

ORDINANCE NO. C-16-19

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SECTIONS 2-179, 2-180, 2-181, 2-182, 2-189, AND 2-191 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, EXPANDING THE CITY MANAGER'S PURCHASING AUTHORITY AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. Subsection 2-179(5) of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

In all other cases not specifically covered by paragraphs (1), (2), (3) or (4) of this section, public improvements exceeding twenty-five thousand dollars (\$25,000.00) are not authorized except after public notice for formal bids in accordance with section 2-180. The city shall award the contract to the lowest and best responsible bidder, and enter into formal contract with such bidder in duplicate for the performance of the work in accordance with the plans and specifications for such improvements. For those public improvements not exceeding twenty-five thousand dollars (\$25,000.00) or, in the case of a term contract, not exceeding twenty-five thousand dollars (\$25,000.00) per term, excluding price adjustments, the purchasing manager shall have the authority to approve the lowest and best responsible bid; for those public improvements not exceeding two hundred fifty one hundred thousand dollars (\$250,000.00100,000.00) or, in the case of a term contract, not exceeding two hundred fifty one hundred thousand dollars (\$250,000.00100,000.00) per term, excluding price adjustments, the city manager or the city manager's authorized designee shall have the authority to approve the lowest and best responsible bid; for those public improvements exceeding two hundred fifty one hundred thousand dollars (\$250,000.00100,000.00) or, in the case of a term contract, not exceeding one hundred thousand dollars (\$100,000.00) per term, excluding price adjustments, the city commission shall approve the lowest and best responsible bid by motion. A faithful performance bond, written by a corporate surety company holding a certificate of authority from

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double stricken~~ are deletions from the version presented at first reading.

the Secretary of the Treasury of the United States as acceptable sureties on federal bonds and executed and issued by a resident agent licensed by and having an office in the state representing such corporate surety, shall be required from the successful bidder in an amount equal to the contract price; provided, however, that at the discretion of the city commission, any person entering into a public works contract with the city which is for fifty thousand dollars (\$50,000.00) or less may be exempted from executing the aforementioned faithful performance bond. The faithful performance bond, contract, contract documents, qualifications of bidders, and plans and specifications shall be prepared and executed in accordance with requirements of the engineering division, approved by the city attorney.

SECTION 2. Subsection 2-180(5) of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

Rejection of bids or proposals. All bids and proposals received shall be reported to the city commission, but the city commission shall have the authority to reject all bids or proposals, parts of all bids or proposals, or all bids or proposals, for any one (1) or more supplies or contractual services included in the proposed specifications when the public interest will be served thereby. In the event a bid or proposal does not meet specifications or is otherwise non-conforming, such fact shall be pointed out to the commission. If the low responsive bid or proposal does not exceed fiftyone hundred thousand dollars (\$5100,000.00) or, in the case of a term contract, the low responsive bid or proposal does not exceed one hundred thousand dollars (\$100,000.00) per term, excluding price adjustments, the bid or proposal may be awarded or rejected under the provisions of Section 2-184 without submission to the city commission for approval.

SECTION 3. Subsection 2.180(9) of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

Change of dollar threshold limits. The city commission may by resolution raise or lower the twenty-five thousand dollar (\$25,000.00) and fiftyone hundred thousand dollar (\$5100,000.00) threshold limits contained in this division.

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double-stricken~~ are deletions from the version presented at first reading.

SECTION 4. Section 2-181 of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

When the estimated cost of supplies and contractual services is ~~fifty~~ one hundred thousand dollars (~~\$5100,000.00~~) or, in the case of a term contract, one hundred thousand dollars (\$100,000.00) per term, excluding price adjustments, or over, a contract for same may be awarded by the city commission to the lowest and best responsible bidder without formal contract, and, when requested, the commission may waive formal bidding procedures, under the following conditions:

- (1) Notices shall be sent out inviting bids by electronic notification, facsimile, or telephone to at least three (3) vendors believed to handle the product or service desired at least three (3) days before the bids are to be received, such notices to specify the kind and quality of materials, supplies and contractual services desired, and shall make written certification of such facts. Notice inviting bids shall be posted on the procurement bulletin board at City Hall at least three (3) days before the bids are to be received.
- (2) Records of all bids submitted shall be kept and reported to the commission and shall be open for public inspection.
- (3) All provisions of this division pertaining to bidders lists, bid deposits and bid opening procedures, where not in conflict with this section, shall be applicable.
- (4) The commission shall waive formal bid procedures and award the contract to the lowest and best responsible bidder at a regular meeting by motion, which shall be recorded in the minutes of the meeting.
- (5) The provisions of section 2-184 shall apply in awarding contracts under this section.

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double stricken~~ are deletions from the version presented at first reading.

- (6) The city manager may procure, without competitive bids, supplies and services which are the subject of contracts with the state as set forth in Florida Statutes or are the subject of contracts with the U.S. Federal General Services Administration.
- (7) The city may buy from another governmental entity contracts or bids whereby such contract or formal bid followed formal bid procedures of sealed written bids, public opening, and legal advertising.
- (8) The city may make purchases based on the terms of a contract let by an entity that is organized as a not for profit entity under the laws governing such entity where the contract was entered into following a fair and competitive process that included public notice, sealed written or secure electronic bids, and public bid opening.
- (9) The city manager may authorize the purchasing manager or the purchasing manager's designee to purchase surplus property as donated by the state department of general services, division of surplus property, as authorized by Florida Statutes. Supplies costing in excess of fiftyone hundred thousand dollars (~~\$5~~100,000.00) shall be reported to the city commission at the next meeting following any purchase, listing item(s) and cost of supplies purchased.
- (10) Bids received after the hour and date specified in the bid invitation will not be opened. Only the city manager will authorize the opening of a late bid when so requested by the bidder and after considering all the circumstances involved.

