

ORDINANCE NO. 2018-11

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER III OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED "PURCHASING" BY CHANGING ALL REFERENCES TO "CITY COUNCIL" TO "CITY COMMISSION"; AMENDING SECTION 3-1.4 "DEFINITIONS", SECTION 3-2.2 "SCOPE OF PURCHASING AUTHORITY", SECTION 3-3.3 "SALES OF PROPERTY", SECTION 3-3.4 "NOTICE INVITING BIDS", SECTION 3-3.6 "SEALED BIDS", 3-4.3 "USE OF GOVERNMENTAL ENTITIES' CONTRACTS", SECTION 3-4.5 "EXEMPTIONS FROM BIDDING", AND ADDING SECTION 3-3.20 "CHANGE ORDERS", SECTION 3-4.6 "DONATIONS/IN-KIND SERVICES", AND SECTION 3-5 "PUBLIC-PRIVATE PARTNERSHIPS"; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami Beach ("City") Purchasing Ordinance requires amendments as the result of changes in Florida law, the City's Charter, and to continue to be in-line with procurement industry standards and best practices; and

WHEREAS, the proposed amendments to the Purchasing Ordinance include non-substantive and stylistic changes throughout which change the reference from "City Council" to "City Commission," correct the definition of Purchasing Agent, remove "in a local newspaper" from the definition of competitive sealed bid, amend sealed bid requirements to be consistent with Florida law, clarify the language governing the use of other governmental entities' contracts and combine and clarify former Section 3-4.6 *Surplus, Obsolete, or Broken Stock or Equipment* with former Section 3-3.3 *Sales of Property* into one section; and

WHEREAS, Section 3-2.2 *Scope of Purchasing Authority* has been amended to allow information for prospective vendors to be placed on the City's website; and

WHEREAS, Section 3-3.4 *Notice Inviting Bids* has been amended to permit electronic notices and advertisement when permitted by law; and

WHEREAS, Section 3-3.20 *Change Orders*, has been created and gives the City Manager authority to approve change orders so long as the total sum of all change orders does not exceed the total amount awarded by the City Commission by more than 10% of the contract cost or \$50,000.00, whichever is less; and

WHEREAS, Section 3-4.5 *Exemptions from Bidding* has been amended to clarify the utility service exemption and adds cable and satellite television, purchases from other public entities, membership dues, medical services, teacher, training and specialized instructors, and direct materials that are included as part of a construction contract as purchases that are exempt from competitive bidding; and

WHEREAS, Section 3-4.6 *Surplus, Obsolete, or Broken Stock or Equipment to Donations/In-Kind Services* has been changed to allow for acceptance of donations and in-kind services up to ten thousand (\$10,000.00) dollars when not offered for a City sponsored event and up to twenty-five thousand (\$25,000.00) dollars for any City sponsored events, donations/in kind services that are more than the amount provided herein shall require City Commission approval; and

WHEREAS, Section 3-5 *Public-Private Partnerships* has been created to establish guidelines for acceptance of solicited and unsolicited proposals for public-private partnerships, the proposed guidelines require all submissions comply with Section 255.065, *Florida Statutes*, unsolicited proposals shall include an application fee of five thousand (\$5,000.00) dollars, minimum thirty (30) day noticing requirement and all public-private partnerships shall be subject to City Commission approval; and

WHEREAS, the Mayor and City Commission find it to be in the best interests of the health, safety, and welfare of its residents to amend the Purchasing Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Commission of the City of North Miami Beach, Florida:

Section 1. The foregoing recitals are true and correct.

Section 2. That Chapter III of the Code of the City of Ordinances of the City of North Miami Beach, Florida, titled "Purchasing" is hereby amended as follows:

CHAPTER III – PURCHASING

3-1 - GENERAL PROVISIONS.

3-1.1 Established.

The purchasing policy of the City of North Miami Beach is established by Chapter III, Purchasing, of the Code of the City of North Miami Beach, Florida, the City Council Commission, and the City Manager.

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3-1.4 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the content, words used in the present tense include future, words in plural number include singular number, and words in singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Bond shall mean a three party contract in which the issuer of the bond guarantees the faithful performance of a contract and the payment of all material and labor bills incidental thereto.

