

ORDINANCE NO. 2011-04-246

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ARTICLE IX, DIVISION 3, SECTION 2-752(2) OF THE CODE OF ORDINANCES, TO REDUCE THE PERFORMANCE BOND REQUIREMENT FOR CONTRACTS VALUED AT LESS THAN \$150,000.00, FROM TEN PERCENT TO FIVE PERCENT, IN THOSE INSTANCES WHERE THE CITY MANAGER DEEMS A BOND TO BE APPROPRIATE; AMENDING SECTION 2-753 TO ADD SUBSECTION 4 TO PROVIDE A PROCESS FOR THE WAIVER OF BID BONDS FOR CONTRACTS VALUED BETWEEN \$10,001.00 AND \$50,000.00, FOR BIDDERS WHO HAVE SUCCESSFULLY COMPLETED THREE (3) OR MORE BIDS WITH THE CITY WITHOUT MAJOR COMPLAINTS OR DEFICIENCIES, AND AMENDING SECTION 2-753 TO ADD SUBSECTION 5 TO PROVIDE THAT PROOF OF INSURANCE SHALL ONLY BE REQUIRED AFTER RANKING OF THE BIDDERS BY THE CITY, OR PRIOR TO EXECUTION OF A CONTRACT WITH THE CITY, WHICHEVER COMES FIRST; 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 of Miami Gardens would like to encourage smaller businesses to participate in the City's purchasing process, and

WHEREAS, oftentimes, these businesses have a difficult time complying with the requirements for responding to City solicitations, due to the up-front costs involved, and

WHEREAS, Councilman Oliver Gilbert, III proposes to relax the bid bond requirements for projects valued at less than \$150,000.00, from ten percent (10%) to five percent (5%), in instances where the City Manager deems that a bond is appropriate, and

WHEREAS, in addition, for contracts valued between \$10,000.00 and \$50,000.00, Councilman Gilbert proposes a process whereby bidders can pre-apply for a waiver of bid bond, if they meet certain requirements, and

WHEREAS, Councilman Gilbert also proposes to delay the timeframe for prospective bidders on contracts between \$10,001.00 and \$50,000.00 to provide proof of insurance,

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: Article IX, Division 3, Section 2-752 of the Miami Gardens Code of Ordinances is hereby amended as follows:

Sec. 2-752. - Purchases in excess of \$50,000.00.

Except as otherwise provided in this division, the purchase of commodities or services of an estimated value of over \$50,000.00 shall be approved by the city council and may be by purchase order and/or other written contract with the vendor submitting the lowest responsible bid whose bid has been solicited, received and approved, pursuant to the following procedures:

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(2) *Security (bid bonds)*. When the estimated cost of a public works contract is \$150,000.00 or higher, or when otherwise deemed necessary by the city manager, security in the form of a bid bond issued by a surety company licensed to do business in the state or a cash bond in an amount equal to ten percent of the bid shall be prescribed in the public notices inviting bids. When the City Manager deems it necessary to require a bid bond for bids less than \$150,000.00, the bond shall be in an amount equal to five percent of the bid. A vendor shall forfeit a bid security upon a refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the city is solely responsible for the delay in executing the contract. The city council may, upon the refusal or failure of the successful vendor to execute the contract, award the contract to the next lowest vendor.

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Section 3. AMENDMENT: Article IX, Division 3, Section 2-753 of the Miami Gardens Code of Ordinances is hereby amended to add subsections (4) and (5) as follows:

Sec. 2-753. - Purchases between \$10,001.00 and \$50,000.00.

Except as otherwise provided in this section, purchases of commodities or services of a value over \$10,001.00 but not more than \$50,000.00 may be made by the city manager, through a purchase order or a written contract to be approved by the city attorney, without approval by the city council, pursuant to one of the following procedures:

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- (4) Upon written application, the City Manager may, based upon past performance of a prospective bidder, waive the requirements for a bid bond for future bids to be awarded in accordance with this section. Such waivers shall only be granted, and shall not be unreasonably withheld to bidder's who have successfully completed three (3) or more bids with the City without major complaints or deficiencies. Such application shall be made and approved before a bid is posted. Waivers granted or denied, shall be without prejudice to the city's right, at its sole discretion, to require payment of a bid bond in the future.

- (5) The proof of insurance required for all bids awarded in accordance with this Section shall only be required after ranking of the bidders by the City, or prior to execution of a contract with the City, whichever comes first.

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 9th DAY OF MARCH, 2011.

PASSED ON SECOND READING ON THE 23rd DAY OF MARCH, 2011.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 23rd DAY OF MARCH, 2011.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: COUNCILMAN OLIVER GILBERT, III

Moved by: Councilman Gilbert
Second by: Councilwoman Davis

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VOTE: 6-0

Mayor Shirley Gibson	<u> </u> (Yes)	<u> </u> (No)(not present)
Vice Mayor Aaron Campbell, Jr.	<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)
Councilwoman Felicia Robinson	<u> X </u> (Yes)	<u> </u> (No)
Councilman Andre' Williams	<u> X </u> (Yes)	<u> </u> (No)
Councilman David Williams Jr.	<u> X </u> (Yes)	<u> </u> (No)