and reasonable to the city. In making this decision, the ~~director~~ manager of the purchasing department shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the ~~director~~ manager of the purchasing department be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the ~~director~~ manager of the purchasing department determines to be fair and reasonable to the city, negotiations with that firm shall be formally terminated. The ~~director~~ manager of the purchasing department shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the ~~director~~ manager of the purchasing department shall formally terminate negotiations. The ~~director~~ manager of the purchasing department shall then undertake negotiations with the

third most qualified firm. Should the ~~director~~ manager of the purchasing department be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the ~~director~~ manager of the purchasing department shall select additional firms in order of their competence and qualifications and shall continue negotiations in accordance with this section until an agreement is reached.

(c) *Award.* Contracts shall be awarded in accordance with section 7-129.

Sec. 7-140. Opening procedure.

(a) All bids, proposals and qualifications shall be submitted within the time specified in the IFB, RFP, or RFQ, sealed to the city clerk and shall be identified as such on the outermost envelope or box used by the offeror or bidder in shipping.

(b) All bids, proposals and qualifications shall be opened in the office of the city clerk at the time stated in the public notice or as soon thereafter as practicable, and shall be witnessed and certified.

(c) A tabulation of all bids, proposals and qualifications timely received shall be kept for public inspection in the purchasing department. Bids, proposals and qualifications received after the deadline shall be returned to sender unopened by the purchasing department.

Sec. 7-141. Tie bids.

Award of all tie offers of five thousand dollars ($5,000.00) or less in value, shall be made by the ~~director~~ manager of the of the purchasing department pursuant to subsections (1) and (2) below. All tie offers in excess of five thousand dollars ($5,000.00), but less than ~~one hundred thousand dollars ($100,000.00)~~ twenty five thousand dollars ($25,000.00), shall be awarded by the city manager. All offers in excess of ~~one hundred thousand dollars ($100,000.00)~~ twenty five thousand dollars ($25,000.00) shall be awarded by the city council.

(1) *Local business.* If the offers received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local business.

(2) *Outside business.* Where subsection (1) above is not in effect, the ~~director~~ manager of the purchasing department shall award the contract to one (1) of the offerors.

Sec. 7-142. Informal procurement procedure (small purchases).

(a) The ~~director~~ manager of the purchasing department may purchase supplies and services not exceeding five thousand dollars ($5,000.00) with the use of informal quotations. The formal competitive procurement process enumerated in sections 7-137 and 7-138 shall not be required for such purchases. The method used in selecting the source of supplies or services under this section, shall be made by the ~~director~~ manager of the purchasing department in writing.

(b) Purchases exceeding five thousand dollars ($5,000.00) up to ~~fifty thousand dollars ($50,000.00)~~ twenty five thousand dollars ($25,000.00) ~~shall~~ may require at least three (3) written informal quotations from qualified suppliers or service providers. The formal competitive procurement process enumerated in sections 7-137 and 7-138 ~~shall~~ need not apply to these purchases. The ~~director~~ manager of the purchasing department shall negotiate, as appropriate, the price, delivery and terms of the purchase. The ~~director~~ manager of the purchasing department shall also strive to obtain adequate and reasonable competition for such procurement insofar as it is practicable and shall require the maintenance of adequate written records to document the purchasing decision. Such records shall be open to public inspections. The provisions of this section shall not apply to architectural, engineering, landscape architectural, or surveying and mapping services defined in F.S. § 287.055, Consultants' Competitive Negotiation Act.

(c) Procurement requirements shall not be artificially divided so as to permit use of informal procurement procedures prescribed in this section instead of the methods otherwise applicable.

Sec. 7-143. Sole source procurement.

(a) Conditions for use. A contract may be awarded without competitive bids or proposals when the ~~director~~ manager of the purchasing department, after conducting a good faith review of available sources, determines in writing that there is only one (1) reasonable source of supply and the contract by its very nature, is not suitable to competitive bids or proposals. Sole source awards may be made as an exception to the other procurement methods prescribed in this code, under the following circumstances:

(1) Where the compatibility of equipment, accessories, or replacement parts permits one (1) reasonable source of supply;

(2) Where the supplies or services available from a single source are needed for trial use or testing; and

(3) Where the unique and specialized expertise of one (1) source of supplies or services is unlikely to be obtained from any other source.

(b) Negotiations. The ~~director~~ manager of the purchasing department shall conduct negotiations, as appropriate, as to price, delivery and terms.

(c) Approval and award. Any sole source contract in excess of ~~fifty thousand dollars ($50,000.00)~~ twenty five thousand dollars ($25,000.00) shall be approved by the city council, upon recommendation of the city manager.

Sec. 7-144. Emergency procurement.

Notwithstanding any other provision of this code, the city manager, the ~~director~~ manager of the purchasing department, or other city official as designated by regulation, may make or authorize others to make emergency procurements when there exists an immediate threat to public health, welfare, or safety or to prevent or minimize serious disruption of government services, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection

of the particular supplier or contractor shall be included in the contract file. Any emergency procurement in excess of ~~one hundred thousand dollars ($100,000.00)~~ twenty five thousand dollars ($25,000.00) for supplies and services shall be referred to the city council for ratification.

Sec. 7-145. Disposal of surplus property.

The ~~director~~ manager of the purchasing department shall be responsible for the sale or disposition of surplus property by a method or methods deemed by the ~~director~~ manager of the purchasing department to be the most advantageous to the city. All surplus items with an estimated fair market value of twenty-five thousand dollars ($25,000.00) or more must be declared surplus by a resolution of the city council before the ~~director~~ manager of the purchasing department may dispose of said surplus property.

