

ORDINANCE No. 2014-03-314

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING CHAPTER 2, ARTICLE IX OF THE CITY'S CODE OF ORDINANCES TO ADD SECTION 2-736 TO CREATE THE FIRST SOURCE HIRING REFERRAL 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 current unemployment rate in Miami-Dade County exceeds that of the State of Florida and the United States, and

WHEREAS, high unemployment rates contribute to various social and economic burdens, including heightened foreclosure rates, increased criminal activity, and demand for costly social services, and

WHEREAS, all of these issues have impacted the residents of Miami Gardens, and

WHEREAS, Mayor Oliver Gilbert is proposing that the City of Miami Gardens establish a First Source Hiring Referral Program (FSHRP) to ensure that businesses that receive certain contracts with the City of Miami Gardens will select participants in the FSHRP Program when hiring for services or goods under that contract, which will have a positive impact on residents who participate in the FSHRP Program, and

WHEREAS, The City of Miami Gardens' FSHRP will require that, prior to filling any vacancy under a City contract, the successful bidder must notify the South Florida Workforce Investment Board (SFWIB) of all job openings under that contract and list all vacancies via the SFWIB's First Source Hiring Referral Program web portal,

Referral Agency shall, to the extent allowed by law, maintain a database that identifies the race, ethnicity, sex, and residence of the persons within the First Source Register sufficient to permit adequate analysis of the available work force.

(4) Referral Procedure.

A. Unless, otherwise prohibited by federal, state or local law, the Referral Agency shall be the first source for employees to fill jobs created to satisfy the requirements of City Contracts. The following requirements shall be included in all City Contracts, except those covered under programs intended to encourage and assist in the employment of the blind and other severely handicapped persons such as described in Sections 413.032—413.037, Florida Statutes (2011), and those:

1. The Contractor, prior to hiring to fill each vacancy arising under a City Contract, shall first notify the Referral Agency of the vacancy and list the vacancy with the Referral Agency. The listing shall contain a detailed description of the job responsibilities and qualifications, and be posted during the Referral Period. The Referral Agency shall provide a list of qualified candidates, if such candidates are available, to Contractor within twenty-four (24) hours of receiving notice of vacancy. Thereafter, Contractor shall (a) review the resumes and qualifications of the candidates, and (b) make a good faith effort as determined by the City, to fill a minimum of fifty percent (50%) of its employment needs under the City Contract from the First Source Register. Notwithstanding the foregoing, if after the Referral Period a suitable employee is not found from the Referral Agency, the Contractor is free to fill its vacancies from other sources.

2. A good faith effort to employ candidates from the Referral Agency shall constitute, at a minimum, evaluating the qualification of such candidates, and conducting interviews with those candidates who satisfy the minimum competency requirements. The Contractor is not required to hire any individual candidate referred. However, Contractors shall not commit to fill vacancies in any other manner until after the end of the Referral Period, unless the Referral Agency notifies the Contractor in writing prior to the end of the Referral Period that qualified candidates are not available in sufficient numbers to fill the vacancies. Upon such notification, the Contractor may immediately fill vacancies using other sources.

3. In determining whether a Contractor has made good faith efforts, the City may consider, among other criteria to be set forth in the Implementing Order: (a) the number, skills and composition of the Contractor's labor force ultimately hired; (b) whether minimum requirements were established for available positions beyond reasonable requirements to complete the job; (c) the number of referred candidates interviewed for the position; and (d) the Contractor's use of the First

Source Register to satisfy its labor needs in contracts other than City Contracts. The City's determination as to whether a Contractor has made such good faith efforts is final and binding.

4. All competitive solicitations for City Contracts, except those excluded in Section 4(A).

(5) *Monitoring and Compliance.*

A. City Contracts shall require the Contractor to submit quarterly reports to the Referral Agency indicating the name and number of employees hired by Contractor in the previous quarter, including the source from which such employees were found, and payroll records and tallies of employee work hours. If none of the candidates referred to a Contractor by the Referral Agency were hired, the Contractor shall report the reasons why all referred candidates were rejected in its quarterly reports. Each quarterly report shall be submitted to Referral Agency within two (2) weeks of the end of the quarter.

B. For each City Contract, the Contractor shall retain records sufficient to determine compliance with this Section. Such records shall include: (1) notifications to the Referral Agency; (2) referrals from the Referral Agency; (3) job applications received from sources other than the Referral Agency; and (4) the number of candidates hired based on referrals from the Referral Agency. To the extent allowed by law, such records shall be made available to Referral Agency upon request.

C. Referral Agency shall be entitled to perform random, unannounced site visits to applicable project sites to determine whether or not Contractor has filled its vacancies.

D. Referral Agency shall report to the City, any noncompliance with the requirements of this ordinance, any related Implementing Order, or first source agreement between Referral Agency and Contractor.

(6) *Implementation.*

A. The City Manager or City Manager's designee shall prepare the Implementing Order that shall at a minimum:

1. Indicate that all City Contracts shall be subject to the requirements of this Section. The requirements of this Section shall be implemented to the maximum extent feasible, for all City purchases of goods and services.

2. Develop a time frame for implementation of First Source Hiring Referral Program. A rollout department shall be identified to use the Referral Agency with its City Contracts, and all other City departments will be phased into this process within six (6) months of the passage of this ordinance.

