

ORDINANCE NO. 2005-10-48

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY MIAMI GARDENS, FLORIDA, REPEALING ORDINANCE NOS. 2003-09 AND 2004-01-17; ESTABLISHING PURCHASING PROCEDURES; PROVIDING DEFINITIONS; PROVIDING FOR A PURCHASING AGENT; PROVIDING FOR PURCHASING LIMITATIONS AND COMPETITIVE BIDDING; PROVIDING FOR PURCHASING POWER TO THE CITY MANAGER; PROVIDING FOR BID AWARDS, PROVIDING FOR THE EVENT OF ONLY ONE RESPONSIVE BID; PROVIDING FOR ALL BIDS TO BECOME THE PROPERTY OF THE CITY; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING PROCEDURES; PROVIDING FOR A VENDOR'S LIST; PROVIDING FOR EXEMPTION FROM BIDDING; PROVIDING FOR A LOCAL PREFERENCE PROGRAM; PROVIDING FOR COOPERATIVE BIDDING; PROVIDING FOR CONTRACT ADMINISTRATION; PROVIDING FOR PROTEST PROCEDURES; PROVIDING FOR ETHICS IN PUBLIC CONTRACTING; 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 Council, has determined that purchasing guidelines and procedures are essential in the administration of the City's day to day activities, and

WHEREAS, the City's Charter requires that contracts for public improvements and purchases of supplies, materials, or services shall be awarded or made on the basis of specifications and competitive bids, except in cases where the City Council, based upon the written recommendation of the City Manager specifically determines by the affirmative vote of four council members that it is impractical or not advantageous to do so, and

WHEREAS, the City Council wishes to establish its own purchasing procedures,

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. PURCHASING PROCEDURES: The purchasing procedures in the City of Miami Gardens are established as follows:

ARTICLE 1: GENERAL PROVISIONS

Section 1: Purpose.

For the City to function well, it is necessary that commodities and contractual services of suitable standards and in sufficient quantities be available as needed and that such items be purchased at the best prices available, consistent with City standards of service and quality. When purchasing commodities and contractual services, the City will not only attempt to follow sound and prudent business practices, but will also seek to promote the full and equitable economic participation of all segments of the community. It is, therefore, the purpose of this Ordinance to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

Section 2: Applicability.

This article applies to contracts for the procurement of supplies and services entered into by the City and shall apply to all expenditures of public funds by the City for purchasing irrespective of its source. When the procurement shall be conducted in accordance with any applicable mandatory federal laws or regulations, which are not reflected in this division, nothing in this division shall prevent the City from complying with the terms and conditions of any grant, gift or bequest which are otherwise consistent with law.

Section 3: Definitions.

Terms not defined in this section shall have the meaning customarily assigned to them. Otherwise, the following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(A) *Commodity* means any of the various supplies, materials, goods, merchandise, equipment, and other personal property purchased leased or otherwise contracted for by the City, unless coming within the definition of public works contracts. However,

commodities purchased for resale are excluded from the bidding provisions of this division. The responsible department director, subject to the approval of the City Manager, shall make award of contract for resale commodities.

(B) *General services* means support services performed by an independent contractor requiring specialized knowledge, experience, or expertise that includes, but is not limited to, pest control, janitorial, laundry, catering, security, lawn maintenance, and maintenance of equipment.

(C) *Goods* include, but are not limited to, supplies, equipment, materials, and printed matter.

(D) *Invitation to bid* includes invitations to bid, requests for proposals, and solicitations for quotations from vendors. The term also includes re-advertising for bids.

(E) *Local business* means the vendor has a valid occupational license issued by the City of Miami Gardens, at least one year prior to bid or proposal opening, that authorizes the business to do business in the City of Miami Gardens and that authorizes the business to provide the goods, services or construction to be purchased. Such vendors must also have a physical business address located within the limits of the City of Miami Gardens, in an area zoned for the conduct of such business, from which the vendor operates or performs business on a day-to-day basis that is a substantial component of the goods or services being offered to the City of Miami Gardens. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be eligible for local preference, the vendor must provide a copy of the occupational license(s) for the covered period prior to recommendation for award.