Sec. 7-146. Purchase requests.

Except as otherwise authorized in this code, all purchases shall be made by submission of a purchase request to the purchasing department. Prior to submission to the purchasing department, all purchase requests shall be approved by the department head making the request or by an individual authorized by the department head.

Sec. 7-147. Commencement of work.

Unless otherwise authorized by the ~~director~~ manager of the purchasing department, no work shall be commenced, nor any supplies delivered, under any city contract until all conditions precedent as specified in the contract documents have been met, including, but not limited to:

(1) The contract has been duly executed by the city; and

(2) The contractor has furnished, where required, certificates of insurance, performance bonds and payment bonds.

Sec. 7-148. Contract administration.

The ~~director~~ manager of the purchasing department shall establish and maintain a contract administration system designed to ensure that a contractor is performing in accordance with the solicitation documents under which the contract was awarded, and the terms and conditions of the contract.

Sec. 7-149. Right to conduct inspections and audits.

(a) Inspections. The city may, at reasonable times, inspect the part of the plant, facility, or place of business, or worksite of a contractor or any subcontractor that is pertinent to the performance of any contract awarded or to be awarded by the city.

(b) Contract audit. The city may, at reasonable times and places, audit the books and records of any person doing business with the city to the extent that such books and records relate to the performance of any contract awarded or to be awarded by the city. Any person receiving a city contract, change order, or contract modification, shall maintain such books and records for a

period of three (3) years from the date of final payment by the city, unless a shorter period is authorized in writing by the city manager.

Sec. 7-150. Maximum practicable competition.

All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the city's needs, and shall not be unduly restrictive. The ~~director~~ manager of the purchasing department shall review specifications written by user departments to assure that the specifications allow for open and free competition.

Sec. 7-151. Procedure to provide preference to local business in city contracts.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the following meanings, except where the context clearly indicates a different meaning:
Business location means a permanent office or other site where the local business conducts, engages in, or carries on all or a portion of its business. A post office box or a location at a postal service center shall not constitute a business location.

Local business means the offeror, supplier, or contractor: (1) has a business located in the city with a current city business tax receipt issued prior to the city's issuance of the solicitation for supplies or services;(2) has at least ten (10) percent of its total workforce residing in the city prior to the city's issuance of the solicitation for supplies or services; and/or (3) subcontracts at least ten (10) percent of the contractual amount of a city project with subcontractors who are physically located within the city. The offeror, supplier, or contractor seeking the local business preference has the burden to show that it qualifies for the preference, to the satisfaction of the city.

(b) Preference to local business. Except where federal or state law mandates to the contrary, in the purchase of supplies or services in which objective factors used to evaluate the submittals received from offerors are assigned point totals, a preference of ten (10) percent of the total evaluation points, or ten (10) percent of the total price, shall be given to a local business.

(c) Comparison of qualifications. The preferences established in no way prohibit the right of the city to compare quality of supplies or services proposed for purchase and to compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals. Further, the preferences established in no way prohibit the right of the city from giving any other preference permitted by law instead of the preferences granted, nor prohibit the city to select the bid or proposal which is the most responsible and in the best interests of the city.

Sec. 7-152. Sales and use tax savings procedure.

(a) The city shall not be required to engage in competitive bidding when a purchase is made for materials, equipment, prefabricated elements and components, appliances, fixtures and supplies bought under a sales and use tax savings procedure constituting part of a public construction contract, which construction contract has been awarded in accordance with this article. Any such

materials or equipment purchased by the city pursuant to this section shall be referred to as "city furnished materials."

(b) Suppliers of city furnished materials shall be selected by the contractor using competitive bids. Contracts are to be awarded by the contractor to the supplier whose bid is most advantageous to the city, price and all other relevant factors considered.

(c) The contractor shall provide the city a list of all intended suppliers, vendors, and materialmen for consideration with respect to city furnished materials. The contractor shall include price quotations from such suppliers, vendors, and materialmen as well as a specific description of the materials to be supplied and the estimated quantities of same.

(d) Upon request by the city, and in a timely manner, the contractor shall prepare a purchasing requisition request form which shall, in a form acceptable to the city, specifically identify the city furnished materials which the city may, in its discretion, elect to purchase directly. The purchasing requisition request form shall include, but is not limited to the following:

(1) The name, address, telephone number and contact person for the material supplier.
(2) Manufacturer or brand, model or specification number of the item.
(3) Quantity needed as estimated by the contractor.
(4) Any sales or use taxes associated with such quote.
(5) Delivery dates as established by the contractor.

(e) After receipt of the purchasing requisition request form, the city shall prepare a purchase order for each item of city furnished materials which the city chooses to purchase directly. Pursuant to the purchase order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the contractor, less any sales and use tax associated with such price. All vendors of city furnished materials are to comply with the city's vendor registration requirements and with conflict of interest rules and regulations.

(f) Promptly upon receipt of each purchase order, the contractor shall implement its procedure for the purchase of the items in accordance with the terms of the purchase order and in a manner to assure timely delivery of items. The purchasing ~~director~~ manager, through the city manager shall be the approving authority for the city on purchase orders in conjunction with city furnished materials. The purchase order shall also require the delivery of the city furnished materials on the delivery dates provided by the contractor in the purchasing requisition request form.

