

ORDINANCE NO. 2011-3747

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING PROCEDURES TO PROVIDE LOCAL PREFERENCE TO MIAMI BEACH-BASED VENDORS IN THE AWARD OF CONTRACTS FOR GOODS AND GENERAL SERVICES, BY AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH ENTITLED, "ADMINISTRATION," BY AMENDING ARTICLE VI THEREOF ENTITLED, "PROCUREMENT," BY AMENDING DIVISION 3 ENTITLED, "CONTRACT PROCEDURES," BY AMENDING SECTION 2-372 THEREOF; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 287.084, Florida Statutes, entitled *Preference to Florida businesses*, municipalities may award a preference to the lowest responsible bidder having a principal place of business within this state; and

WHEREAS, on June 11, 2003, the Mayor and City Commission adopted, on second and final reading, Ordinance No. 2003-3413, which created Section 2-372 of the City Code, and established the City's local preference ordinance (the Ordinance); and

WHEREAS, the Mayor and City Commission hereby find and determine that it is in the best interest of the City to amend the Ordinance, by broadening its scope and applicability to other City public procurement methods including, without limitation, Requests for Proposals (RFP's), Requests for Qualifications (RFQ's), Requests for Letters of Interest (RFLI's), and oral or written request for quotations.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA as follows:

SECTION 1: That Chapter 2, Article VI, Division 3, Section 2-372 of the Miami Beach City Code is hereby amended as follows:

ARTICLE VI. PROCUREMENT

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DIVISION 3. CONTRACT PROCEDURES

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Sec. 2-372. Procedure to provide preference to Miami Beach-based vendors in contracts for goods and general contractual services.

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

(a) Bid shall mean a competitive bid procedure established through the issuance of an invitation to bid. The term "bid," as used herein, shall not include requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or the solicitation of purchase orders based on oral or written quotations.

(b) General services means support services performed by an independent contractor requiring specialized knowledge, experience, or expertise that includes, but is not limited to, pest control, janitorial, laundry, catering, security, lawn maintenance and maintenance of equipment, framing, and film development.

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

(d)(b) Miami Beach-based vendor means a bidder that has a valid occupational license issued by the City of Miami Beach, which authorizes said vendor to provide the subject goods and/or contractual services, and has its headquarters in the City, or has a place of business located in the City at which it will produce the goods or perform the contractual services to be purchased. The City Manager shall administratively resolve any issues relating to a vendor's status as a Miami Beach-based vendor, and his/her decision on whether a vendor is a Miami Beach-based vendor shall be final.

(2) Exemptions:

(a) The provisions of this section, shall not apply, and no local preference shall be accorded hereunder, to bids or proposal procedures for professional services, which are defined, for purposes of this section, as any services where the City is obtaining advice, instruction, or specialized work from an individual, firm, or corporation specifically qualified in a particular area, and also those services procured pursuant to Section 287.055, Florida Statutes.

(b)(a) The provisions of this section shall not apply, and no local preference shall be accorded hereunder, to bids and/or the solicitation or proposed award of a purchase order based on an oral or written quotation for the purchase of, or contract for, the construction/renovation of public buildings, facilities, public works, or other public capital construction projects.

(23) Preference in purchase of goods or ~~general~~contractual services.

(a) Invitations to bid; oral or written requests for quotations. Except where federal or state law mandates to the contrary, in the purchase of goods or ~~general~~contractual services by means of an ~~competitive~~invitation to bid or pursuant to an oral or written quotation, a preference will be given to a responsive and responsible Miami Beach-based vendor, who is within five percent (5%) of the lowest and best bidder, an opportunity of providing said goods or ~~general~~contractual services for the lowest responsive bid amount. ~~(4)~~-Whenever, as a result of the foregoing preference, the adjusted prices of two (2) or more Miami Beach-based vendors constitute the lowest bid for a competitively bid purchase, and such bids are responsive and otherwise equal with respect to quality and service, then the award shall be made to the Miami Beach-based vendor having the greatest number of its employees that are Miami Beach residents. ~~(5)~~-Whenever, two or more Miami Beach-based vendors have the same number of its employees that are Miami Beach residents, then the award shall be made to the Miami Beach-based vendor who is certified by Miami-Dade County as a Minority or Women Business Enterprise.

(b) Requests for proposals; requests for qualifications; requests for letters of interest. The city commission, or the city manager (in instances where such action has been delegated to the manager), in considering, determining, and/or approving the evaluation methodology, selection criteria, and/or other factors determined by the city to be applicable in the recommendation and selection of proposers submitting responses pursuant to an RFP, RFQ, or RFLI, as appropriate, shall include (as part of such evaluation methodology, selection criteria, and/or other applicable factors to be set forth and included within the RFP, RFQ, or RFLI document) and give an additional five (5) points (where the evaluation methodology is based on a points system from 0 – 100 points), or an additional five percent (5%) (where the evaluation methodology is based on a percentage system from 0 – 100%), to proposers, which are, or include as part of their proposal team, a Miami Beach based vendor.

(36) Comparison of qualifications. The preferences established herein in no way prohibit the right of the city manager and/or the ~~mayer~~ and city commission, as applicable, to compare quality of materials proposed for purchase and compare qualifications, character, responsibility and fitness of all person, firms or corporations submitting bids. Further, the preferences established herein in no way prohibit the right of the city manager and/or the ~~mayer~~ and city commission, as applicable, from giving any other preference permitted by law in addition to ~~instead~~ of the preferences granted herein.

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.


SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

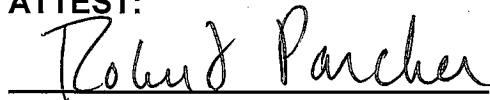
SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the 24th day of December, 2011, which is 10 days after adoption.

PASSED and ADOPTED this 14th day of December, 2011.


Mayor

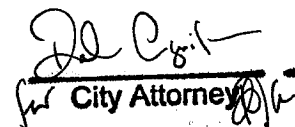
ATTEST:


City Clerk

Letters or numbers that are stricken through are deletions from existing ordinance.

Letters or numbers that are underlined are additions to existing ordinance.

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**


for City Attorney 10-19-11
Date