(F) *Professional services* means services, the value of which is substantially measured by the professional competence of the person performing them, and which are not susceptible to realistic competition by cost of services alone. Professional services shall include, but not be limited to, services customarily rendered by architects, engineers, surveyors, certified public accountants and financial, personnel, lobbyists, data systems and design, planning and management consultants.

(G) *Lowest responsible bid or lowest responsible quotation* means the lowest bid or quotation received that best responds in quality, fitness and capacity to the requirements of the proposed work or usage, as specified, from a vendor deemed responsible and responsive to the invitation to bid or solicitation for a quotation. In determining the lowest responsible bid or quotation, the following shall be considered, in addition to price:

- (1) The quality of commodities or services offered;
- (2) The ability, capacity, and skill of the vendor to perform the contract or provide the commodities or services required;

- (3) Whether the vendor can perform the contract or provide the commodities or services promptly, or within the time specified, without delay or interference;
 - (4) The sufficiency of the vendor's financial resources and the effect thereof on the vendor's ability to perform the contract or provide the commodities or services;
 - (5) The character, integrity, reputation, judgment, experience, and efficiency of the vendor;
 - (6) The quality of vendor's performance on previous orders or contracts for the City;
 - (7) Litigation by the vendor on previous orders or contracts with the City;
 - (8) Compliance by the vendor with federal, state and local laws and ordinances relating to the subject of the purchase or contract;
 - (9) The ability of the vendor to provide future maintenance and service where such maintenance and service is essential;
 - (10) Internal cost of vendor's proposal, including any additional expenditure required by the City to complete the project or purchase; and
 - (11) Life cycle costs, including costs of purchase, maintenance, and disposal, less residual value over the expected life of the product.
- (H) *Public works contracts* means all contracts involving construction for the City. Any construction involving a project related to, but not included in a project for which the City has contracted, is not exempt from the competitive bidding procedure as set forth in this division, notwithstanding its relationship to a project that has previously been bid upon.
- (I) *Purchase* includes a purchase or a lease of more than one year.
- (J) *Purchasing agent* means the City Manager or any employee of the City to whom the City Manager has delegated some or all of the duties of the office, including the purchasing manager.
- (K) *Service* means labor rendered for the benefit of the City or the public at large pursuant to a contract with the City. As used herein, unless the context clearly indicates otherwise, the term includes but is not limited to public works contracts.
- (L) *Standardization* means criteria utilized to support the purchase of specified product(s) or product lines; to include training, service support, repair parts availability and cost, and relationship to current inventory.

(M) *Vendor* means a prospective vendor who submits a bid, a proposal, or a quotation for the sale of a commodity or service to the City in response to an invitation to bid/quote.

Section 4: System adopted.

In order to establish efficient procedures for the acquisition or use of commodities, services, and public works projects at the lowest possible cost, commensurate with quality needed to exercise positive financial control over purchases; to clearly define and implement the purchasing function; and to assure the quality of purchases, a purchasing system is hereby adopted as provided in this article.

Section 5: Purchasing agent.

The City Manager is the purchasing agent for the City. The City Manager may delegate some or all of the purchasing authority, except the authority to make the final decision, to any City employee. The City Manager shall have the authority to do as follows:

(A) Purchase or lease or contract for the purchase or lease of commodities or services required for or by the City, in accordance with purchasing procedures prescribed by this division and in accordance with such administrative policies and procedures as the City Manager may prescribe for internal management and operation of the purchasing office;

(B) Negotiate and recommend execution of contracts for the purchase of commodities or services;

(C) Act to procure for the City the needed quality in commodities or services at least expense;

(D) Discourage uniform bidding and encourage full and open competition on all purchases;

(E) Prepare revisions and amendments to the purchasing regulations set forth herein, as necessary, and recommend such revisions and amendments to the City Council;

(F) Prepare policies and procedures governing the purchase of commodities or services for the City;

(G) Keep informed of current developments in the field of purchasing, prices, market conditions and new projects;

