

ORDINANCE NO. 0-2007-05

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 30 OF THE CITY'S CODE OF ORDINANCES BY AMENDING SECTION 30.15 ENTITLED "LOBBYIST; REGISTRATION AND DISCLOSURE; ENFORCEMENT" IN ORDER TO ESTABLISH A CONE OF SILENCE.

WHEREAS, Section 30.15 of the Hollywood Code of Ordinances establishes the procedures and guidelines for Lobbying activities; and

WHEREAS, the City Commission desires to update Section 30.15 to include a Cone of Silence;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Section 30.15 of the City's Code of Ordinances entitled "Lobbyists; Registration and Disclosure; Enforcement" is hereby amended to read as follows:

TITLE III: ADMINISTRATION

CHAPTER 30: CITY POLICIES, GENERALLY

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LOBBYISTS/VENDORS; EX PARTE COMMUNICATIONS

§30.15 LOBBYIST/VENDOR REGULATIONS.

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(E) Cone of Silence.

(1) "Cone of Silence" means a prohibition on any communication regarding a particular Request for Proposals (RFP), Request for Qualifications (RFQ), Request for Letters of Interest (RLI), bid or other competitive solicitation governed by Section 38.40 of the Code of Ordinances between:

(Coding: Words in ~~struck-through~~ type are deletions from existing law; words underscored are additions)

- (a) Any person who seeks an award therefrom, including a potential vendor or vendor's representative, and
- (b) Any member of the City Commission, all other city employees, and any non-employee appointed to evaluate or recommend selection in such procurement process.

For purposes of this subsection, "vendor's representative" means an employee, partner, officer, or director of a potential vendor, or consultant, Lobbyist, or actual or potential subcontractor or sub-consultant of a vendor.

(2) A Cone of Silence shall be applicable to each RFP, RLI, RFQ, bid, or other competitive solicitation upon the issuance of the applicable RFP, RLI, RFQ, bid or other competitive solicitation. At the time of imposition of the Cone of Silence, public notice of the Cone of Silence shall be posted. A statement disclosing the requirements of this subsection shall be included in any advertisement and public solicitation for goods and services. The City Manager or his/her designee shall issue a notice to the affected department(s), the City Clerk, and City Commission's Office that such RFP, RLI, RFQ, bid or other competitive solicitation has been issued and the Cone of Silence has been imposed.

(3) The Cone of Silence shall terminate at the time the City awards or approves a contract, votes to reject all bids or responses, or otherwise takes action which ends the solicitation. If the City Commission refers the item back to the City Manager and staff for further review, the Cone of Silence shall remain in effect until an award is made, a contract is approved, or the City Commission takes any other action which ends the solicitation.

(4) Nothing contained herein shall prohibit any potential vendor or vendor's representative:

(a) from making public presentations at a duly noticed pre-bid conference or before a duly noticed evaluation committee meeting;

(b) from communicating with the City Commission during a duly noticed public meeting; or

(c) from communicating verbally or in writing with a City employee for the limited purpose of seeking clarification or additional information, when such employee is specifically designated in the applicable RFP, RLI, RFQ, or bid documents. Only written addenda will be binding. No oral representations, clarifications, or changes made to the written specification by the City's employees, shall be binding unless such clarifications or changes are provided to bidders/proposers in written addendum form. All written information shall be provided to the members

of the applicable Evaluation Committee, including any response thereto and attached to the City Commission agenda item or to the City Manager for consideration of the award under the applicable competitive solicitation.

(d) from communicating in writing with the Director of Procurement Services or other staff person specifically designated on the procurement document, subject to the following provisions:

The potential vendor or vendor's representative shall deliver a copy of any such written communication to the City Clerk, who shall make copies available to the public upon request. The written communication shall include a reference to the RFP, RLI, RFQ, or other bid document number.

All written information shall be provided to the members of the applicable Evaluation Committee, including any response thereto and attached to the City Commission agenda item or to the City Manager for consideration of the award under the applicable competitive solicitation.

(e) from communicating verbally, or in writing to the City Manager, the City Manager's designee, the City Attorney or the City Attorney's designee on those procurement items to be considered by the City Commission.

(f) from attending meetings with homeowner associations, civic associations and the like to discuss a particular RFP, RFQ, RLI, bid or other competitive solicitation where a City Commissioner is in attendance.

(5) Penalties. A violation of, or failure to comply with this subsection shall subject the offender, upon conviction, to a fine of \$500.00, or imprisonment for a period not to exceed 60 days, or both such fine and imprisonment shall be imposed. In addition, the provisions of subsections (6) through (8) below shall apply.

(6) The City Manager shall be informed of any vendor/vendor's representative who is alleged to have violated the requirements of this subsection. In such an event, the City Manager shall cause an investigation to be performed by the Cone of Silence Evaluation Committee (herein referred to as the Committee). The Committee shall be comprised of the Director of Financial Services, the Director of Business Development, the City Clerk, and the director or designee of the Department or Office for which the contract is to be awarded. The Director of the Department or Office for which the contract is to be awarded, or his/her designee, shall serve as the chairperson of the Committee. The City Attorney or designee shall be counsel to the Committee.

The Committee shall investigate the alleged violations, and present a written report, including recommendations, to the City Manager. If the City Manager determines that a

violation has occurred, he/she may void an award pursuant to subsection (7) below, and/or order a debarment as provided in subsection (8) below, based on the severity of the violation.

A copy of the Committee's report, and the City Manager's determination of a violation, if any, as well as the voiding of the award as provided in paragraph (7) below and/or the order of debarment as provided in paragraph (8) below, if any, shall be furnished or mailed to the vendor and vendor's representative who has been investigated.

(7) A determination of violation shall render any RFP award, RLI award, RFQ award, or bid award, or any contract entered into pursuant thereto, to said potential vendor voidable, at the sole discretion of the City Manager, for those contracts which he/she is otherwise authorized to approve, or the City Commission, for all other contracts.

(8) The debarment of a vendor due to said violation shall be for a period commensurate with the seriousness of the violation and shall continue for the duration ordered by the City Manager. Where the violation is willful or egregious, an indefinite term of debarment may be imposed. During the period of debarment, the vendor, and other companies with any of the officers or principals the same as the debarred vendor, may not bid on any City contracts, regardless of the dollar amount, nor be approved as a subcontractor on any City contract.

(9) Appeal. A vendor/vendor's representative who is determined to have violated this subsection and who has been penalized as provided in subsections (7) or (8), may appeal in writing within ten (10) days or the date of receipt of the notice of violation. Said appeal request shall be submitted to the City Clerk, who shall place the appeal on the next available City Commission meeting.

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Section 2: That it is the intention of the City Commission and it is hereby ordained that the provisions of this section shall be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the sections of the Code may be renumbered to accomplish such intention.

Section 3: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

ORDINANCE CONE OF SILENCE CHAPTER 30

Section 5: That this Ordinance shall be in full force and effect immediately upon its passage and adoption.

Advertised March 9, 2007.

PASSED on first reading this 21 day of February, 2007.

PASSED AND ADOPTED on second reading this 21 day of March, 2007.


MARA GIULIANTI, MAYOR

ATTEST:


PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida, only.


DANIEL L. ABBOTT, CITY ATTORNEY

3/22/07pac