

Sec. 29-A. - Contracts for, unified development projects, and real property; safeguards.

(a) *Unified development projects.* A unified development project shall mean a project where an interest in real property is owned or is to be acquired by the city, is to be used for the development of improvements, and as to which the city commission determines that for the development of said improvements it is most advantageous to the city to procure from a private person, as defined in the Code of the City of Miami, one or more of the following integrated packages:

- (1) planning and design, construction, and leasing; or
- (2) planning and design, leasing, and management; or
- (3) planning and design, construction, and management; or
- (4) planning and design, construction, leasing, and management.

So long as the person from whom the city procures one of the above-mentioned integrated packages provides all of the functions listed for that package, such person need not provide each listed function for the entire unified development project nor for the same part of the unified development project.

As many members of the public having expertise in the field of real estate development or in other relevant technical areas or who reside within the vicinity of a proposed unified development project site as deemed appropriate by the city manager shall be invited by the city manager to provide input during the preparation of documents for competitive processes of the unified development project.

If deemed appropriate by the city manager, the unified development project process shall include a request for qualifications process prior to the issuance of a request for proposals. Qualifications shall be evaluated by the city manager or designee(s) and only those deemed qualified in accordance with the specified evaluation criteria shall be invited to participate in the subsequent request for proposal process for said unified development project.

Requests for proposals for unified development projects shall generally define the nature of the uses the city is seeking for the unified development project and the estimated allocations of land for each use. They shall also state the following:

- (1) the specific parcel of land contemplated to be used or the geographic area the city desires to develop pursuant to the unified development project;
- (2) the specific evaluation criteria to be used by the below-mentioned certified public accounting firm;
- (3) the specific evaluation criteria to be used by the below-mentioned review committee;
- (4) the extent of the city's proposed commitment of funds, property, and services;
- (5) the definitions of the terms "substantial increase" and "material alteration" that will apply to the project pursuant to subsection (e)(4) hereof; and
- (6) a reservation of the right to reject all proposals and of the right of termination referred to in subsection (e)(4), below.

After public notice there shall be a public hearing at which the commission shall consider:

- (1) the contents of the request for proposals for the subject unified development project;
- (2) the selection of a certified public accounting firm, which shall include at least one member with previous experience in the type of development in question; and

- (3) the recommendations of the city manager for the appointment of persons to serve on the review committee. Said review committee shall consist of an appropriate number of city officials or employees and an equal number plus one of members of the public, whose names shall be submitted by the city manager no fewer than five days prior to the above-mentioned public hearing.

At the conclusion of the public hearing the city commission shall authorize the issuance of a request for proposals, select a certified public accounting firm, and appoint the members of the review committee only from among the persons recommended by the city manager.

The procedure for the selection of an integrated package proposals shall be as follows:

- (1) all proposals shall be analyzed by a certified public accounting firm appointed by the commission based only on the evaluation criteria applicable to said certified public accounting firm contained in the request for proposals. Said certified public accounting firm shall render a written report of its findings to the city manager.
- (2) the review committee shall evaluate each proposal based only on the evaluation criteria applicable to said review committee contained in the request for proposals. Said review committee shall render a written report to the city manager of its evaluation of each proposal, including any minority opinions.
- (3) taking into consideration the findings of the aforementioned certified public accounting firm and the evaluations of the aforementioned review committee, the city manager shall recommend one or more of the proposals for acceptance by the city commission, or alternatively, the city manager may recommend that all proposals be rejected. If there are three or more proposals and the city manager recommends only one, or if the city manager recommends rejection of all proposals, the city manager shall state in writing the reasons for such recommendation.

In transmitting his or her recommendation or recommendations to the commission, the city manager shall include the written reports, including any minority opinions, rendered to by the aforementioned certified accounting firm and review committee.

- (4) all contracts for unified development projects shall be awarded to the person whose proposal is most advantageous to the city, as determined by the city commission.

The commission may accept any recommendation of the city manager by an affirmative vote of a majority of its members. In the event the commission does not accept a proposal recommended by the city manager or does not reject all proposals, the commission shall seek recommendations directly from the aforementioned review committee, which shall make a recommendation or recommendations to the commission taking into account the report of the aforementioned certified public accounting firm and the evaluation criteria specified for the review committee in the request for proposals.

After receiving the direct recommendations of the review committee, the commission shall, by an affirmative vote of a majority of its members:

- (1) accept any recommendation of the review committee; or
- (2) accept any previous recommendation of the city manager; or
- (3) reject all proposals.