(H) Prescribe and maintain such forms as may be reasonably necessary to the operation of this division and other rules and regulations;

- (I) Supervise the inspection of all commodities and services purchased to ensure conformance with specifications;
- (J) Transfer surplus commodities between departments as needed;
- (K) Maintain a vendors list, vendors catalog file and records needed for the efficient operation of the purchasing office;
- (L) Conduct all sales of surplus property that the City Council may authorize to be sold as having become unnecessary or unfit for the City's use;
- (M) Upon direction by the City Council, the City Manager shall have the power to negotiate options on real property for consideration by the City Council so long as any good faith deposit money does not exceed the City Manager's purchasing limits; however, the City Manager may not purchase or close on the purchase of real property without the direct authorization of City Council. All statutory requirements governing the purchase of real property by a municipality shall be complied with.

This section does not authorize the City Manager to borrow any money on the City's behalf, including the financing of any purchases that may be made pursuant to this Ordinance, without the direct authorization of the City Council.

Section 7: Submittal of requests to purchase commodities or services.

Departments shall submit requests to purchase commodities or services to the purchasing agent on purchase requisition forms or by other means as may be prescribed by the purchasing office. The department director's signature or the signature of the department director's designated representative on the requisition indicates that funds are available for the purchase; that the funds have been duly appropriated; that the requisition has been coordinated and approved within that department or other departments as necessary; that the quantities, item descriptions and specifications described the minimum needs of that department; and that the purchasing agent is authorized to acquire the commodities or services.

Section 8: Purchase orders or contracts to be used.

Purchases of commodities and services shall be made only by purchase orders, purchase cards, petty cash vouchers and/or other written contract executed by the purchasing agent. Except as otherwise provided in this division, no purchase order shall be issued unless the funds have been duly appropriated, and the prior approval of the City Manager or designee has been obtained. The purchasing agent shall sign the purchase order authorizing the expenditure of funds. Construction contracts exceeding \$50,000.00 shall be made by both purchase order and written contract.

Section 9: Vendors list.

The purchasing agent is authorized to maintain a list of vendors for the purpose of inviting bids or requests for proposals or soliciting quotations from time to time. A vendor who desires to be included on the vendors' notification list shall complete and submit a vendor's application.

ARTICLE II: PURCHASE OF COMMODITIES, SERVICES, AND PUBLIC WORKS CONTRACTS

Section 10: 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:

(1) *Notice inviting bids.* Notices inviting bids shall be published at least one time in a newspaper of general circulation within Miami-Dade County and shall include a general description of the commodities or services to be purchased, a statement of where bid documents may be obtained, and the date, time, and place of the public opening of bids. The notice shall be published in accordance with state statute, but in no event shall the notice be published less than ten calendar days before the bid opening date. Sealed bids shall also be solicited from responsible prospective vendors including those on the registered vendor's list.

(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 Florida or a cash bond in an amount equal to ten percent of the bid shall be prescribed in the public notices inviting bids. 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.

(3) *Bid opening procedures.* Sealed written bids shall be returned to the City and identified as bids on the envelope, together with other information as may be specified in the invitation to bid. Bids shall be opened in public on the date and at the time and place stated in the public notices. A tabulation of all bids received shall be made available to the public within 10 days of bid opening.

(4) *Rejection of bids.* The City Council may authorize the City Manager to:

(a) Reject all bids; or

(b) Reject all bids and re-advertise for bids, pursuant to the procedure prescribed in this section.

(c) Reject all bids and direct that the project or service in question be performed by the City upon determining that such activities are in the best interest of the City.

(5) *Performance and payment bonds:* A performance bond and a payment bond, or a "contract bond" combining the elements of a performance and a payment bond, issued by a surety company licensed to do business in Florida, may be required before entering into a contract, in an amount at least equal to the contract price or such higher amount as may be found reasonably necessary to protect the best interests of the City except, in limited circumstances, such as incremental services contracts or blanket purchase orders, where it has been determined by the department director that the potential liability resulting from the performance or payment under the contract is an amount less than the full contract price. The department director shall obtain the approval of the City Manager to require a bond for less than the full contract price before proceeding with the bid process. If such bond is required, the form and amount of the bond shall be described in the notice inviting bids. Bonds required hereunder shall be subject to all other provisions of this section and the Code.