Boycott shall mean to blacklist, divest from, or otherwise refuse to deal with a nation or country, or to blacklist or otherwise refuse to deal with a person or entity when the action is

based on race, color, religion, gender, or national origin of the person or entity. The term boycott does not include a decision based upon business or economic reasons, or boycotts, embargoes, trade restrictions, or divestments that are specifically authorized or required by federal law or state law.

Business shall mean any sole proprietorship, organization, association, corporation, limited liability partnership, limited liability company, or other entity or business association, including wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations awarded a contract pursuant to this article.

City shall mean the City of North Miami Beach, Florida.

City Council Commission shall mean the City Council Commission of the City of North Miami Beach, Florida.

City Manager shall mean the City Manager or designee of the City of North Miami Beach, Florida.

Competitive quotations or *comparative prices* shall mean and include the submission of prices by individuals or firms competing for the privilege or right to supply merchandise or services involving dollar amounts less than that for which competitive sealed bidding, or competitive sealed proposals is required.

Competitive sealed bid, formal bid, or request for proposals shall mean and include the process of advertising ~~in a local newspaper~~, preparing specifications, mailing invitations to bid, or requests for proposals or qualifications, and publicly opening the sealed bids or proposals at a certain time and date, evaluating the bids or proposals, and awarding the bid to the lowest responsive, responsible bidder meeting specifications, or the proposal to whoever best meets the specifications and the needs of the City.

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

Contractual Services shall mean and include all telephone, gas, water, electric light and concessions, rental, repair or maintenance of equipment, machinery and other City-owned property, and other like services. The term contractual services shall differ from professional services, which are unique in their nature and handled differently.

Design build shall mean a construction process whereby a partnership, corporation, or other legal entity certified under Florida Statutes as a registered general or building contractor to practice engineering, or architecture, enters into a single contract for the design and construction of a public construction project.

Guaranteed Energy Savings Contract shall mean a contract for the evaluation and recommendation of energy conservation measures, including the design and installation of equipment to implement one (1) or more of such measures. The contract may cover repair or replacement of existing equipment, professional fees, and financing charges to be paid from the energy savings.

Person shall mean any business, individual, partnership, joint venture, other organization, or group of individuals.

Professional services and consultant shall mean and include those services performed by any architect, landscape architect, land surveyor, engineer, property appraiser, health care professional, accountant, consultant, scientist, artist, or any profession regulated by the State of Florida.

Purchasing Agent shall mean the Chief Procurement ~~Purchasing~~ Officer, as designated by the City Manager, of the City of North Miami Beach, Florida.

Request for quotation shall mean a request for an informal verbal or written price quotation from a supplier of materials or services.

Responsible bidder or proposer shall mean a person who, as determined by the City Manager or designee, has the capability in all respects to perform fully the contract requirements, and who has the perseverance, experience, integrity, reliability, capacity, facilities, equipment, credit, and financial strength which will assure good-faith performance.

Responsive bidder or proposer shall mean a person who has submitted a bid which conforms in all material respects to the invitation to bid or request for proposals.

Sole source shall mean supplies and services, such as unique, patented, or franchised supplies or services only available from one (1) source, as determined by the Purchasing Agent after conducting a good faith review of available sources.

Specifications shall mean any description of the physical or functional characteristics, or of the nature of materials, equipment, or services. It may include a description of any requirement for inspecting, testing, preparing, or delivering. It may include requirements of the provider of such materials, equipment, or services.

Supplies shall mean and include all supplies, materials, equipment and motor vehicles.

Using Agency shall mean any department, division, official board, commission, or sponsored group or individual of the City government using supplies or procuring contractual or professional services as provided for in this chapter.

3-2 - PURCHASING AGENT.

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3-2.2 Scope of Purchasing Authority.