(g) The contractor shall be fully responsible for all matters relating to the procurement of materials furnished by the city in accordance with this section including, but not limited to, assuring the correct quantities, placing the order in a timely manner, and assuring coordination of purchases, providing and obtaining all warranties and guarantees required by the contract documents, inspection and acceptance of the goods at the time of delivery, risk of loss, and damage of any other loss following acceptance of the items. The contractor shall coordinate delivery schedules, sequence of delivery, loading, orientation, and other arrangements normally required by the contractor for the particular materials furnished. The contractor shall provide all services required for the unloading, handling and storage of materials through installation.

Sec. 7-153. Purchase or lease of real property.

(a) The purchase or donation of any interest in real property, including any leasehold interest in real property, shall be made in the manner set forth in this section.

(b) If real property is annually leased or conveyed to the city for no consideration, i.e. by donation or for an amount not exceeding two hundred thousand dollars ($200,000.00), no council approval is necessary.

(c) The proposed purchase of real property exceeding a fee simple sales-price amount of two hundred thousand dollars ($200,000.00) will require city council approval by a majority of votes.

(d) The proposed lease of real property exceeding an annual rent amount of two hundred thousand dollars ($200,000.00) will require city council approval by a majority of votes.

(e) Whenever the city proposes to purchase or lease real property, whether as lessor or lessee, and the fee simple sales-price amount or the annual value of the real property being leased is between two hundred thousand dollars ($200,000.00), and five hundred thousand dollars ($500,000.00), the city shall prior to consummating the purchase or lease, obtain at least one (1) appraisal. For each proposed purchase or lease in excess of five hundred thousand dollars ($500,000.00), the city shall obtain at least two (2) appraisals. The city council shall be informed of each appraisal prior to the city council's approval or disapproval of the transaction. All appraisals shall be conducted by a state approved independent real estate appraiser, in accordance with F.S. § 253.025.

> (1) Upon the written recommendation of the city manager, the city council may proceed to purchase or lease the real property for an amount greater than the highest value shown on the appraisal, or on the average of appraisals taken, if it finds it to be in the best interest of the city to do so.
>
> (2) Every appraisal, purchase contract, lease, offer and counter offer must be in writing. Such appraisals, purchase contracts, leases, offers and counter offers are not available for public disclosure or inspection and are exempt from the provisions of F.S. § 119.07(1), until a purchase contract or lease is executed or otherwise approved by the city council. In the event a purchase contract or lease is not executed or otherwise not approved by city council, the exemption from F.S. § 119.07(1), will expire thirty (30) days after the termination of negotiations of such proposed purchase or lease.

(f) All transactions involving the purchase or lease of real property by the city shall comply with F.S. § 112.313, as amended, and with ~~section 2-310~~ section 2-316 of the city's conflict of interest and code of ethics ordinance, as amended from time to time.

(g) The city attorney shall serve as the legal advisor to the city on all real property transactions under this section, and shall be the final authority regarding the applicability of the city's land development regulations to all properties purchased by the city.

(h) Notwithstanding the foregoing, this article shall not apply to the purchase or lease of real property where the use of federal or state funding sources including, but not limited to, the U.S. Department of Housing and Urban Development (HUD), Community Development Block Grant (CDBG), Home Investment Partnership Grant (HOME), Neighborhood Stabilization Program Funds, and the State Housing Initiative Program Fund (SHIP), would mandate otherwise.

Secs. 7-154—7-157. Reserved.

DIVISION 4. DISPUTE RESOLUTION AND REMEDIES; DEBARMENT

Sec. 7-158. Resolution of protested solicitations and awards.

(a) Remedies prior to an award. If prior to contract award, it is determined that a solicitation or proposed award is in violation of law, then the solicitation or proposed award shall be cancelled or revised to comply with the law.

(b) Right to protest formal solicitations. The following procedures shall be used for resolution of protested formal solicitations and awards:

(1) Protest of solicitations. Any prospective bidder or offeror who perceives itself aggrieved in connection with the solicitation of a contract may file a written protest with the city clerk within five (5) business days prior to the date set for opening of bids or receipt of proposals. A written protest is considered filed when received by the city clerk.

(2) Protest of award. Any actual bidder or offeror who perceives itself aggrieved in connection with the recommended award of a contract may file a written protest with the city clerk within five (5) business days after receipt by the bidder or offeror of the city's notice of recommendation for award of contract. A written protest is considered filed when received by the city clerk.

(3) Protest requirements. The written protest shall state with particularity the specific facts and law upon which the protest of the solicitation or award is based, and shall include all pertinent documents and evidence and shall be accompanied by the required filing fee 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 city clerk at the time of filing the protest shall be permitted in the consideration of the written protest.

(4) Authority to resolve protests. The ~~director~~ manager of the purchasing department shall have the authority, subject to the approval of the city manager and the city attorney, to settle and resolve any written protest. The ~~director~~ manager of the purchasing department shall obtain the requisite approvals and communicate said decision in writing to the protesting party within thirty (30) days after receipt of the protest. If the protest cannot be resolved, the city manager may then reject all bids or proposals. Any aggrieved person may appeal the decision of the city manager to award a bid or solicitation within five (5) days of issuance of a written decision, pursuant to subsection (d) of this section.

(5) Stay of procurements during protests. Upon receipt of a written protest filed pursuant to the requirements of this section, the city shall not proceed further with the solicitation or with the award of the contract until the protest is resolved by the city as provided in subsection (4), unless the city manager, after consultation with the head of the using department and city attorney, makes a written determination that the solicitation process or the contract award must be continued without delay in order to protect substantial interests of the city or to avoid immediate danger to the public health, safety or welfare.