(6) *Security in lieu of performance and payment bonds:* In lieu of the bond required by this section, a contractor may file with the City, an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in Part II, Chapter 625, F.S. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required hereunder. The appropriate representative of the City as described above shall make the determination of the value of the alternative form of security.

(7) *Change orders.* Any change in the contract price, scope of work or time for completion of any project following the award of a contract shall be by a written change order, approved by the City Council and executed with the same formalities as the contract. However, the City Manager may approve and execute change orders without City Council approval subject to the following limitations:

(a) The City Manager may approve any change orders for up to a maximum of ten percent over the award of the City Council. The scope of any project may not be changed without prior approval of the City Council. No increase in contract price shall be approved unless there are sufficient funds available for such purpose.

(b) Contract price decreases may be approved without limitation.

(c) The time for completion may not be extended by more than 60 days, in any one change or cumulatively for the same project, beyond the most recent City Council-approved contract completion time.

(d) No change order shall materially change the scope of the work unless approved by the City Council.

(f) In the event the lowest, most responsive and responsible bid for a project exceeds available funds, and the City Council does not make available additional funds, the City Manager is authorized, when time or economic considerations preclude re-solicitation of bids, to negotiate an adjustment of the bid price as long as the scope of work is not materially changed with the lowest, most responsive and responsible bidder, in order to bring the bid within the amount of available funds. Final negotiations shall be in written form as approved by the City Manager.

Section 11: Purchases of \$50,000.00 or less

Except as otherwise provided in this Section, purchases of commodities or services of a value less than \$50,000.00 may be made by the City Manager without approval by the City Council, pursuant to one of the following procedures:

(1) All bids with an estimated value over \$25,000.00 but not more than \$50,000.00, shall follow the requirements of Section 10 above except that the City Manager shall have the authority to award such bids. The City Manager shall provide a monthly report to the City Council on all bids that fall into this category.

(2) All bids with an estimated value of between \$10,000.00 and \$25,000.00 shall be based on at least three quotations and shall be awarded to the vendor making the lowest responsible quote. All quotations shall be submitted to the City in written form.

Section 12: Purchases of \$10,000.00 or less

Purchases of, or contracts for, materials, supplies, equipment, improvements or services for which funds are provided in the budget, where the total amount to be expended is not in excess of \$10,000.00 may be made or entered into by the City Manager without competitive bids or quotes. Single purchases or contracts in excess of \$10,000.00 shall not be broken down to amounts less than \$10,000.00 to avoid the requirements of this section. Though not required by this section, the Purchasing Agent is encouraged to seek multiple quotes for items purchased under this section.

Section 13: Disqualification of apparently lowest responsible bid or quotation.

An apparently lowest responsible bid or quotation may be disqualified as such and the bid may be rejected if it is determined by the purchasing agent that any or all of the following circumstances exist:

- (1) A bid or quotation submitted by a vendor did not strictly conform to the required specifications; provided, however, the City reserves the right to waive inconsequential deviations from the specifications where a change does not result in an increase in price to the City.
- (2) A vendor has demonstrated, through documented performance in the industry, through references or past employers, or through prior dealings with the City, to have a history of being unable to satisfactorily meet the responsibilities required of a successful low bidder. This includes, but is not limited to: A lack of cooperation with or lack of responsiveness to the owner, late performance, excessive change order requests, poor workmanship, inadequate safety record, failure to pay, or slow pay to subcontractors and suppliers, and other such performance-related matters.
- (3) A vendor's product has been demonstrated, through documented performance in the industry, or through prior use by the City, to be incapable of satisfactorily meeting the accepted demands to be placed upon the product.
- (4) A vendor's product is different from the City's standard.

Section 14: Protest Procedures.

The following shall govern any protest made by a participant in any competitive process utilized for the selection of a person or entity in regard to any response to a City Request for Proposal/Invitation to Bid and/or Request for Qualification ("Request for Proposals").