The Purchasing Agent shall have the power and duty:

- a. *Supplies, Services and Construction.* Consistent with this chapter, to enact regulations governing the procurement, management, control, and disposal of any and all supplies, services, and construction to be procured by the City, subject to the approval of the City Manager.
- b. *Purchase or Contract.* To perform the duties specified in connection with the purchase or contract for all supplies and contractual and professional services needed by any using agency which derives its support wholly or in part from the City, when authorized, in accordance with purchasing procedures as prescribed by this chapter and the Policies and Procedures Manual, and such rules and regulations as may be adopted for the internal management and operation of the Purchasing Division and such other rules and regulations as shall be prescribed by the City Manager.
- c. *Exceptions Prohibited.* The authority of the Purchasing Agent to negotiate or cause to be negotiated all purchases for all using agencies shall not be abridged, except as required by Charter.
- d. *Unauthorized Purchases.* Except as herein provided, purchases made without the written consent of the Purchasing Agent shall be considered illegal, and shall be referred to the City Manager for judgment as to penalty in accordance with general penalty provision set forth in the Policies and Procedures Manual. Except as herein provided, it

- shall be illegal for any City officer, employee, or other person to order the purchase of any materials, supplies, or services.
- e. *Disqualification of Bidders.* The Purchasing Agent shall have the authority with the consent of the City Manager to declare vendors who default their quotations as irresponsible bidders, and to disqualify them from receiving any business from the City for a stated period of time.
 - f. *Requisitions and Estimates.* All using agencies, either by or with the authorization of the head of the department under which the using agency operates, shall file with the Purchasing Agent detailed requisitions or estimates of their requirements in supplies and services in such manner, at such time, and for such future period as the Purchasing Agent shall prescribe.
 - g. *Intergovernmental Cooperation.* The City declares its intent to cooperate with the Federal Surplus Property Program, State, County and municipal cooperative purchasing programs. The City may purchase off any current contract of another government entity established by a formal competitive sealed bid or proposal process, and any other similar programs, including GSA contracts and State of Florida Agreements that will provide the City with low cost, quality equipment, materials, supplies, and services. The Purchasing Agent shall have the authority, in accordance with subsection 3-3.14 to approve purchase orders for all purchases made through other government entities' competitive sealed bids which have been awarded to the lowest responsive, responsible bidder meeting specifications.
 - h. *Policies and Procedures Manual.* The Purchasing Agent, with the assistance, cooperation, and input of the using departments and divisions and in accordance with subsection 3-4.11, shall prepare for approval of the City Manager a Policies and Procedures Manual, which shall include purchasing rules and regulations, and administrative procedures to provide guidance and information.
 - i. *~~Preparation of Booklet: Information for Prospective Vendors.~~* The Purchasing Agent shall post on the City's website ~~prepare a booklet entitled "How to Do Business with the City of North Miami Beach,"~~ which shall contain information pertinent to the concerns of a prospective supplier, ~~and a supplier who has received a contract or order from the City.~~ The Purchasing Agent shall update this information ~~booklet~~ on an as-needed basis.
 - j. *Removal of Vendors.* The City, through the Purchasing Agent, may debar and/or remove from its vendor list and/or withhold award of bid from any source of supply of materials and/or services which fails to fulfill any of its duties specified in a contract with the City, or which withdraws a bid after opening. This also applies to vendors whose principal(s) or qualifier(s) were associated with vendors which failed to fulfill any of its contractual duties. The City may reinstate any such source of supply when it is satisfied that further instances of default will not occur. This removal may be for an indefinite period of time.
 - k. *Rejection of Bid; Rebid.* The City may reject all bids whenever it is deemed in the best interest of the City to do so, and may reject any part of a bid. The City may rebid. The City may waive any minor informalities or irregularities in any bid, in its discretion.
 - l. *Cooperative Purchasing.* The Purchasing Agent shall have the authority to join with other governmental entities in cooperative purchasing plans if it is determined to be in the best interests of the City.

Bidders shall not acquire any property rights as a result of participation in the bidding process.

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3-3 - FORMAL CONTRACT PROCEDURES.

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3-3.2 Non-Discrimination; Contract Requirements; Waiver.

- (a) Non-discrimination Contract Requirements. The City shall not enter into a contract with a business unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, a boycott, as defined in subsection 3-1.4.
- (b) Waiver. The City Council Commission may, in its sole discretion, elect to waive the requirements of this section upon a 5/7 affirmative vote when the City Council Commission deems the waiver necessary for the health, safety, or welfare of the city.

3-3.3 Sales of Property/ Surplus, Obsolete, or Broken Stock or Equipment.