3. Advise prospective and awarded Contractors of the nature of the First Source Hiring Referral Program.

4. Set forth procedures to determine Contractor compliance with the requirements of this Section.

5. Recommend and establish a minimum funding threshold.

6. Establish a procedure for review and investigation of allegations of noncompliance with the provisions of this ordinance, implementing order, or first source hiring agreement.

7. Establish a procedure to determine appropriate sanctions for failure to comply with the terms of this ordinance, implementing order, or first source hiring agreement.

8. Establish an appeals process for determinations of noncompliance with the provisions of the ordinance, implementing order, or first source hiring agreement.

B. The City Manager or City Manager's designee shall prepare quarterly reports for the City Council, which shall include: (a) the dollar amount of each City Contract utilizing the First Source Hiring Referral Program; and (b) an analysis of the effectiveness of the program during each quarterly reporting period.

(7) Sanctions for Violations.

A. Each City Contract shall include provisions stating the nature of the sanctions to be imposed on a Contractor that does not comply with this Section. Such sanctions shall include, but not be limited to, the following:

1. Suspension of contract until Contractor performs obligations, if appropriate.

2. Default and/or termination.

3. Payment of one thousand five hundred dollars (\$1,500.00) per employee, or the value of wages that would have been earned by employees injured by Contractor's noncompliance, whichever is less.

B. If any Contractor attempts to comply with the provisions of this ordinance through fraud, misrepresentation or material misstatement, the City, in its sole discretion, may immediately terminate the subject City Contract.

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 5<sup>TH</sup> DAY OF FEBRUARY, 2014.

PASSED ON SECOND READING ON THE 26<sup>TH</sup> DAY OF FEBRUARY, 2014.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 26<sup>TH</sup> DAY OF FEBRUARY, 2014.

  
\_\_\_\_\_  
OLIVER GILBERT, MAYOR

ATTEST:

  
\_\_\_\_\_  
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: MAYOR OLIVER GILBERT, III

MOVED BY: Mayor Gilbert

SECOND BY: Councilwoman Odom

**VOTE: 7-0**

Mayor Oliver Gilbert, III	<u>X</u> (Yes)	_____ (No)
Vice Mayor Lisa Davis	<u>X</u> (Yes)	_____ (No)
Councilwoman Lillie Q. Odom	<u>X</u> (Yes)	_____ (No)
Councilman David Williams Jr	<u>X</u> (Yes)	_____ (No)
Councilwoman Felicia Robinson	<u>X</u> (Yes)	_____ (No)
Councilman Rodney Harris	<u>X</u> (Yes)	_____ (No)
Councilman Erhabor Ighodaro, Ph.D.	<u>X</u> (Yes)	_____ (No)



## City of Miami Gardens Agenda Cover Memo

<b>Council Meeting Date:</b>	February 26, 2014		<b>Item Type:</b>	<b>Resolution</b>	<b>Ordinance</b>	<b>Other</b>	
			<i>(Enter X in box)</i>		X		
<b>Fiscal Impact:</b> <i>(Enter X in box)</i>	<b>Yes</b>	<b>No</b>	<b>Ordinance Reading:</b> <i>(Enter X in box)</i>	<b>1<sup>st</sup> Reading</b>		<b>2<sup>nd</sup> Reading</b>	
		X	<b>Public Hearing:</b> <i>(Enter X in box)</i>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>
					X		
<b>Funding Source:</b>	<i>(Enter Fund &amp; Dept)</i> Ex: General Fund		<b>Advertising Requirement:</b> <i>(Enter X in box)</i>	<b>Yes</b>		<b>No</b>	
						X	
<b>Contract/P.O. Required:</b> <i>(Enter X in box)</i>	<b>Yes</b>	<b>No</b>	<b>RFP/RFQ/Bid #:</b>	N/A			
		X					
<b>Strategic Plan Related</b> <i>(Enter X in box)</i>	<b>Yes</b>	<b>No</b>	<b>Strategic Plan Priority Area:</b>	<b>Strategic Plan Obj./Strategy:</b> <i>(list the specific objective/strategy this item will address)</i>			
	X		Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input checked="" type="checkbox"/> Communcation <input type="checkbox"/>				
<b>Sponsor Name</b>	Mayor Oliver G. Gilbert III		<b>Department:</b>	Mayor and City Council			

### Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING CHAPTER 2, ARTICLE IX OF THE CITY'S CODE OF ORDINANCES TO ADD SECTION 2-736 TO CREATE THE FIRST SOURCE HIRING REFERRAL PROGRAM; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

### Staff Summary:

The current unemployment rate in Miami-Dade County exceeds that of the State of Florida and the United States. High unemployment rates contribute to various social and economic burdens, including heightened foreclosure rates, increased criminal activity and demand for costly social services.

**ITEM I-1) ORDINANCE  
SECOND READING/PUBLIC HEARING  
First Source Hiring Referral Program**

All of these issues have impacted the Residents of Miami Gardens. Mayor Oliver Gilbert is proposing that the City of Miami Gardens establish a First Source Hiring Referral Program (FSHRP) to ensure that businesses that receive certain contracts with the City of Miami Gardens will select participants in the FSHRP Program when hiring for services or goods under that contract, which will have a positive impact on Residents who participate in the FSHRP Program.

The City of Miami Gardens' FSHRP will require, prior to filling any vacancy under a City contract, the successful bidder must notify the South Florida Workforce Investment Board (SFWIB) of all job openings under that contract and list all vacancies via the SFWIB's First Source Hiring Referral Program web portal.

**Proposed Action:**

It is recommended that the City Council approve the attached Ordinance.

**Attachment:**