(6) Filing fee. The written protest to the city clerk must be accompanied by a filing fee in the form of a money order or cashier's check, payable to the city, in an amount equal to one (1) percent of the amount of the bid or proposed contract, or one thousand dollars ($1,000.00), whichever is less. The filing fee shall guarantee the payment of all costs which may be adjudged against the protestor in any administrative or court proceeding. If the protest is denied, the filing fee shall be forfeited to the city in lieu of payment of costs for the administrative proceedings. If the protest is upheld by the city, the filing fee shall be refunded to the protestor.

(7) Entitlement to costs. When a protest is sustained and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, then the protesting bidder or offeror shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorney's fees.

(c) Compliance with filing requirements. Failure of a party to file the protest or submit the filing fee on a timely basis shall constitute a forfeiture of such party's right to file a protest pursuant to this section. The protesting party shall not be entitled to seek judicial relief without first having followed the procedures set forth in this section.

(d) Right to appeal. Any aggrieved person may appeal the decision of the city manager to award a bid or solicitation. Such appeal must be filed in writing with the city clerk and mailed by the protesting party to all participants in the competitive procurement process within seven (7) days of the city manager's recommendation for an award. The appeal shall be in writing, shall state the particular grounds on which it is based, and shall include all pertinent documents and evidence. Any grounds not stated in the appeal shall be deemed waived.

(1) Appeals shall be referred by the city clerk to the city attorney, who shall select a hearing officer to hold a hearing and submit written findings and a decision within twenty (20) business days of the filing of the appeal, unless otherwise extended by the parties in writing. The hearing officer shall consider the written appeal, supporting documents and evidence, the city's recommendation and supporting documentation, and all evidence presented at the hearing. Such findings and recommendations shall also be filed with the city clerk.

(2) Hearing officers may be retired judges or licensed practitioners of law, as selected by the city attorney.

(3) All hearings before the hearing officer shall be open to the public and all testimony shall be under oath.

(4) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting transcripts.

(5) Each appeal before a hearing officer shall be presented by the city attorney or city attorney's designee.

(6) The hearing is not bound by the formal rules of evidence, but fundamental due process shall be observed and govern the proceedings. Any relevant evidence shall be admitted if the hearing officer finds it competent and reliable, regardless of any common law or statutory rule to the contrary.

(7) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross examine opposing witnesses on any matter relevant to the issues, to impeach any witness and to rebut the evidence against the witness. The hearing officer's findings and decision shall be final. The protestor or the city may appeal the decision of a hearing officer by filing a petition for certiorari with the circuit court, appellate division. Such appeal shall be filed within thirty (30) days of the date of issuance of the hearing officer's decision.

Sec. 7-159. Resolution of contract disputes.

(a) Authority to resolve contract disputes. All claims by a contractor against the city relating to a contract shall be submitted in writing to the city manager. The city manager, after obtaining approval by the city attorney, shall have the authority to resolve disputes or controversies arising under a contract. Such authority extends, without limitation, to controversies based upon breach of contract, mistake, misrepresentation, lack of complete performance, or other cause for contract modification or rescission. When the amount equals or exceeds one hundred thousand dollars ($100,000.00), the dispute resolution must be approved by the city council upon recommendation by the city manager.

(b) Contract dispute decisions. If a dispute is not resolved by mutual consent, the city manager shall promptly render a written report stating the reasons for the action taken by the city council or the city manager, which shall be final and conclusive. A copy of the decision shall be immediately provided to the protesting party, along with a notice of such party's right to seek judicial relief, provided that the protesting party shall not be entitled to such judicial relief without first having followed the procedure set forth in this section.

(c) Remedies prior to award. If prior to a contract award it is determined that a solicitation or proposed award is in violation of law, the solicitation or proposed award shall be cancelled by the city council, the city manager or the ~~director~~ manager of the purchasing department, as may be applicable, or revised to comply with the law.

Sec. 7-160. Authority to debar or suspend.

(a) Authority to debar or suspend. After reasonable notice to an actual or prospective contractor, and after reasonable opportunity for said person to be heard, the ~~director~~ manager of the purchasing department, after consultation with the city attorney, shall have authority to debar or suspend an actual or prospective contractor for cause from consideration for award of contracts. The debarment shall be for a period of not more than three (3) years. The ~~director~~ manager of the purchasing department, after consultation with the city attorney, shall also have the authority to suspend an actual or prospective contractor from consideration for award of city contracts if there is probable cause for debarment, pending the debarment determination. The suspension shall be for a period not to exceed three (3) months.

(b) Causes for debarment or suspension. Causes for debarment or suspension include the following:

(1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or incident to the performance of such contract or subcontract.

(2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty.

(3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.

(4) Violation of contract provisions, as set forth below, of a character which is regarded by the ~~director~~ manager of the purchasing department to be indicative of non-responsibility as to justify debarment:

a. Deliberate failure without good cause to perform in accordance with the specifications, terms and conditions or within the time limit provided in the contract; or

b. A recent record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one (1) or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor, shall not be considered to be a basis for debarment.

(5) Repudiation of an offer by failure to provide payment bond, performance bond, insurance certificates, or other required documentation within a reasonable time period.

(6) Refusal to accept a purchase order, agreement, or contract, or to perform thereon provided such order was issued timely and in conformance with the offer received.

(7) Presence of principals or corporate officers in the subject business, who were principals within another business at the time when the other business was suspended or debarred within the last three (3) years under the provisions of this section.
(8) Violation of the ethical standards set forth in state law.

(9) Violation of a zoning ordinance or any other city ordinance or regulation and for which the violation remains noncompliant.