The Purchasing Agent shall have the authority to transfer surplus, obsolete, or broken stock or equipment to other using agencies of the City, or to exchange the same for, or trade in the same on new supplies. The Purchasing Agent shall have the authority to sell, scrap, trade, or donate such supplies or equipment with the following guidelines:

- a. All real property shall be sold by contract to the highest responsive, responsible bidder, after due notices have been published as required by law, unless waived by the City Commission in accordance with Section 3-4.5(f). Prior to the sale of real property the City shall have an appraisal of the property completed within one (1) year of the notice publication date.
- b. Any sales of personal and real property (except trade-in of personal property) which has become obsolete and unstable shall be accomplished by contract to the highest responsive, responsible bidder, after due notices have been published as required by law. The using department shall ensure that all identifying marks, signs, logo, etc., are removed prior to sale of such properties.

3-3.4 Notice Inviting Bids.

- a. Advertisements. Notice inviting solicitations. Except of those solicitations that are required by statute to be advertised in a newspaper, notices inviting solicitations shall be published electronically. A general description of the commodities or services to be purchased, a statement of where the solicitation documents may be obtained, and the date, time and place of receipt is to be provided. ~~Newspaper.~~ Notice inviting bids shall be published once in at least one (1) legal newspaper having general circulation, and at least ten (10) working days preceding the last day set for the receipt of bids or proposals.
- b. *Bidders List.* The Purchasing Agent shall attempt to solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a "bidders list," which the Purchasing Agent shall maintain, by sending them a copy of such notice. In any case, invitations sent to the vendors on the bidders list shall be limited to commodities that are similar in character and originally handled by the trade group where the invitations are sent. Also, the Purchasing Agent shall solicit and seek responsible bidders from the local area in addition to existing bidders list. Should the list

be inordinately long, the Purchasing Agent may mail notice according to a predetermined criteria, e.g. location of firm.

- c. *Electronic Notice.* Unless otherwise provided by State Law, the Purchasing Agent shall have the discretion to satisfy the notice requirement by providing notice for invitation to bid, request for proposals, request for letters of interest, and other solicitations by posting on the City's website and using industry specific website notifications systems, including but not limited to email distribution systems as an alternative to newspaper advertising. Electronic notices shall provide that receipt of bids, proposals, or other offers shall be received not earlier than ten (10) days from the first announcement or posting of such electronic notice.

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3-3.6 Sealed Bids.

- a. Responses to competitive solicitations shall be opened publicly by the Purchasing Agent on the date and at the time and place designated in the competitive solicitation. Bids shall be submitted sealed to the Purchasing Agent and shall be identified as bids on the outside of the envelope.
- b. After opening each competitive solicitation, the bid amount (if issued pursuant to Chapter 255, Florida Statutes) and the respondent's name shall be recorded, signed by the Purchasing Agent or designee and witnessed, which may be done electronically. Such record shall be open to public inspection to the extent permitted by Section 119.071, Florida Statutes, and shall be made available to the public as provided by law. Bids shall be opened in public at the time and place stated in the public notices, and shall be witnessed and certified by the Purchasing Agent and City Clerk, or their designees.
- c. A tabulation of all bids received shall be made and shall be available for public inspection, as permitted under State Law.

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3-3.14 Award of Bids, Proposals and Contracts.

All contracts, when the sum is below twenty-five thousand (\$25,000.00) dollars, shall be awarded by the Purchasing Agent, with a recommendation from the Department Head, for the lowest responsive and responsible bidder meeting specifications. All contracts, when the sum is greater than twenty-five thousand (\$25,000.00) dollars and below fifty thousand (\$50,000.00) dollars, shall be awarded by the City Manager with recommendation from the Department Head and Purchasing Agent for the lowest responsive and responsible bidder meeting specifications. All contracts, when the sum is in excess of fifty thousand (\$50,000.00) dollars, shall be awarded by the City Council Commission to the lowest responsive and responsible bidder meeting specifications.

In addition to price, all bid, proposal and contract awards shall take the following into consideration:

- a. The character, integrity, reputation, judgment, experience, previous performance, and efficiency of the bidder.
- b. The ability, equipment, capacity, financial strength, personnel resources, and skill of the bidder to perform the contract.
- c. The quality, availability, and adaptability of the supplies or contractual services to the particular use required.

