

ORDINANCE #2008 – 04

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING A NEW SECTION ENTITLED "RESOLUTION OF PROTESTED SOLICITATIONS AND AWARDS;" PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Doral, Florida desires to create a new section of the Code of Ordinances to provide procedures for resolving protested solicitations and awards; and

WHEREAS, the City Council of the City of Doral, Florida finds it to be in the best interests of its citizens to adopt an ordinance creating procedures for resolving protested solicitations and awards; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirm as being true and correct and hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. That a new Section, entitled "Resolution of Protested Solicitations and Awards," of the City of Doral Code of Ordinances is hereby created to read as follows:

Sec. Resolution of protested solicitations and awards.

(1) Formal.

(a) Right to protest on formal solicitations. The following procedures shall be used for resolution of protested formal solicitations and awards.

(b) Protest of solicitations. Any actual or prospective bidder or offeror who perceives itself aggrieved in connection with the solicitation of a contract may file a written protest with the city clerk within five business days prior to the date set for opening of bids or receipt of proposals.

(c) Protest of award. Any actual bidder or offeror who perceives itself aggrieved in connection with the recommended award of a contract may file a written protest with the city clerk. The protest shall be filed within three business days after such aggrieved person knows or should have known of the facts giving rise thereto.

(d) Authority to resolve protests. The chief procurement officer, after consultation with the city attorney, shall issue a written decision within ten days after receipt of the protest. Said decision shall be sent to the city manager with a copy to the protesting party. The city manager may then either resolve the protest or reject all proposals. The decision shall be sent to the city council. Any aggrieved person may appeal the decision of the city manager to award a solicitation or bid within five days of issuance of a written decision. Upon appeal of the decision of the city manager, the decision shall be submitted to the city council for approval or disapproval thereof.

(e) Stay of procurements during protests. Upon receipt of a written protest filed pursuant to the requirements of this section, the city shall not proceed further with the solicitation or with the award of the contract until the protest is resolved by the city as provided in subsection (d) above, unless the city manager, after consultation with the head of the using department and city attorney, makes a written determination that the solicitation process or the contract award must be continued without delay in order to protect substantial interests of the city.

(f) Filing fee. Within three business days after filing the written protest, the protestor must submit to the city clerk a filing fee in the form of a money order or cashier's check, payable to the city, in an amount equal to one percent of the amount of the bid or proposed contract, or \$1,000.00, whichever is less. The filing fee shall guarantee the payment of all costs which may be adjudged against the protestor in any administrative or court proceeding. If the protest is denied, the filing fee shall be forfeited to the city in lieu of payment of costs for the administrative proceedings. If the protest is upheld by the city, the filing fee shall be refunded to the protestor.

(g) Entitlement to costs. In addition to any other relief, when a protest is sustained and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, then the protesting bidder or offeror shall be entitled to the reasonable costs other than attorney's fees.

(h) Compliance with filing requirements. Failure of a party to file the protest or submit the filing fee on a timely basis shall constitute a forfeiture of such party's right to file a protest pursuant to this section. The protesting party shall not be entitled to seek judicial relief without first having followed the procedures set forth in this section.

(2) Informal.

Protests regarding the purchase of supplies and services, the estimated cost of which does not exceed \$15,000.00, and construction, the estimated cost of which does not exceed \$15,000.00, shall be governed by administrative regulations.

Section 3. Repeal of Conflicting Provisions. That all ordinances or parts of ordinances or resolutions of the County Code made inconsistent or in conflict herewith shall be and they are hereby repealed in their entirety as there is conflict or inconsistency.

Section 4. Inclusion in Code. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Doral Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section " or other appropriate word.

Section 5. Effective Date. This Ordinance shall become effective as provided by law.

[Section left blank intentionally]

The foregoing Ordinance was offered by Councilmember Vice Mayor Cabrera who moved its adoption. The motion was seconded by Councilman DiPietro and upon being put to a vote, the vote was as follows:

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|-----------------------------|-----|
| Mayor Juan Carlos Bermudez | Yes |
| Vice Mayor Peter Cabrera | Yes |
| Councilman Michael DiPietro | Yes |
| Councilwoman Sandra Ruiz | Yes |
| Councilman Robert Van Name | Yes |

PASSED AND ADOPTED on FIRST READING this 7th day of April, 2008.

PASSED AND ADOPTED on SECOND READING this 14th day of March, 2008.



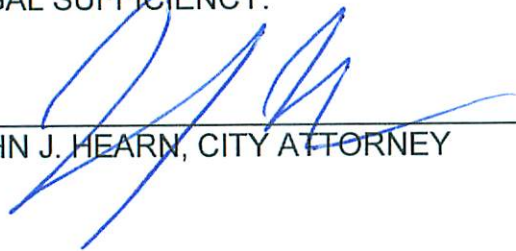
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



JOHN J. HEARN, CITY ATTORNEY