(10) Violation of a zoning ordinance or any other city ordinance or regulation and for which a civil penalty or fine is due and owing to the city.

(11) Arrears or other default by contractor.

(12) Any other cause the ~~director~~ manager of the purchasing department determines to be sufficiently serious and compelling as to affect the responsibility of a city contractor, including the debarment or suspension by another governmental agency for any cause.

(c) Decision to debar or suspend. Subject to the provisions of subsection (a), the ~~director~~ manager of the purchasing department shall render a written decision stating the reasons for the debarment or suspension. A copy of the decision shall be provided promptly to the debarred or suspended person, along with a notice of said party's right to seek judicial relief.

Secs. 7-161—7-166. Reserved.

DIVISION 5. COOPERATIVE PURCHASING

Sec. 7-167. Use of other governmental agencies' contracts ("piggyback contracts").

Notwithstanding all other provisions of this code, the city manager, in lieu of the competitive bidding procedures, may approve any purchase for supplies or services from current contracts of other governmental agencies, which contracts have resulted from a formal competitive bid process, awarded to the lowest, responsive and responsible bidder meeting specifications, or from current Governmental Services Administration contracts or State of Florida agreements. Any such purchase which exceeds ~~one hundred thousand dollars ($100,000.00)~~ twenty five thousand dollars ($25,000.00) shall be presented to the city council for approval.

Sec. 7-168. - Contracts with other governmental agencies or state funded public institutions.

Notwithstanding all other provisions of this code, the city shall be exempt from all competitive bidding procedures when it enters into an agreement with other governmental agencies or state funded institutions for the procurement of supplies and services; provided, however, that such contracts are awarded pursuant to section 7-129.

Sec. 7-169. - Cooperative purchasing.

The purchasing department may participate in a cooperative purchasing agreement for the procurement of supplies or services with one (1) or more public entities in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between governmental agencies and open-ended federal, state, local or cooperative organization contracts that are made available to public entities.

Secs. 7-170—7-175. Reserved.

DIVISION 6. RISK MANAGEMENT IN PROCUREMENT

Sec. 7-176. Bid bond.

(a) Requirements for bid bond. A bid bond shall be required for all contracts solicited by competitive sealed bidding or competitive sealed proposals when the price is estimated to exceed one hundred thousand dollars ($100,000.00). The amount of the bid bond shall be five (5) percent of the total bid or proposal amount. The bid bond shall be provided by a surety company authorized to do business in this state, or otherwise, in a substitute form as allowed by this code.

(b) Rejection of solicitations for noncompliance with bid bond requirements. When the solicitation requires a bid bond, noncompliance requires that the bid or proposal be rejected.

Sec. 7-177. Performance and payment bonds.

(a) Bonds required when necessary. Performance and payment bonds or their equivalent shall be required at the discretion of the ~~director~~ manager of the purchasing department. The requirement for performance and/or payment bonds shall be stated in the solicitation documents.

(b) Bond must be delivered prior to issuing contract or purchase order. If required, a performance and/or payment bond satisfactory to the city, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the city shall be presented to the ~~director~~ manager of the purchasing department prior to issuance of a contract or purchase order.

(c) Substitutes for bonds acceptable. In lieu of a bid bond, performance bond or payment bond, the city may accept cash, money order, certified check, cashier's check, or irrevocable letter of credit. Such alternate form of security shall be for the same purpose and shall be subject to the same conditions as a bid, performance or payment bond.

(d) Reduction of bond amount. The ~~director~~ manager of the purchasing department may reduce the amount of performance and payment bonds required on a specific contract. Disclosure of the possible reduction shall be present in the solicitation or through the issuance of an addendum.

(e) Authority to require additional bonds or security. Nothing in this section shall be construed to limit the authority of the ~~director~~ manager of the purchasing department to require a performance bond or other forms of security to assure timely, faithful, and uninterrupted performance, including, but not limited to, operations period surety bonds, letters of credit, and written guarantees from the contractor.

Sec. 7-178. Insurance requirements.

(a) Contractor's insurance. The ~~director~~ manager of the purchasing department shall require the contractor and all subcontractors to provide adequate insurance coverage for the duration of the contract.

(b) Errors and omissions insurance. The ~~director~~ manager of the purchasing department shall specify in the solicitation documents, the requirement of errors and omissions insurance to cover professional services including, but not limited to architectural and engineering services.

(c) Compliance with insurance requirements. Upon award of a solicitation, risk management may review insurance requirements and certifications for compliance with the insurance requirements of this code. Risk management will advise the purchasing department of cancellation or failure to maintain insurance on any current contracts. Non-approved certifications will be returned to the purchasing department with reasons for non-approval and instructions as to how the certification may be corrected. The ~~director~~ manager of the purchasing department shall not allow any contract to continue without proper insurance in effect after notification of the lapse of the requisite insurance has been received.

(d) Minimum insurance requirements. Minimum insurance requirements for all successful bidders or offerors shall be indicated in the solicitation documents.

(1) The city shall be named as an additional insured under such policies and certificate of insurance shall be furnished to the city prior to the commencement of work. Said policies shall contain a "severability of interest" or a "cross liability" clause without obligation of a premium payment by the city. The city shall be entitled to receive copies of required policies for review.

(2) Evidence of statutory workman's compensation coverage, where applicable.

(3) All policies and policy renewals shall be required to comply with the requirements of the city.

Secs. 7-179—7-184. Reserved.

DIVISION 7. - ELECTRONIC COMMERCE

Sec. 7-185. On-line procurement.