- d. The ability of the bidder to provide further maintenance and service for the use of the subject of the contract.
- e. The quality of performance of previous contracts and whether the bidder can perform the contract within the time specified, without delay or interference.

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3-3.18 Termination of Contracts by City Manager.

All contracts, including those awarded by the City ~~Council~~ Commission, shall be administered by and may be terminated by the City Manager or designee when he/she determines, in his/her discretion, it is in the best interests of the City.

3-3.19 Contract Extensions for Operational Necessity.

Upon a finding, by the City Manager, of operational necessity, the City Manager is authorized to extend contracts, for a maximum of one hundred eighty (180) days. Extensions for operational necessity that exceed the City Manager's spending authority, shall be reported to the City ~~Council~~ Commission within thirty (30) days of such action. Any further extensions, shall require City ~~Council~~ Commission approval.

3-3.20 Change Orders.

The City Manager may approve any change orders so long as the total sum of all change orders does not exceed the total amount awarded by the City Commission by more than either ten percent of the contract cost or fifty thousand dollars (\$50,000.00), whichever is less. The scope of any project may not be changed without prior approval of the City Commission or the City Manager if the amount of the contract and all change orders is less than fifty thousand (\$50,000.00) dollars. No increase in contract price shall be approved unless there are sufficient funds available for such purpose.

3-4 - MISCELLANEOUS PROVISIONS.

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3-4.2 Emergency Purchases.

Notwithstanding any other provision of this chapter, the Purchasing Agent, or designee, may make, or authorize others to make, emergency purchases when there exists a threat to public health, welfare, or safety, as determined under emergency purchase procedures set forth in the Policy and Procedures Manual, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A full written determination of the basis of the emergency, and reason for selection of the particular contractor, shall be included on the emergency purchase order and shall be filed as a permanent and public record of the purchase. Emergency Procurements that exceed the City Manager's spending authority, shall be reported to the City ~~Council~~ Commission within thirty (30) days of such action.

3-4.3 Use of Other Governmental Entities' Contracts.

Subject to the spending limitations in subsection 3-3.14 and upon a determination that the supplies, materials, equipment or contractual services needed by the City were purchased using solicitation procedures which ~~are comparable to solicitation procedures~~ substantially equivalent to the requirements of the North Miami Beach Purchasing Code, the Purchasing Agent may

procure, without following formal contract procedure, all supplies, materials, equipment and contractual services which are the subject of contracts with the State of Florida, its political subdivisions, the United States government, other governmental entities, or a corporation not for profit whose members are governmental entities, public officers, or any combination thereof; provided, however, that this section shall apply only if (i) the supplies, materials, equipment or contractual services are the subject of a price schedule negotiated by the State of Florida or the United States government, or (ii) the supplies, materials, equipment or contractual services are the subject of a contract with another governmental entity or a corporation not for profit whose members are governmental entities, public officers, or any combination thereof, which contract is based strictly on competitive bids or competitive proposals and not on any preference.

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3-4.5 Exemptions from Bidding.

Purchase of the following materials and services shall be exempt from the bidding process and subject to the spending limitations provided in subsection 3-3.14, unless otherwise provided by State law:

- a. Sole source purchases. Sole-source supplies and services, such as unique, patented, or franchised supplies or services, are exempt if the Purchasing Agent determines, after conducting a good faith review of available sources, that the particular supply or service is available from only one (1) source.
- b. Legal services. Legal services coordinated by the office of the City Attorney, including, but not limited to: attorney services, paralegals, expert witnesses, jury consultants, legal support services, legal research, court reporters and stenographers.
- c. Emergency purchases.
- d. Advertising. Advertising in selected newspapers, periodicals, radio stations, television networks, or websites.
- e. Books and periodicals.
- f. Formal bidding waiver. Purchases for which formal bidding has been waived, as determined by the City ~~Council~~ Commission to be in the best interest of the City. Purchases of, and contracts for, supplies or services shall be exempt from competitive bidding/competitive proposals with a five-sevenths (5/7) affirmative vote of the City ~~Council~~ Commission declaring the waiver of competitive bidding/competitive proposals to be in the best interests of the City. In the event that competitive bidding and competitive proposals are waived under this paragraph, the open market procedure set forth in subsection 3-4.4 shall be utilized. For those contracts which the City Manager is otherwise authorized to award, he/she may waive competitive bidding and competitive proposals.
- g. Real Property. Purchase or rental of real property when location is a consideration.
- h. Utilities, including water, wastewater, sewer, gas, electric, or other utilities as defined by law. Contractual services such as utilities.
- i. Recreational excursions and cultural events.
- j. Services set forth in Section 287.057(3)(f), *Florida Statutes*.
- k. Insurance. Purchases of insurance through the city's agent of record are exempt from the competitive bid and competitive proposal requirements.