All contracts for unified development projects shall be signed by the city manager or designee after approval thereof by the commission. The city manager or designee shall be responsible for developing a minority procurement program as may be prescribed by ordinance and permitted by law in conjunction with the award of contracts for unified development projects. The provisions of this charter section shall supersede any other charter or code provision to the contrary.

- (b) *Sales and leases of real property; prohibition.* Except as otherwise provided in this section, there shall be no sale, conveyance, or disposition of any interest, including any leasehold, in real property owned by the city, the department of off-street parking, or the downtown development authority, unless there has been prior public notice and a prior opportunity given to the public to compete for said real property or interest. Any such sale, conveyance, or disposition shall be conditioned upon compliance with: the provisions of this section; such procurement methods as may be prescribed by ordinance; and any restrictions that may be imposed by the city, the department of off-street parking, or the downtown development authority, as appropriate. Further, no right, title, or interest shall vest in the transferee of such property unless the sale, conveyance, or disposition is made to the highest responsible bidder, as is determined by the city commission, or the off-street parking board, or the downtown development authority board of directors. The city commission or the off-street parking board or the downtown development authority board of directors, as appropriate, may by resolution waive the requirement of sale, conveyance, or disposition to the highest responsible bidder by means of the following procedure: the city manager, the director of the off-street parking authority, or the director of the downtown development authority, as appropriate, must make a written finding that a valid emergency exists, which finding must be ratified by an affirmative vote of two-thirds of the city commission after a properly advertised public hearing. When the requirement of sale, conveyance, or disposition to the highest responsible bidder is waived, other procurement methods as may be prescribed by ordinance shall be followed. The city or the department of off-street parking or the downtown development authority shall have the power to reject all offers. All invitations for bids, requests for proposals, or other solicitations shall contain a reservation of the foregoing right to reject all offers. This section shall not apply to transfers to the United States or any department or agency thereof, to the State of Florida, or to any political subdivision or agency thereof.
- (c) *Safeguards.*
- (1) All persons contracting with the city under this section shall be required to certify their compliance with the antitrust laws of the United States and of the State of Florida and to hold harmless, defend, and indemnify the city for any noncompliance by said persons with the above laws.
 - (2) All persons contracting with the city under this section shall be obligated to pay whichever is the greater of the following: (i) all applicable ad valorem taxes that are lawfully assessed against the property involved or (ii) an amount to be paid to the city equal to what the ad valorem taxes would be if the property were privately owned and used for a profit-making purpose. Such taxes shall not be credited against any revenues accruing to the city under any contract that may be awarded under this section.
 - (3) Any proposal by a potential bidder or contractor that contemplates more than the estimated extent of the city's proposed commitment of funds, property, or services shall be ineligible for acceptance by the city commission.
 - (4)

Any substantial increase in the city's commitment of funds, property, or services, or any material alteration of any contract awarded under subsection (c) of this section shall entitle the city commission to terminate the contract after a public hearing. Prior to such public hearing, the city commission shall seek and obtain a report from the city manager and from the review committee that evaluated the proposals for the project, concerning the advisability of exercising that right.

(Char. Amend. No. 3, 11-6-79; Ord. No. 9507, § 1, 10-28-82/11-2-82; Res. No. 86-656, § 2.a, 7-24-86/11-4-86; Res. No. 87-678, § 2(a), 7-9-87/11-3-87; Res. No. 01-841, § 2, 8-9-01; Res. No. 01-843, § 2, 8-9-01)

Editor's note— Res. No. 01-843, § 2, adopted August 9, 2001, amended § 29-A in its entirety to read as herein set out. Formerly, § 29-A pertained to contracts for personal property, public works or improvements, unified development projects, and real property; safeguards. The historical notation has been retained for reference purposes.

Ord. No. 9489, adopted by the commission on Sept. 17, 1982, set forth Charter Amendment No. 1 for approval/rejection at election on Nov. 2, 1982. On Oct. 28, 1982, Ord. No. 9507 amended the language of subsections (a) and (c) of § 53 as proposed by Ord. No. 9489. The election was to approve the language of Charter Amendment No. 1, as amended by Ord. No. 9507. Subsequently, in light of Charter Amendment No. 2 of Nov. 3, 1987, the city attorney directed the codifier to delete paragraph (ii) of subsection (d) as superseded by § 29-B.

Case Law reference—For case decided prior to enactment by Charter Amendment No. 3 of 1979 of a competitive-bidding requirement for disposition of city property, see *Mahoney v. Givens*, 64 So. 2d 926. Said case held that competitive bidding is not required to lease city real estate.

i1;10q Material variance between plans bid upon and plans submitted and adopted renders contract void, *Glatstein v. City of Miami*, 399 So. 2d 1005.