

ORDINANCE No. 05- 01

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH FINANCE ORDINANCE; ADDING BID PROTEST PROCEDURES; PROVIDING AUTHORITY; AMENDMENT. SECTION SIX: PURCHASE TRANSACTIONS OVER TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS AND PROVIDING SEVERABILITY AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. Amendment. SECTION SIX: Purchase transactions over Twenty Five thousand (\$25,000.00) dollars of The Town Of Fort Myers Beach Finance Ordinance, is hereby amended to read as follows:

11. SECTION SIX: Purchase transactions over Twenty Five thousand (\$25,000.00) dollars.

A. All single purchases of equipment, goods, supplies, contractual services, or merchandise which are estimated to exceed Twenty Five Thousand (\$25,000.00) Dollars, shall be awarded on the basis of competitive bidding, except for emergencies. Purchases or contracts shall be awarded to the lowest responsible bidder.

B. Notices inviting sealed competitive bids shall be published by the Town Manager at least one (1) week prior to bid opening in a newspaper or journal of general circulation in the Town. At least seven (7) calendar days must intervene between the date of publication and the final date for submitting bids. Such notices shall include a general description of the articles to be purchased, state where bid forms and specifications may be secured, and describe the time and place for opening of bids. Bids shall be opened by the Town Manager in the presence of the Town clerk at the time and place specified in the notice.

C. In addition to newspaper advertisement, the Town Manager shall solicit sealed bids from all responsible prospective suppliers or vendors who have requested that their names be added to the vendor's list. All pending purchases shall be advertised by notice posted on a bulletin board at the office and the Town Hall lobby.

D. All bids under this Section shall be submitted sealed to the Attention of: Town Manager, The bids shall be accompanied by surety in the form of a bid bond in the amount as shall be

prescribed in the bid proposal. The bids shall be opened in public at the time and place stated in the notice. A tabulation of all bids received shall be submitted after tabulation to the Town council for review, rejection or award.

E. The Town council may reject any or all bids, waive irregularities in form not material to the bid, and accept all or part of any bid.

F. The successful bidder's original of all contracts and other documents pertaining to the award of contracts shall be filed with the official records of the Town Clerk's Office, and shall be preserved as required by law and open for public inspection during regular business hours. Copies of the contract shall be distributed according to the rules and regulations of general services. A record of all bids, showing the names of bidders and amounts of the bids, and indicating in each case the successful bidder, shall also be preserved for as required by law and open for public inspection during regular business hours.

G. Any material change in the contract notwithstanding contract price shall require the contractor to contact the performance bond issuer and update the performance bond.

H. Bid protest procedures shall be as follows:

- (1) Any contractor/vendor/firm that has submitted a formal bid quote to the Town of Fort Myers Beach, and who is adversely affected by an intended decision with respect to the award of the formal bid/quote/proposal, shall file with the Town's Finance director a written "Notice of Intent to File a Protest" not later than **72 hours** (excluding Saturdays, Sundays, and Legal Holidays) after receipt of the bid award information from the Town of Fort Myers Beach with respect to the proposed award of the formal bid/quote/proposal.
- (2) The "notice of Intent to File a Protest" is one of two documents necessary to perfect a Protest. The second is the "Formal Written Protest", both documents are described below.
- (3) The "Notice of Intent to File a Protest" document shall state all grounds claimed for the Protest, and clearly indicate it as the "Notice of Intent to File a Protest". Failure to clearly indicate the "Intent to file the Protest" shall constitute a waiver of all rights to seek any further remedies provided under this Protest Procedure

- (4) The “Notice of Intent to File a Protest” shall be received (“stamped in”) not later than Four Thirty (4:30) PM on the third working day following the day of receipt of the Town’s proposed award decision.
- (5) The affected party shall then file its “Formal Written Protest” within ten calendar days after the time for filing of the “Notice of Intent to File a Protest” has expired. The contractor/vendor/firm shall post a bond, payable to the Town of Fort Myers Beach in an amount equal to five percent (5%) of the total bid/quote/proposal, or Ten Thousand Dollars (\$10,000.00), whichever is less. Said bond shall be designated and held for payment of any costs that may be levied against the protesting contractor/vendor/firm by the Town of Fort Myers Beach, as a result of a frivolous protest.
- (6) Any contractor/vendor/firm who has submitted a bond, along with the bid/quote/proposal, shall not be required to submit an additional bond with the filing of the Formal Written Protest.
- (7) The “Formal Written Protest” shall contain the following:
- Town bid/quote/proposal identification number (If applicable) and title
  - Name and address of the affected party, and the title or position of the person submitting the protest
  - A statement of disputed issues of material fact. If there are no disputed material facts, the “Formal Written Protest” must so indicate
  - A concise statement of the facts alleged, and of the rules, regulations, statutes, or constitutional provisions, which entitle the affected party to relief
  - All information, documents, other materials, calculations, and any statutory or case law authority in support of the grounds for the Protest.
  - A statement indicating the relief sought by the affected (protesting) party
  - Any other relevant information that the affected party deems to be material to the Protest.
- (8) The Town Council shall conduct a hearing on the matter at a regularly scheduled meeting. Following presentations by the affected parties, the Town Council shall render its decision on the merits of the Protest.

SECTION 3. Severability. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION 4. Effective Date. This ordinance shall become effective immediately upon its adoption.

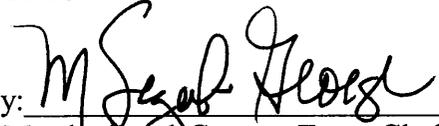
The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Rynearson\_ and seconded by Council Member Van Duzer\_ and, upon being put to a vote, the result was as follows:

Howard Rynearson	<u>Aye</u>
Don Massucco	<u>Aye</u>
Bill Thomas	<u>Aye</u>
W. H. "Bill" Van Duzer	<u>Aye</u>
Garr Reynolds	<u>Aye</u>

DULY PASSED AND ENACTED this 7<sup>th</sup> day of February, 2005.

ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Marsha Segal-George, Town Clerk

By:   
Bill Thomas, Mayor

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney