

ORDINANCE No. 2009-09-181

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING THE CITY'S PURCHASING ORDINANCE TO ADD SECTION 24 TO REGULATE THE AWARD OF DESIGN-BUILD CONTRACTS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with Section 287.055, Florida Statutes, it is necessary for the City to enact regulations governing design-build contracts, and

WHEREAS, the City Council would like to amend the Purchasing Ordinance to adopt the procedures outlined in Section 287.055, Florida Statutes,

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 24 of Ordinance 2005-10-48 is hereby created as follows:

Section 24. Design-Build Contracts

(a) *Purpose.* In order to comply fully with the requirements of section 287.055, Florida Statutes, as amended, the following procedures shall be followed in selecting firms to provide design/build services and in negotiating design-build contracts.

(b) *Definitions.*

(1) *City Manager* shall mean the city manager or his/her designee

(2) *Design/build* means a single contract with a design/build firm for the design and construction of a city construction project.

(3) *Design criteria package* means concise, performance-oriented drawings or specifications of the project and shall include but not be limited to performance-based criteria as the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, and parking requirements, as may be applicable to the project.

(c) *Design criteria package*. For each design/build construction project ("project"), the city shall employ a design criteria professional as defined in section 287.055(2)(k) of the Florida Statutes, which professional shall prepare a design criteria package ("package") specifying performance-based criteria for the project, including, but not limited to:

- (1) The legal description of the site.
- (2) Survey information concerning the site.
- (3) Interior space requirements.
- (4) Material quality standards.
- (5) Schematic layouts and conceptual design criteria.
- (6) Cost or budget estimates.
- (7) Design and construction schedules.
- (8) Site development requirements.
- (9) Provision for utilities.
- (10) Storm water retention and disposal.
- (11) Parking requirements.

The selected design criteria professional shall not be eligible to render services under a design/build contract executed pursuant to any package prepared by said design criteria professional.

(d) *Solicitation of proposals*. Subsequent to preparation of a package, the city shall publicly request, in a newspaper of general circulation and by posting notice at its offices, competitive proposals from design/build firms ("proposals").

(e) *Qualification and selection of design/build firms*. Upon receipt of proposals by the time specified in the package, the city manager shall review the qualifications of the design/build firms submitting same considering such factors as: the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; ability to meet time and budget requirements; location of firm offices; recent, current and projected work loads of the firms; and, other factors relevant to the project. The city manager shall then evaluate the proposals based on price, technical and design aspects of the project and other evaluation factors as may be set forth in the request for proposal. Upon the receipt of three (3) or more bids, the city manager shall

recommend no less than three (3) design/build firms in order of preference, deemed to be the most qualified to perform the required services for the project. The city council will select a firm and the city manager will proceed to negotiate a contract in accordance with the procedures set forth hereafter.

(f) *Competitive negotiations.* The city manager shall negotiate a contract for design/build services for the project with the firms identified as qualified. Should the city manager be unable to negotiate a satisfactory design/build contract with the design/build firm considered to be the most qualified, negotiations with that design/build firm shall be formally terminated. The city manager shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the city manager shall then undertake negotiations with the third most qualified firm. Should the city manager be unable to negotiate a satisfactory contract with any of the selected firms, additional firms shall be selected in accordance with the foregoing rules. Negotiations shall continue in accordance herewith until an agreement is reached.

(g) *Consultation with design criteria professional.* The city manager shall consult with the design criteria professional who prepared the package concerning evaluation of the proposals, approval of detail work and drawings for the project and compliance of project construction with the package.

(h) *Prohibition against contingent fees.* Each contract for design/build services shall contain a prohibition against contingent fees as required by the act.

(i) *Valid public emergencies.* Pursuant to the act, these rules shall apply in all cases except the cases declared to be valid public emergencies as certified by the city council based on recommendation and data supplied by the city manager.

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

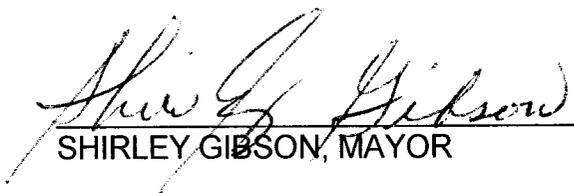
a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein 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 25TH DAY OF FEBRUARY, 2009.

PASSED ON SECOND READING ON THE 11TH DAY OF MARCH, 2009.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 11TH DAY OF MARCH, 2009.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Vice Mayor Watson
SECOND BY: Councilman Campbell

VOTE: 6-0

Mayor Shirley Gibson	<u>X</u> (Yes)	___(No)
Vice Mayor Barbara Watson	<u>X</u> (Yes)	___(No)
Councilman Melvin L. Bratton	<u>X</u> (Yes)	___(No)
Councilman Aaron Campbell	<u>X</u> (Yes)	___(No)
Councilman Oliver Gilbert, III	<u>X</u> (Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No) (not present)
Councilman André Williams	<u>X</u> (Yes)	___(No)

SKD/teh



City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	March 11, 2009		Item Type:	Resolution	Ordinance	Other	
					X		
Fiscal Impact:	Yes	No	Ordinance Reading:		1st Reading		2nd Reading
							X
		X	Public Hearing:		Yes	No	Yes
				X			
Funding Source:			Advertising Requirement:		Yes		No
					X		
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:		N/A		
Sponsor Name	Dr. Danny Crew, City Manager		Department:		<i>Procurement Department</i>		

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING THE CITY'S PURCHASING ORDINANCE TO ADD SECTION 24 TO REGULATE THE AWARD OF DESIGN-BUILD CONTRACTS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE

Staff Summary:

For construction projects, such as the Miami Garden Community Center, the City typically uses a Design-Bid-Build method. The first step in this Design-Bid-Build process is to issue a Request for Qualifications (RFQ) to select an architect to design and prepare related construction documents. The second step in this process is to solicit bids for the construction of the project.

In order to expedite construction, state statues provide an alternative method to award construction bids; this method is called *Design-Build*. The Design-Build method combines the design and construction phases of a project into a single contract instead of the normal two contract method.

Florida State Statute requires each entity adopt rules or ordinances to be followed in the selection and awarding of design-build contracts. This process has resulted in substantial construction time reductions.

In an effort to ensure that the City is able to utilize this method of construction, staff has proposed the attached amendment to the purchasing ordinance. It is anticipated that this may assist the City in having projects ready should stimulus dollars be made available.

Proposed Action:

That the City Council approves the attached ordinance establishing procedures for the selection and awarding of design-build contracts.

Attachment:

None.