

ORDINANCE NO. 2005-26-64

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY MIAMI GARDENS, FLORIDA, AMENDING ORDINANCE 2005-10-48, AS AMENDED BY ORDINANCE No. 2005-17-55 TO AMEND THE REQUIREMENTS FOR THE LOCAL BUSINESS PREFERENCE PROGRAM; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has adopted a Purchasing Procedures Ordinance, which included a local preference program, and

WHEREAS, the City Council wants to make certain that local businesses located within the City of Miami Gardens are given preference with respect to all purchases governed by the Purchasing Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS;

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. AMENDMENT: Section 16 of Ordinance No. 2005-10-48, and amended by Ordinance No. 2005-17-55 is amended as follows:

Section 16: Local Preference in Bidding.

Except where federal or state law or funding source restriction mandates to the contrary, in the purchase of goods, general services, or professional services governed by the Procurement Code, preference shall be awarded to licensed entities with physical addresses in the City of Miami Gardens ("local businesses") in the following manner.

(A) Competitive Bid: When a responsive, responsible non-local business submits the lowest price bid, and the bid submitted by one or more responsive, responsible, local businesses is within 5% of the price bid submitted by the non-local business(s), then that non-local business and each of the aforementioned such local businesses shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the low bid previously submitted by the non-local business. Contract award shall be made to the responsive, responsible business submitting the lowest best and final bid. In the case of a tie in the best and final bid between a local business and a non-local business, contract award shall be made to the local business.

~~(B) Request for proposals, letters of interest, qualifications or other solicitations and competitive negotiations, and selections in which objective factors used to evaluate the responses from vendors are assigned point totals: If, following the completion of final rankings (technical and price combined, if applicable) by the selection committee, a non-local business is the highest ranked proposer, and the ranking of a local proposer is within 5% of the ranking obtained by the non-local proposer, then the highest ranked local proposer shall have the opportunity to proceed to negotiations with the City.~~

(C) For contract awards based upon evaluation criteria pursuant to a points system, there shall be a local participation criterion of 5% of the total points awarded. The points shall be awarded as follows:

<u>Local Business Participation</u>	<u>Points</u>
<u>100%</u>	<u>5</u>
<u>50% to 99%</u>	<u>3</u>
<u>20% to 49%</u>	<u>2</u>
<u>5% to 19%</u>	<u>1</u>
<u>>5%</u>	<u>0</u>

1. Maximum points will be awarded to the proposer if 100% or more of the total project work is performed by a local business. Percentages reflect the amount of total contract value proposed to be assigned to local businesses. In the case of contracts awarded pursuant to the Consultants Competitive Negotiation Act, the percentages reflect the amount of total project work, which shall be equated to the project dollars, assigned to local businesses.

2. The percentage of local business participation will be calculated by dividing the proposer's expenditures to a local business subcontractor for providing direct labor or a bonified service, by the total project dollars as identified in the proposal.
3. A proposer may count toward its local business participation, the fees or commissions charged for providing direct labor or a bona fide service, such as professional, technical, consultant or managerial services.
4. The city will not count toward a proposer local business participation any portion or portions of the local business subcontractor's work that is subcontracted back to:
 - a. The proposer, either directly, or through any other company or firm owned or controlled by the proposer.
 - b. Any non-local business.
5. A local business shall not be permitted to subcontract all or a majority of the subcontractual portion of the work to another non-local business. A local business subcontractor shall be prohibited from engaging in a subcontractual agreement with the intent of collecting a broker's fee or commission. A local business subcontractor shall also be prohibited from entering into a subcontractual agreement with a firm whose employees perform none of the direct labor or service activities specified in the contract.
6. Participation by a local business shall not be considered and the local business shall be disqualified if the owner of the local business enters into an agreement with a non-local business with the intent of securing employment with that non-local business during the course of performing a city contract.

~~(C) The location of qualified entities shall be considered in determining the qualifications for professional services governed by the Consultants Competitive Negotiation Act.~~

(D) If a non-local respondent proposer submits a bid or proposal that includes subcontractors that qualify as local businesses, in order to receive local preference consideration, the proposer shall identify all local businesses that will be utilized as subcontractors, and delineate for each the specific elements of work each local business will be responsible for performing and the dollar value of the work as a percentage of the total contract value. All proposals with local business participation shall contain documentation, signed by both the proposer and the local business

~~contractors, which confirms their intent to establish a business relationship and confirms the local business percent. a non-local respondent must certify and agree to issue a letter of intent, on a form to be provided by the city, that any local subcontractor(s) included in any bid or proposal will actually perform a percentage of the services to be provided. Non-local respondents shall also certify in the letter of intent, the percentage of the contract amount that shall be awarded to any local subcontractor(s).~~

(E) The location of qualified entities shall be considered in determining the qualifications for professional services governed by the Consultants Competitive Negotiation Act.

~~(E)~~(F) If a tie occurs between two (2) or more local businesses, for those contracts that are to be awarded by the City Manager, the City Manager shall determine to whom the bid will be awarded. For those contracts to be awarded by the City Council, the City Council shall determine to whom the bid will be awarded.

~~(F)~~(G) Waiver: The application of local preference to a particular purchase, contract, or category of contracts may be waived upon written recommendation of the City Manager and approval of the City Council.

~~(G)~~(H) Other preferences: The preference established herein in no way prohibits the right of the City Council to compare quality of materials proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further, the preference established herein in no way prohibits the right of City Council from giving any other preference permitted by law instead of the preference authorized herein.

SECTION 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this

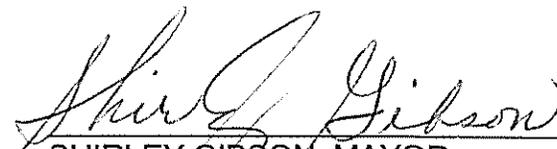
Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

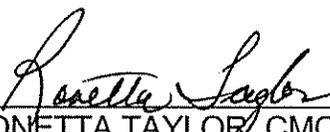
PASSED ON FIRST READING ON THE 8th DAY OF JUNE, 2005.

PASSED ON SECOND READING ON THE 22nd DAY OF JUNE, 2005.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 22nd DAY OF JUNE 2005.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

Reviewed by SONJA K. KNIGHTON, ESQ.
City Attorney

SPONSORED BY: Councilwoman Barbara Watson

MOVED BY: Councilman Bratton

SECONDED BY: Councilwoman Pritchett

VOTE: 4-0

Mayor Gibson	<u>x</u> (Yes)	___ (No)
Vice Mayor Campbell	<u>x</u> (Yes)	___ (No)
Councilman Melvin L. Bratton	<u>x</u> (Yes)	___ (No)
Councilman Oscar Braynon, II	___ (Yes)	___ (No) Not present
Councilwoman Audrey J. King	___ (Yes)	___ (No) Not present
Councilwoman Sharon Pritchett	<u>x</u> (Yes)	___ (No)
Councilwoman Barbara Watson	___ (Yes)	___ (No) Out of town