

ORDINANCE NO. 2010-26-234

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ORDINANCE NO. 2005-10-48 ("PURCHASING ORDINANCE") TO CREATE ARTICLE IV TO PROVIDE FOR A BONUS FOR ENTITIES AWARDED CITY CAPITAL IMPROVEMENT CONTRACTS, THAT HIRE CITY RESIDENTS TO PERFORM SERVICES; PROVIDING FOR PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR BONUS STRUCTURE; PROVIDING FOR REPORTING AND COMPLIANCE REQUIREMENTS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Councilman Andre´ Williams is recommending that the City Council adopt an Ordinance to establish a bonus process for entities that employ City residents to perform construction trades work or labor under Capital Construction Contracts, and

WHEREAS, in accordance with the proposed Ordinance, contractors who are awarded capital improvement contracts by the City will receive a financial incentive when they hire City residents to perform services on these projects, and

WHEREAS, the bonus process will help to alleviate the high unemployment rate that currently plagues the City,

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 paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. AMENDMENT: Ordinance No. 2005-10-48 is hereby amended to create Article IV establishing a residential hiring bonus process as follows:

Section 33: Purpose.

The purpose of this Ordinance is to provide a financial incentive to those entities that are awarded capital improvement contracts, as well as their subcontractors, to hire city residents to provide labor. Unless, otherwise prohibited by federal, state or local law. In accordance with this Ordinance, entities who meet certain requirements for hiring city residents will receive a bonus, so long as certain requirements are met.

Section 34: Definitions.

For purposes of this section the following definitions shall apply:

1. *Capital Construction Contract* means the building and or improvement of a specific fixed asset as approved by the City Council and based upon an open and competitive process.
2. *Contract* means a contract for Capital Construction.
3. *Job* means a specific trade such as painting, electrical, plumbing, etc., in which a person hired by the contractor or subcontractor, and which the length of the job may aggregate to less than 120 days due to the nature of the job. Jobs that will be less than 30 days for completion may not be considered towards compliance with this ordinance.
4. *New Hire* means any individual meeting the requirements for residency, as defined below, employed by the contractor or subcontractor and on the contractor's or subcontractor's payroll, pursuant to the City's approval of the Workforce Plan by the contractor (or subcontractor) to perform any construction trades work or labor under a contract, and who remains employed by the contractor/subcontractor and performs the job as listed and approved on the contractor's or subcontractor's Workforce plan to include any approved revisions to the Workforce plan, for a minimum duration of one hundred twenty (120) days or the length of the capital improvement project, whichever is less.
5. *Resident*. Resident means a person who has resided in Miami Gardens within the past year (12 months), and who has presented

documents proof. Said person shall be required to remain a City of Miami Gardens resident for the duration of the job in order for a bonus to be paid.

6. *Review Committee* means the committee established by the City Manager to review Workforce Plans. All Workforce Plans shall require the final approval of the City Manager.
7. *Scope of Services* or *Scope of Work* means the work to be performed under a Contract for which a workforce bonus has been sought.
8. *Subcontractor* means any person, firm, entity, or organization at any tier, other than the employees of the contractor, performing construction trade work and labor under a contract to for which a workforce bonus has been sought.
9. *Work* means the construction and services required by the contract including all labor, materials, equipment and services to be provided by the contractor to fulfill the contractor's obligations. The work may constitute the whole or a part of the contract.
10. *Workforce Plan* or *Plan* means a plan delineating the number and category of administrative, construction trades and labor personnel necessary to perform the work under a Capital Construction Contract for which the workforce bonus has been sought. The Plan shall be organized by trade and indicate the number and category of positions already filled and the number and category of positions that require recruitment; the anticipated date that the hiring process will be initiated; the deadline for referrals; the anticipated position commencement date; and the duration of the position. Said Plan shall also include the following:
 - a. A description of the type of capital improvements to be performed;
 - b. The legal description and address for the physical site of the property where the work will be performed;
 - c. The name and address of all owners, equity holders, or major participants in the proposed project, and if applicable the corporation, partnership (of any kind), or other.
 - d. The number of jobs to be created, the per annum salary with itemized employer/employee paid fringes
 - e. Method(s) to be utilized for the solicitation of employees;
 - f. Listing by job title and associated job description for all employees

11. *Work Order* means issuance of specific work based on an open work contract with fixed unit prices.

