

ORDINANCE No. 2007-25-131

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 14, PROTEST PROCEDURES OF ORDINANCE NO. 2005-10-48; 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 previously adopted Ordinance No. 2005-10-48, the City's Purchasing Ordinance, and

WHEREAS, the City's Purchasing Ordinance provides for protest procedures, and

WHEREAS, the City Manager is recommending, that certain amendments be made to Section 14 of the City's Purchasing Ordinance to ensure that proper notice is given to all responders of any and all bids or RFPs when a protest is filed,

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 14 of Ordinance No. 2005-10-48 as amended, is amended as follows:

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 responders to the bid proposal 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, and shall include all pertinent documents and evidence. The protest letter to the City Clerk shall include proof of mailing/receipt to other responders to the bid and shall be accompanied by a cashier's check in the amount of \$500.00 representing the filing fee, plus a cost bond in the amount of \$2,500.00 to reimburse the City for all administrative costs associated with the appeal process. The \$2,500.00 bond shall be returned to the Protester if the Protester prevails in the hearing before the hearing examiner/special master. If the Protester does not prevail the City shall keep the bond. 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. The prevailing party in the appeal may be entitled to recover any and all attorneys' fees and costs incurred in the appeal.

(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 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

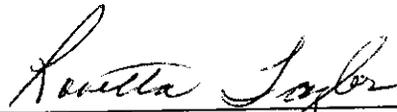
this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

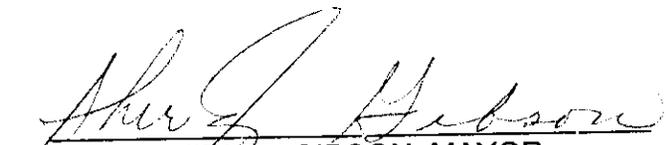
SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 24TH DAY OF OCTOBER, 2007.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 14TH DAY OF NOVEMBER, 2008.

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK


SHIRLEY GIBSON, MAYOR

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Braynon
SECONDED BY: Councilman Bratton

VOTE: 4-0

Mayor Shirley Gibson	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	Not present
Vice Mayor Barbara Watson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilman Melvin L. Bratton	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilman Oscar Braynon, II	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilman Aaron Campbell	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	Not present
Councilwoman Sharon Pritchett	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	Not present
Councilman André Williams	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	

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