SECTION 5. Section 2-182 of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

Sec. 2-182. - Purchase of supplies and contractual services estimated to cost between five thousand dollars and fiftyone hundred thousand dollars.

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double-stricken~~ are deletions from the version presented at first reading.

Where the furnishing of supplies and contractual services is estimated to cost between five thousand dollars (\$5,000.00) and forty one hundred thousand dollars (\$41,000.00) or, in the case of a term contract, between five thousand dollars (\$5,000.00) and one hundred thousand dollars (\$100,000.00) per term, excluding price adjustments, such purchases may be made upon approval of the city manager or the city manager's designee ~~except when only a single bid is received in response to a city requests for bids in an amount greater than twenty-five thousand dollars (\$25,000.00), in which case such purchase shall be subject to the approval of the city commission.~~ Whenever the total cost does not exceed twenty-five thousand dollars (\$25,000.00) and it is deemed necessary and proper to do so, except in case of emergency, or as otherwise provided herein, at least three (3) competitive written quotes shall be sought by electronic mail, the city's e-procurement web site, U.S. mail, or facsimile, and the quote of the lowest responsive and responsible bidder may be accepted by the purchasing manager or the purchasing manager's designee without city commission approval. The following purchases, however, may be made upon approval of the city manager or the city manager's designee when the cost exceeds five thousand dollars (\$5,000.00), without bid and on a nonemergency basis, when such purchases are deemed to be made for the best interests of the city:

- (1) *Test items.* Test items may be purchased without bid when it is probable that such purchases will result in formulating future bid specifications for such items or will result in the determination that such are proprietary items.
- (2) *Odd lots and closed-out materials.* Odd lots and closed-out materials may be purchased without bid when such purchases are offered at considerable savings to the city.
- (3) *Photocopy or office-type machine rentals or purchases.* Photocopy or office-type machine rentals or purchases may be made without bid upon recommendation of the central services organization after conducting extensive study and trial usage of a minimum of three (3) such machines.
- (4) *Maintenance service of equipment.* When considered to be in the best interest of the city, maintenance service of office-type equipment may be made without bid, and on other type equipment

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double stricken~~ are deletions from the version presented at first reading.

without bid upon the recommendation of the using department, when services to be performed are by the equipment manufacturer, manufacturer's service representative, a distributor of the manufacturer's equipment, or when at least three (3) responsible services have been tested.

- (5) *Land surveys, land appraisals, abstracts of title and title searches.* Land surveys, land appraisals, abstracts of title and title searches may be purchased without bid and may be made on a rotation basis between at least three (3) reliable sources, subject to the provisions of Florida's Consultant's Competitive Negotiation Act and section 2-194 of this Code.
- (6) *Late bids.* Bids received after the hour and date specified in the proposal form will not be opened. Only the city manager will authorize the opening of a late bid when so requested by the bidder and after considering all the circumstances involved.

SECTION 6. Subsection 2-189(a) of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

The purchase of proprietary items, as defined in this article, may be made without the necessity of public bids. Such purchases shall require the approval of the city manager or the city manager's designee when the estimated cost of the item is between five thousand dollars (\$5,000.00) and ~~twenty-five~~one hundred thousand dollars (~~\$25~~100,000.00) or, in the case of a term contract, between five thousand dollars (\$5,000.00) and one hundred thousand dollars (\$100,000.00) per term, excluding price adjustments, and if greater than ~~twenty-five~~one hundred thousand dollars (~~\$25~~100,000.00) or, in the case of a term contract, one hundred thousand dollars (\$100,000.00) per term, excluding price adjustments, then the approval of the city commission is required.

SECTION 7. Subsection 2-189(b) of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

When a purchase of proprietary items exceeds ~~twenty-five~~one hundred thousand dollars (~~\$25~~100,000.00) or, in the case of a term contract, one hundred thousand

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double stricken~~ are deletions from the version presented at first reading.

dollars (\$100,000.00) per term, excluding price adjustments, and is to be made by the use of grant funds, then the approval of the city manager shall be sufficient, if provisions of the grant are followed and the grantor of the funds approves the purchase.

SECTION 8. The last paragraph of Section 2-189 of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

This exemption from the normal bidding process does not mean that the city will make awards without an investigation of the pricing of products or services being purchased in order to determine that the city is obtaining the product or service at its lowest price and from a responsible supplier. Such purchases will require the approval of the city commission except those under ~~twenty-five~~one hundred thousand dollars (~~\$25~~100,000.00) or, in the case of a term contract, one hundred thousand dollars (\$100,000.00) per term, excluding price adjustments, which may be approved by the city manager or the city manager's designee. For purposes of this section "impractical" shall mean not subject to competition because the providers of the service or product are students, volunteers or persons in a training program.

SECTION 9. Subsection 2-191(b) of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

The city manager or the city manager's designee may negotiate for used equipment when deemed to be in the best interest of the city, and if the cost exceeds ~~fifty~~one hundred thousand dollars (~~\$5~~100,000.00) or, in the case of a term contract, one hundred thousand dollars (\$100,000.00) per term, excluding price adjustments, the approval of the city commission shall be obtained.

SECTION 10. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 11. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double-stricken~~ are deletions from the version presented at first reading.

SECTION 12. That this Ordinance shall be in full force and effect upon its final passage.

PASSED FIRST READING this the 16th day of August, 2016.

PASSED SECOND READING this the _____ day of _____, 2016.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JEFFREY A. MODARELLI

\\cty-cityatto\docs\Purchasing Threshold Ordinance\ORD\Ordinance 2nd reading.docx

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double-stricken~~ are deletions from the version presented at first reading.