Section 35: Bonus Structure.

1. Subject to the availability of funds, and upon the approval of a Workforce Plan by the City Manager, the City Manager shall set aside a bonus payment to be paid to those entities in accordance with this Ordinance.
2. Upon approval of a Workforce Plan and approval of bonus, any Contract between the parties shall enter into a Participation Agreement that incorporates the Workforce Plan and bonus structure.
3. The City will agree to pay a bonus equal to ten percent (10%) of the salary (not including benefits) of any new hire who meets the residency requirement of this Ordinance, with a maximum amount to be determined on a per award basis, taking into consideration the nature of the project. In no event shall the City Manager approve a bonus that exceeds five percent (5%) of the total project cost, without City Council approval. Total project cost shall not include any contingency amounts.
4. The City shall not be responsible for payment of any administrative costs associated with the Contractor or Subcontractor's participation in the bonus process.
5. Nothing contained in this Ordinance shall be construed to be a guarantee or entitlement to approval of a Workforce Plan, regardless of the applicants' conformity to these guidelines, the city's financial condition, or the amount of money budgeted for financial bonus.

Section 36: Reporting and Compliance Requirements.

1. The contract and all subcontractors performing work on a contract in accordance with a Workforce plan, shall maintain, and make readily available, all records pertaining to employment by the contractor and subcontractors on the contract.
2. The contractor shall submit monthly reports itemizing, by trade, all new hires performing work under the plan including, but not limited to the trade, the time period the work was performed and the permanent residence information.

3. The City will only pay a bonus to a contractor upon the hiring of all required jobs and acceptance and approval by the City of the Workforce Plan. Failure of an awardee to create the number of jobs agreed upon in the Workforce plan shall result in the award being reduced based upon the final number of jobs created. No funds shall be provided if the business fails to meet minimum requirements.
4. Money received in accordance with the bonus process must be utilized for the purpose outlined in the Plan. Failure of the contractor to demonstrate proper use of the funds awarded shall obligate the contractor to repay the city for all funds expended for unauthorized purposes. Repayment will be in the form of a deduction from the final payment under the contract and/or retainage fees.
5. Awardees shall agree that the City shall be permitted to audit any and all documents relating to compliance with the Workforce Plan.

Section 37: Monitoring.

The City shall maintain staff for the purpose of monitoring compliance with this ordinance. Assigned individuals will be on site quarterly to review the progress towards meeting the requirements of the approved Workforce Plan.

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.

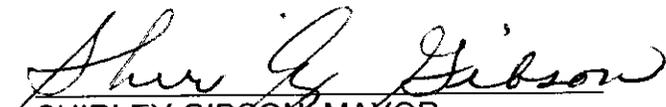
Section 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami

Gardens and that the section 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.

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

PASSED ON FIRST READING ON THE 8th DAY OF SEPTEMBER, 2010.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 22nd DAY OF SEPTEMBER, 2010.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: Councilman Andre' Williams

Moved by: Councilman Williams
Second by: Councilwoman Pritchett

VOTE: 7-0

Mayor Shirley Gibson	<u> X </u> (Yes)	<u> </u> (No)
Vice Mayor Aaron Campbell	<u> X </u> (Yes)	<u> </u> (No)
Councilwoman Lisa Davis	<u> X </u> (Yes)	<u> </u> (No)
Councilman Oliver Gilbert III	<u> X </u> (Yes)	<u> </u> (No)
Councilman Andre' Williams	<u> X </u> (Yes)	<u> </u> (No)
Councilwoman Sharon Pritchett	<u> X </u> (Yes)	<u> </u> (No)
Councilwoman Felicia Robinson	<u> X </u> (Yes)	<u> </u> (No)