(a) Authorization for the use of electronic transactions. The city may conduct procurement transactions, including but not limited to competitive sealed bids, competitive sealed proposals and informal quotations, by electronic means or in electronic form. Regulations shall be adopted regarding identification, security, confidentiality and the utilization of digital signatures.

(b) Electronic posting. The city may electronically post solicitations, determinations and other matters related to procurement on a centralized Internet website designated by the city for this purpose.

Secs. 7-186—7-191. Reserved.

DIVISION 8. - CONE OF SILENCE

Sec. 7-192. Cone of silence.

(a) Purpose and intent. The requirements of section 2-11.1(t), Cone of Silence Ordinances of the Code of Miami-Dade County, Florida, as amended, shall be applicable to the city. It is the intent of this code to prevent potential bidders, offerors or service providers from communicating with city department heads, their staff or selection and evaluation committee members during the period of time in which the cone of silence is imposed.

(b) Cone of silence is defined to mean a prohibition on:

(1) Any communication regarding a particular RFP, RFO or IFB between a potential offeror, service provider, bidder, lobbyist, or consultant and the city's professional staff including, but not limited to, the city manager and his staff;

(2) Any communication regarding a particular RFP, RFQ or IFB between the mayor, city council or their respective staffs and any member of the city's professional staff including, but not limited to, the city manager and his staff;

(3) Any communication regarding a particular RFP, RFQ or IFB between a potential offeror, service provider, bidder, lobbyist, or consultant and any member of the selection committee or evaluation committee;

(4) Any communication regarding a particular RFP, RFQ or IFB between the mayor, city council or their respective staffs and any member of the selection committee or evaluation committee; and

(5) Any communication regarding a particular RFP, RFQ or IFB between a potential offeror, service provider, bidder, lobbyist, or consultant and the mayor, county council and their respective staffs.

(c) The city manager and the chairperson of the selection committee may communicate about a particular selection committee recommendation, but only after the committee has submitted an award recommendation to the city manager and provided that should any change occur in the

committee recommendation, the content of the communication and of the corresponding change shall be described in writing and filed by the city manager.

(d) Notwithstanding the foregoing, the cone of silence shall not apply to:

(1) Competitive processes for the award of CDBG, HOME, and SHIP funds and community-based organization (CBO) competitive grant processes, administered by the city;

(2) Communications with the city attorney and his staff;

(3) Duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the city manager makes a written recommendation;

(4) Emergency procurements of goods or services pursuant to section 7-144

(5) Communications regarding a particular RFP, RFQ or IFB between any person and the ~~director~~ manager of the purchasing department or designee, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document; and

(6) Communications regarding a particular proposal, quotation or bid between the ~~director~~ manager of the purchasing department or designee and a member of the selection committee or evaluation committee provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

Sec. 7-193. Procedure.

(a) A cone of silence shall be imposed upon each RFP, RFQ and IFB after the advertisement of said RFP, RFQ or IFB. At the time of imposition of the cone of silence, the ~~director~~ manager of the purchasing department or designee shall provide for public notice of the cone of silence. The ~~director~~ manager of the purchasing department shall issue a written notice thereof to the affected departments, file a copy of such notice with the city clerk, with a copy thereof to each city council member, and shall include in any public solicitation for supplies or services a statement disclosing the requirements of this ordinance. Notwithstanding any other provision of this section, the imposition of a cone of silence on a particular RFP, RFQ or IFB shall not preclude procurement staff from obtaining industry comment or performing market research provided all communications related thereto with a potential offeror, service provider, bidder, lobbyist, or consultant are in writing or are made at a duly noticed public meeting.

(b) The cone of silence shall terminate at the time the city manager makes his written recommendation of award; provided, however, that if the city manager refers the recommendation back to the ~~director~~ manager of the purchasing department for further review, the cone of silence shall be re-imposed until such time as the city manager makes a subsequent written recommendation of award. If the city manager rejects all bids or proposals submitted in response to an RFP or IFB and concurrently requests the re-issuance of an RFP or IFB, the rejected bids or proposals shall remain under the cone of silence until such time the city manager

issues a written recommendation of award or until the city manager withdraws the re-issued RFP or IFB.

(c) Exceptions. The provisions of this code shall not apply to oral communications at pre-bid conferences, oral presentations before selection committees or evaluation committees, contract negotiations during any duly noticed public meeting, public presentations made to the city council during any duly noticed public meeting or communications in writing at any time with any city employee, official or member of the city council unless specifically prohibited by the applicable RFP, RFQ or IFB documents. The offeror or bidder shall file a copy of any written communication with the city clerk. The cone of silence shall not apply to small purchases or emergency purchases, pursuant to this code.

Secs. 7-194—7-199. Reserved.

DIVISION 9. PREFERENCE TO CONTRACTORS PROVIDING EQUAL BENEFITS TO DOMESTIC PARTNERS

Sec. 7-200. Requirement for city contractors to provide equal benefits for domestic partners.

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

Benefits means the following plan, program or policy provided or offered by a contractor to its employees as part of the employer's total compensation package; sick leave, bereavement leave, family medical leave, and health benefits.

Bid shall mean a competitive bid procedure established by the city through the issuance of an invitation to bid, request for proposals, and request for qualifications.

Cash equivalent means the amount of money paid to an employee with a domestic partner (or spouse, if applicable) in lieu of providing benefits to the employee's domestic partner (or spouse, if applicable). The cash equivalent is equal to the employer's direct expense of providing benefits to an employee for his spouse.

The cash equivalent of the following benefits apply:

(1) For bereavement leave, cash payment for the number of days that would be allowed as paid time off for the death of a spouse. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.