- (1) Protest of any City recommendation for an award in response to a Request for Proposals shall be filed with the City Clerk and mailed by the protesting party to all participants in the competitive process within 72 hours of the City's recommendation for an award or the City's actual award, whichever comes first. Such protest shall be in writing, shall state the particular grounds on which it is based, shall include all pertinent documents and evidence and shall be accompanied by a cashier's check in the amount of \$250.00 to reimburse the City for all administrative costs associated with the appeal process. Any grounds not stated shall be deemed waived.
- (2) Protests shall be referred by the City Clerk to the City Manager who shall select a hearing examiner or special master who shall hold a hearing and submit written findings and recommendations within fifteen (15) days of the filing of the protest. The hearing examiner shall consider the written protests, supporting documents in evidence, the City's recommendations and supporting documentation and all evidence presented at the hearing. Such finding and recommendation shall be filed with the City Clerk.

- (3) Hearing examiners/special masters shall be members of the Florida Bar.
- (4) The hearing examiner/special master's findings shall be final. Appeals of a decision by the hearing examiner shall be to the Miami-Dade County Circuit Court.
- (5) Failure to follow the protest procedures set forth herein shall automatically nullify any protest or claim brought by an aggrieved bidder, offeror or contractor.

Section 15: Exceptions/waivers to bid and quotation procedure.

- (1) The bidding requirements set forth in this subdivision may be waived when one of the following conditions exists:

- (a) The City Council may authorize the waiver of competitive bidding procedures upon the recommendation of the City Manager that it is in the City's best interest to do so, to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors.

- (b) The City Manager may, upon declaration of an emergency by local, state or federal officials, or when there exists an immediate threat or danger to public health, safety or welfare, loss of public or private property, or interruption in the delivery of an essential governmental service, authorize purchases that exceed the City Manager's authority. However, all such purchases must be approved by the City Council at the earliest regular or special public meeting thereafter.

- (2) The following purchases are exempt from the bidding/quotation requirements set forth in this Ordinance.

- (a) Commodities or services are available only from a sole source, after determination by the purchasing agent upon review of written summary of facts from the department director requesting the purchase.

- (b) The purchase of commodities or services in cooperation with another governmental entity in Florida or the purchase of commodities or services from contracts previously awarded by other governmental entities that were competitively bid.

- (c) When the purchasing agent determines that the nature of the commodity or service is such that competitive bidding is impossible, impractical, or cannot be obtained as recommended by the requesting department director. Such determination shall be made in writing and shall be approved by the City Council

- (d) Contracts for professional services, except for those contracts governed by Section 287.055, F.S. (the Consultants Competitive Negotiations Act).

(e) Services rendered by health providers including mental health; legal services including paralegal, expert witness, appraisal or mediator services; academic and lecturers;

(f) Services purchased by the City or its representatives when necessary to the prosecution or defense of any claim or lawsuit in which the City is a party or in which it is anticipated by the City Attorney, the Risk Manager, or the City's insurance carrier that the City will become a party.

(g) Services purchased by the City or its representatives when necessary to comply with Chapter 440, F.S. (Florida Worker's Compensation Law), or when necessary to the defense of any worker's compensation claim asserted against the City.

(h) Contracts of insurance, except as otherwise required by State Statute.

(i) Purchase of construction materials included in the scope of a construction contract in order to realize the tax savings, in accordance with Section 212.08(6), Florida Statutes.

(j) Academic program reviews or lectures or seminars by individuals

(k) Artistic services which are original and creative in character and skill in a recognized field of artistic endeavor such as music, dance, drama, painting, sculpture and the like.

(l) Performing artists and entertainers as approved by the City Manager/Purchasing Agent when deemed in the City's best interests, for the benefit of the citizens of Miami Gardens and the general public at any City function.

(m) Advertising.

(n) Utilities, including but not limited to, electric, water and telephone

(o) Purchases or services from other governmental agencies.

(p) Purchases or services with an estimated value less than \$10,000.00.

