

ORDINANCE NO. 1514

**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 INCREASE THE CURRENT DOLLAR THRESHOLD ALLOWED FOR THE CITY MANAGER TO APPROVE THE AWARD OF CONTRACTS WITHOUT THE AUTHORIZATION OF THE CITY COUNCIL FROM TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) TO THIRTY THOUSAND DOLLARS (\$30,000.00); 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 Twenty-Five Thousand Dollars (\$25,000.00), without the authorization of the Mayor and City Council; and

**WHEREAS**, the proposed amendment will increase the threshold amount capable of being awarded by the City Manager from Twenty-Five Thousand Dollars (\$25,000.00) to Thirty Thousand Dollars (\$30,000.00), without the authorization of the Mayor and City Council; and

**WHEREAS**, the Mayor and City Council find the proposed amendment provides 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 increase the current dollar threshold allowed for the City Manager to award contracts without the authorization of the City Council, 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 2. PROCUREMENT ORGANIZATION

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##### **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 manager of the purchasing department;
- (3) Appoint 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 ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00);
- (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 ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00), except purchases of motor vehicles for city use;
- (9) Approve change orders and contract modifications for supplies and services which do not exceed ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00) or fifteen (15) percent of the original contract amount; and
- (10) Approve and sign off on all purchase orders up to ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00).

(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)~~ thirty thousand dollars (\$30,000.00). Any contract exceeding ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00) shall require authorization by resolution of the city council.

(c) *Manager of the purchasing department.* Consistent with the provisions of this code and the implementing regulations, the 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 establishing the highest rank pursuant to required selection criteria;
- (6) Approve all purchases and awards of up to five thousand dollars (\$5,000.00);
- (7) Recommend to the city manager all change orders and contract modifications 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 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

### 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 ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00) or 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 manager of the purchasing department after consultation with the city attorney.

(h) *Bid evaluation.* The 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 manager of the purchasing department if, after a review of past performance under the contract, the manager determines that the 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 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 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 ~~twenty-five thousand dollars (\$25,000.00)~~ ~~thirty thousand dollars (\$30,000.00)~~. The city council has the sole authority to award contracts exceeding ~~twenty-five thousand dollars (\$25,000.00)~~ ~~thirty thousand dollars (\$30,000.00)~~ 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 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 manager of the purchasing department shall appoint an evaluation committee. The recommendation of the evaluation committee shall be submitted to the 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 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:

- Approve the recommendation of the evaluation committee and provide written notice to all offerors. Any contract not exceeding ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00) may be awarded by the city manager. Otherwise, the city manager shall submit the recommendation to the city council for approval;
- Reject the evaluation committee's recommendation and instruct the evaluation committee to re-evaluate and make further recommendations; or
- Reject all proposals.

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

- Approve the city manager's recommendation and authorize the contract or contract negotiations;
- Reject all proposals; or
- Reject all proposals and instruct the manager of the purchasing department to reissue a solicitation.

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

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**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 manager 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 ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00), shall be awarded by the city manager. All offers in excess of ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00) 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 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 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 manager of the purchasing department in writing.

(b) Purchases exceeding five thousand dollars (\$5,000.00) up to ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00) 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 need not apply to these purchases. The manager of the purchasing department shall negotiate, as appropriate, the price, delivery and terms of the purchase. The 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 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 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 ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00) 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 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 ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00) for supplies and services shall be referred to the city council for ratification.

**Sec. 7-145. - Disposal of surplus property.**

The manager of the purchasing department shall be responsible for the sale or disposition of surplus property by a method or methods deemed by the 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)~~ thirty thousand dollars (\$30,000.00) or more must be declared surplus by a resolution of the city council before the manager of the purchasing department may dispose of said surplus property.

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**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, or from current Governmental Services Administration contracts or State of Florida agreements. Any such purchase which exceeds ~~twenty-five thousand dollars (\$25,000.00)~~ thirty thousand dollars (\$30,000.00) shall be presented to the city council for approval.

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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 a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 14th day of November, 2023.

**PASSED AND ADOPTED** by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 28th day of November, 2023.

*Alix Desulme*  
ALIX DESULME, ED.D.  
MAYOR

ATTEST:

*S*  
\_\_\_\_\_  
VANESSA JOSEPH, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

*JPF May*  
\_\_\_\_\_  
JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: VICE-MAYOR ESTIME-IRVIN

Moved by: Desulme

Seconded by: Estime-Irvin

**Vote:**

Mayor Alix Desulme, Ed.D.  
Vice-Mayor Mary Estimé-Irvin  
Councilman Scott Galvin  
Councilwoman Kassandra Timothe, MPA  
Councilman Pierre Frantz Charles, M.Ed.

	Irvin
<u>X</u>	(Yes) _____ (No)

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