(2) For health benefits, the cost to the contractor of the contractor's share of the single monthly premiums that are being paid for the domestic partner employee, to be paid on a regular basis while the domestic partner employee maintains such insurance in force for himself.

(3) For family medical leave, cash payment for the number of days that would be allowed as time off for an employee to care for a spouse who has a serious health condition. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.

Contract means any written agreement, purchase order, standing order or instrument entered into pursuant to the award of a bid whereby the city is committed to expend or does expend funds in return for work, labor, professional services, consulting services, supplies, equipment, materials, construction, construction related services or any combination of the foregoing.

Contractor means any person or persons, sole proprietorship, partnership, joint venture, corporation, or other form of doing business, that is awarded a bid and enters into a covered contract with the city, and which maintains forty (40) or more full-time employees on the payroll during twenty (20) or more calendar work weeks in either the current or the preceding calendar year. Work weeks include consecutive and nonconsecutive work weeks.

Covered contract means a contract between the city and a contractor awarded subsequent to the date when this section becomes effective valued at over seventy-five thousand dollars ($75,000.00).

Domestic partner shall mean any two (2) adults of the same or different sex, who have registered as domestic partners with a governmental body pursuant to state or local law authorizing such registration, or with an internal registry maintained by the employer of at least one (1) of the domestic partners. A contractor may institute an internal registry to allow for the provision of equal benefits to employees with domestic partner who do not register their partnerships pursuant to a governmental body authorizing such registration, or who are located in a jurisdiction where no such governmental domestic partnership registry exists. A contractor that institutes such registry shall not impose criteria for registration that are more stringent than those required for domestic partnership registration by the city.

Equal benefits means the equality of benefits between employees with spouses and employees with domestic partners, and/or between spouses of employees and domestic partners of employees.

(b) *Equal benefits requirements.*

(1) All bids for covered contracts which are issued on or after the effective date of this section shall include the requirement to provide equal benefits in the procurement specifications for such bids.

(2) The city shall not enter into any covered contract unless the contractor certifies that such contractor does not discriminate in the provision of benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees.

(3) Such certification shall be in writing and shall be signed by an authorized officer of the contractor and delivered, along with a description of the contractor's employee benefits plan, to the city's procurement ~~director~~ manager prior to entering into such covered contract.

(4) The city manager or his designee shall reject a contractor's certification of compliance if he determines that such contractor discriminates in the provision of benefits or if the

city manager or designee determines that the certification was created, or is being used for the purpose of evading the requirements of this section.

(5) The contractor shall provide the city and/or the city manager or his designee, access to its records for the purpose of audits and/or investigations to ascertain compliance with the provisions of this section, and upon request shall provide evidence that the contractor is in compliance with the provisions of this section upon each new bid, contract renewal, or when the city manager has received a complaint or has reason to believe the contractor may not be in compliance with the provisions of this section. This shall include but not be limited to providing the city and/or the city manager or his designee with certified copies of all of the contractor's records pertaining to its benefits policies and its employment policies and practices.

(6) The contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment:
"During the performance of a Contract with the City of North Miami, Florida, the contractor will provide Equal Benefits to its employees with spouses and its employees with domestic partners."

The posted statement must also include a city contact telephone number which will be provided each contractor when the covered contract is executed.

(7) The contractor may not set up or use its contracting entity for the purpose of evading the requirements imposed by this section.

(c) *Other options for compliance*. Provided that the contractor does not discriminate in the provision of benefits, a contractor may also comply with this section in the following ways:

(1) The contractor may provide an employee with the cash equivalent of such benefit or benefits, if the city manager or his designee determines that either:

a. The contractor has made a reasonable yet unsuccessful effort to provide equal benefits. The contractor shall provide the city manager or his designee with sufficient proof of such inability to provide such benefit or benefits which shall include the measures taken to provide such benefits or benefits and the cash equivalent proposed, along with its certificate of compliance, as is required under subsection (b) of this section. The city manager or his designee shall, based on submitted evidence, determine whether the contractor's failure to provide such benefit or benefits precludes such contractor from entering into a covered contract pursuant to the requirements of this section; or

b. Under the circumstances, it would be unreasonable to require the contractor to provide benefits to the domestic partner (or spouse, if applicable).

(2) The contractor provides benefits neither to employees' spouses nor to employees' domestic partners.

(d) *Applicability.*

(1) Unless otherwise exempt, a contractor is subject to and shall comply with all applicable provisions of this section.

(2) The requirements of this section shall apply to contractor's operations as follows:

a. Employees of a contractor with a covered contract who work within the city limits; and

b. The contractor's employees located in the United States, but outside of the city limits, if those employees are directly performing work on the covered contract within the city.

(e) *Mandatory contract provisions pertaining to equal benefits.* Unless otherwise exempt, every covered contract shall contain language that obligates the contractor to comply with the applicable provisions of this section. The language shall include provisions for the following:

(1) During the performance of the covered contract, the contractor certifies and represents that it will comply with this section.

(2) The failure of the contractor to comply with this section will be deemed to be a material breach of the covered contract.

(3) If the contractor fails to comply with this section, the city may terminate the covered contract and all monies due or to become due under the covered contract may be retained by the city. The city may also pursue any and all other remedies at law or in equity for any breach.

(4) If the city manager or his designee determines that a contractor has set up or used its contracting entity for the purpose of evading the requirements of this section, the city may terminate the covered contract.

(5) Failure to comply with this section may subject the contractor to the debarment set forth in division 4 of this code.