- l. Software. Software licensing and maintenance with the company from which the software was purchased, as set forth in subsection 3-4.4 or subsection 3-3.14, or its authorized representative.
- m. Service and Warranty. Servicing or warranty work of equipment by the authorized dealer or manufacturer's representative, when required to maintain a warranty in full force and effect, or when considered to be in the best interest of the city and recommended by the using department, and the services to be performed are by the equipment manufacturer, manufacturer's service representative, or a distributor of the manufacturer's equipment.
- n. Shipping, freight and postage charges.
- o. Artistic, academic and entertainment performances. Artistic, academic and entertainment performances, including entertainment, lectures, seminars, speeches, cultural and artistic presentations; excluding production companies.
- p. Groceries.
- q. Cable and satellite television services.
- r. Contracts with, and purchases from, other public entities, i.e.: public state colleges, public state universities, federal government agencies, state governments, county governments, city governments, government school boards, county sheriff's offices, and other government entities.
- s. Membership dues for trade or professional organization.
- t. Medical services, including wellness activities, pharmacy services and veterinarian services.
- u. Teaching, training, specialized services and recreational instructors.
- v. Direct material purchases. Purchases of materials, equipment, prefabricated elements and components, appliances, fixtures, and other goods, pursuant to a program contained in a construction contract that has been awarded in accordance with any provision of this article, whereby the City makes such purchases directly.

3-4.6 ~~Surplus, Obsolete, or Broken Stock or Equipment.~~ Donations/In-Kind Services.

~~The Purchasing Agent shall have the authority to transfer surplus, obsolete, or broken stock or equipment to other using agencies of the City, or to exchange the same for, or trade in the same on new supplies. The Purchasing Agent shall have the authority to sell, scrap, trade, or donate such supplies or equipment.~~

The City Manager is authorized to accept donations and in-kind services, on behalf of the City, up to ten thousand (\$10,000.00) dollars when not offered for a City sponsored event and up to an estimated twenty-five thousand (\$25,000.00) dollars for any City sponsored events. Donations/in kind services that are more than the amount provided herein shall require City Commission approval. ~~value not to exceed fifty thousand (\$50,000.00) dollars on behalf of the City. Donations/in-kind services in excess of fifty thousand (\$50,000.00) dollars shall require City Commission approval.~~ The City Manager shall report donations in excess of ~~twenty five thousand (\$25,000.00)~~ ten thousand (\$10,000) dollars to the City Commission within thirty (30) business days of receipt.

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3-4.9 Waivers of Bid.

As provided in Chapter 3 herein, the City Manager may waive the formal bidding procedure up to fifty thousand (\$50,000.00) dollars and the City Council Commission may waive the formal

bidding procedure over fifty thousand (\$50,000.00) dollars in accordance with the rules and procedures set forth in the Purchasing Policies and Procedures Manual.

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3-5 PUBLIC-PRIVATE PARTNERSHIPS (P3).

3-5.1 Purpose, Scope and Applicability.

The City hereby adopts Section 255.065, *Florida Statutes*, entitled "Public-Private Partnerships; public records and public meetings exemptions" as amended. A public-private partnership ("P3") is a contractual agreement between a public agency (federal, state or local) and a private sector person or entity organized for the purpose of timely delivering services or facilities in a cost-effective manner that might not otherwise be possible using traditional sources of public procurement. Through this contractual agreement, the assets and professional skills of each sector (public and private) are shared and leveraged to deliver a service or facility to be used by the general public. Each sector shares in the potential risks of the timely and efficient delivery and operations of the service or facility. For a qualifying project/unsolicited proposal to be considered by the City, all parties must comply with this section and any adopted Guidelines for P3 Applications and Evaluation Process (hereinafter "Guidelines").