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 given to 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 submitted by the non-local business, then that non-local business and each of the aforementioned 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 selection 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) If a tie occurs between two (2) or more local businesses, then the City Manager shall determine to whom the bid will be awarded.

(D) Waiver: The application of local preference to a particular purchase, contract, or category of contracts for which the City Council is the awarding authority may be waived upon written recommendation of the City Manager and approval of the City Council. The application of local preference to a particular purchase, contract, or category of contracts below the award authority of the City Council may be waived upon written recommendation of the director of purchasing and approval of the City Manager.

(E) 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.

(F) Exemption of certain contracts: All contracts awarded pursuant co-operative purchases, or the Competitive Consultant Negotiation Act.

Section 17: Responsibility of Bidders or Offerors.

If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding shall be prepared by the City Manager or the Purchasing Agent. Grounds for determination of non-responsibility may include, but are not limited to, the unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry

with respect to non-responsibility. A copy of the determination shall be sent promptly to the non-responsible bidder or offeror. The final determination shall be made part of the contract file and be a public record.

Section 18: One Response.

If only one responsive bid or proposal for commodity or contractual service is received in response to an Invitation for Bid/Proposal, an award may be made to the single Bidder/Proposer if the City Council/or the City Manager finds the price submitted is fair and reasonable, and that other prospective bidders had reasonable opportunity to respond, or there is not adequate time for re-solicitation. Further, the City Manager reserves the right, if it is in the best interests of the City, to negotiate with the sole Bidder/Proposer for the best terms, conditions and price. The City Manager shall document the reasons that such action is in the best interest of the City. Otherwise, the bid/proposal may be rejected and:

- (A) New bids or offers may be solicited;
- (B) The sole bid/proposal may be rejected.

Section 19: Property of City.

All bids and accompanying documentation received from bidders in response to the invitation to bid shall become the property of the City and will not be returned to the bidders. In the event of contract award, all documentation and work product produced as part of the contract shall become the exclusive property of the City. This subsection is applicable to request for proposal and request for letter of interest documents, which also become property of the City.

Section 20: Waiver of Competitive Bidding Procedures.

Whenever competitive bidding is required pursuant to this Ordinance, the City Council, upon the affirmative vote of four council members, may authorize the waiver of competitive bidding procedures upon the recommendation of the City Manager or designee that it is in the City's best interest to do so, to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors. Purchases pursuant to Section 14 (2) (c) shall not require a waiver of bid.

Section 21: Contract Administration.

- (A) A contract administration system designed to ensure that a bidder/offeror/contractor is performing in accordance with the solicitation under which a contract was awarded and the terms and conditions of the contract shall be maintained by the City Manager.

(B) All determinations and other written records pertaining to the solicitation, award or performance of a contract shall be maintained for the City in a contract file by the City Manager and be retained and disposed of in accordance with the records retention guidelines and schedules approved by the City Clerk.

Section 22: Ethics in Public Contracting.

In addition to all ethical rules and guidelines set forth by the Council on Ethics and the Miami-Dade County Code, as applicable to the City of Miami Gardens and the State of Florida, the City Manager may impose any one or more of the following sanctions on a City employee for violations of ethical standards set forth by Miami-Dade County or the State of Florida including, but not limited to: oral or written warnings or reprimands, suspension with or without pay for specified periods of time or termination of employment. For non-employees, for violations of ethical standards, the City Council may terminate any contract with the City of Miami Gardens.

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 26th DAY OF JANUARY, 2005.
PASSED ON SECOND READING ON THE 9th DAY OF
February, 2005.
ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 9th DAY OF
February, 2005


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

Reviewed by SONJA K. KNIGHTON, ESQ.
City Attorney

SPONSORED BY: Danny Crew, City Manager

MOVED BY: Councilwoman Watson
SECONDED BY: Councilwoman King

VOTE: 6-1

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	<u>x</u> (Yes)	___ (No)
Councilwoman Audrey J. King	<u>x</u> (Yes)	___ (No)
Councilwoman Sharon Pritchett	___ (Yes)	<u>x</u> (No)
Councilwoman Barbara Watson	<u>x</u> (Yes)	___ (No)