(f) *Enforcement.* If the contractor fails to comply with the provisions of this section:

(1) The failure to comply may be deemed to be a material breach of the covered contract;

(2) The city may terminate the covered contract;

(3) Monies due or to become due under the covered contract may be retained by the city until compliance is achieved; or

(4) The city may also pursue any and all other remedies at law or in equity for any breach;

(5) Failure to comply with this section may also subject contractor to the debarment set forth in division 4 of this code.

(g) *Non-applicability, exceptions and waivers.*

(1) The provisions of this section shall not apply where:

a. The contractor provides benefits neither to employees' spouses nor to employees' domestic partners.

b. The contractor is a religious organization, association, society or any non-profit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

c. The contractor is a governmental entity.

(2) The provisions of this section shall not apply to covered contracts which involve:

a. The sale or lease of city property.

b. Development agreements entered into pursuant to F.S. § 163.3220, (the "Florida Local Government Development Agreement"), as same may be amended.

c. The award, pursuant to competitive processes, of CDBG, HOME, SHIP and Surtax Funds administered by the city's office of community development.

d. The award, pursuant to competitive processes, of cultural arts council grants.

e. The acquisition of professional architectural, engineering, landscape architectural, or survey and mapping services procured pursuant to F.S. § 287.055 (the "Consultants' Competitive Negotiation Act"), as same may be amended.

f. The procurement of life, health, accident, hospitalization, legal expense, annuity insurance, or all or any kinds of other insurance for the officers and employees of the city, and for the dependents of such officers and employees, from a group insurance plan.

(3) Upon the request and written recommendation of the city manager, the city council may, by resolution adopted by ~~a~~ four-fifths (4/5) vote of the city council, waive compliance of this section under the following circumstances:

a. The covered contract is necessary to respond to an emergency, where the existence of an emergency is requested, upon written recommendation of the city

manager, and same is determined by the city council. For purposes of waiver under this subsection only, in determining whether there is an emergency, the city council may consider the following nonexclusive factors:

1. The nature of the covered contract;

2. The length of the covered contract;

3. The cost of the covered contract;

4. Whether grants are involved in the covered contract and the requirements of those grants;

5. Whether there is a need to have materials, goods, and services furnished immediately and the consequences of a delay in having those materials, goods, and services furnished;

6. The monetary consequences if action is not taken immediately;

7. Any health, safety, and welfare issues that may be involved;

8. Increased labor costs, and scheduling of labor;

9. The need to complete work before a strict deadline; or

10. The impact of delaying one (1) phase or portion of a project on the other phase(s) or portion(s) of the project.

b. Where only one (1) bid response is received;

c. Where more than one (1) bid response is received, but the bids demonstrate that none of the bidders can comply with the requirements of this section, and one (1) or more of the bids received would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the bid specifications;

d. Where more than one (1) bid response is received and bid responses are received from:

1. One (1) or more bidders that comply with the requirements of this section and are otherwise responsive; and

2. One (1) or more bidders that do not or cannot comply with the requirements of this section, but would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the bid specifications; and

3. The procurement ~~director's~~ manager's review of the bids demonstrates that the cost of the bid (and/or the proposed covered contract which may be negotiated for such bid), as submitted by the lowest responsive bidder which complies with the requirements of this section (or, in the case of a proposal, the proposal of the top-ranked proposer), would be at least five

(5) percent, or two hundred fifty thousand dollars ($250,000.00) (whichever is less), greater than the lowest responsive bid submitted by the bidder which does not comply with the requirements of this section but would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the bid specifications (or, in the case of a proposal, where the top-ranked proposer which does not comply with the requirements of this section, but would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the bid specifications); then, upon request and written recommendation of the city manager, the city council may, by resolution adopted by a four-fifths-vote of the city council, waive compliance of this section, and award the bid to the lowest bidder (or, if a proposal, to the top ranked proposer) which does not comply with the requirements of this section but would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the bid specifications.

(h) *Consistency with federal or state law*. The provisions of this section do not apply where the application of these provisions would violate or be in consistent with the laws, rules or regulations of federal or state law, or where the application would violate or be inconsistent with the terms or conditions of a grant or contract with the United States of America, the State of Florida, or the instruction of an authorized representatives of any of these agencies with respect to any grant or contract.

(i) *City's authority to cancel contract*. Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualifications, or otherwise deny a person or entity city business.

(j) *Timing of application*. This section shall be applicable only to covered contracts awarded pursuant to bids which are issued six (6) months from the date when this section becomes effective.

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Section 2. Repeal. All ordinances or parts of ordinances in conflict or inconsistent are hereby repealed.

Section 3. Conflicts. All ordinances or parts of ordinances in conflict herewith 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. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by 4 - 1 vote of the Mayor and City Council on first reading this 25th day of August, 2015.

PASSED AND ADOPTED by 4 - 1 vote of the Mayor and City Council on second reading this 8th day of September, 2015.

DR. SMITH JOSEPH
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

ROLAND C. GALDOS
INTERIM CITY ATTORNEY

SPONSORED BY: VICE MAYOR CAROL KEYS, ESQ.

Moved by: Keys

Seconded by: Desulme

Vote:

Mayor Dr. Smith Joseph, D.O., Pharm. D.	____ (Yes)	X (No)
Vice Mayor Carol Keys, Esq.	X (Yes)	____ (No)
Councilman Scott Galvin	X (Yes)	____ (No)
Councilman Philippe Bien-Aime	X (Yes)	____ (No)
Councilman Alix Desulme	X (Yes)	____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.