3-5.2 Proposals.

a. Solicited proposals.

1. The City may advertise for competitive proposals for a P3 project. The terms, evaluation criteria and selection process shall be outlined in the solicitation which may be made by a request for proposals, invitation to negotiate or other method as deemed appropriate by the City Manager and hereinafter referred to as a "solicitation".
2. Responses to a solicitation shall comply with all requirements of the soliciting document(s) and shall comply with any applicable laws, statutes, rules, regulations, adopted guidelines, and ordinances pertaining thereto.
3. All responses to a solicitation for a P3 project shall be evaluated by the City as set forth in its guidelines. Final award decisions for P3 projects initiated by a solicitation shall be made by the City Commission, and as determined to be in the best interests of the City.

b. Unsolicited proposals.

1. ~~The City may advertise a need and encourage interested parties to submit unsolicited proposals in accordance with the requirements set forth in Section 255.065, *Florida Statutes*.~~ If Any proposals are received without issuance of a solicitation, ~~the proposals may~~ shall be treated as an unsolicited proposal and may be evaluated as prescribed in its guidelines. All proposals submitted shall be submitted in accordance with the requirements set forth in Section 255.065, *Florida Statutes*. The City Manager shall have thirty (30) days to accept or reject any unsolicited proposals.

2. Contemporaneously with the submission of an unsolicited proposal, the proposer shall pay an initial unsolicited proposal application fee to the City in the amount of five thousand dollars (\$5,000.00), or such other amount as the guidelines may prescribe, to cover the costs of processing, reviewing and evaluating the proposal, including the fees and costs for private consultants to assist in the evaluation. Upon acceptance of the unsolicited proposal the initial unsolicited proposal application fee is non-refundable. The City shall require additional fees from the proposer if the initial unsolicited proposal application fee is insufficient to pay for the City's evaluation costs.
3. If the City Manager determines that it is interested in further considering any unsolicited proposal, it shall publish a notice of receipt of same and invite competing bids during a competitive bidding period. The advertising period of the notice of receipt and inviting competing bids shall not be less than thirty (30) days after the initial date of publication. The publication shall be accomplished in a manner that encourages competition to provide private entities interested in submitting alternative and perhaps competing proposals a reasonable opportunity to submit a bid.
4. Bidders submitting competitive bids in response to the notice of receipt shall comply with the requirements specified in the notice and pay a bid application fee as specified in the notice or the guidelines. The amount of the application fee shall be determined by the City Manager, on a case by case basis, and be reasonably calculated to cover the costs to be incurred by the City. The initial proposer(s) shall also submit a bid in response to the notice providing such further details about the unsolicited proposal as may be required by the notice. The initial proposer(s) shall receive a credit against the bid application fee for its initial unsolicited proposal application fee.
5. Bidders shall comply with all requirements of the notice of receipt as well as with any applicable laws, statutes, rules, regulations, adopted guidelines, and ordinances pertaining thereto.
6. All unsolicited proposals and bids for a P3 project shall be evaluated by the City consistent with Section 255.065, *Florida Statutes*, and its guidelines. Final award decisions for P3 projects shall be made by the City Commission, and as determined to be in the best interests of the City.

Section 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held invalid by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. All other City ordinances and resolutions or parts thereof in conflict with the provisions of this Ordinance are hereby superseded and repealed.

Section 5. It is the intention of the City Commission of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section," "Article," or other word as the codifier may deem

appropriate.

Section 6. This Ordinance shall be effective ten (10) days after adoption on second reading.

APPROVED on first reading this **13th day of September, 2018.**

APPROVED AND ADOPTED on second reading this **16th day of October, 2018.**

ATTEST:



PAMELA L. LATIMORE
CITY CLERK



BETH E. SPIEGEL
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
& LANGUAGE & FOR EXECUTION



SARAH JOHNSTON
INTERIM CITY ATTORNEY

Sponsored by: Mayor and City Commission.

Note: Proposed additions to existing City Code text are indicated by underline and deletions are indicated by ~~striketrough~~.