

LEE COUNTY ORDINANCE NO. 08-26

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 00-10 RELATING TO A BIDDING PREFERENCE FOR LOCAL CONTRACTORS AND VENDORS TO EXTEND THE PREFERENCE TO CERTAIN CONTRACTORS AND VENDORS RESIDENT IN ADJOINING COUNTIES THAT ENTER A RECIPROCITY AGREEMENT WITH LEE COUNTY; PROVIDING AN AMENDMENT TO SECTION TWO, DEFINITIONS; PROVIDING AMENDMENT TO SECTION THREE, QUALIFICATION AS LOCAL CONTRACTOR/VENDOR; PROVIDING A NEW SECTION FOUR, RECIPROCITY BY INTERLOCAL AGREEMENT; PROVIDING FOR RENUMBERING OF THE REMAINING SECTIONS OF THE ORDINANCE; PROVIDING FOR SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.

WHEREAS, Lee County ("County") is a political subdivision and Charter County of the State of Florida; and,

WHEREAS, the Board of County Commissioners ("Board") is the governing body in and for Lee County; and,

WHEREAS, the Board has the authority to contract for the purchase of goods and services that serve a public purpose, and are in the best interest of the citizens of the County; and,

WHEREAS, the Board has a valid public interest in promoting local industry and enterprise; and,

WHEREAS, Florida law recognizes local bid preferences under certain circumstances, and that the physical location of a bidder's principal place of business is a relevant factor in the public procurement process; and,

WHEREAS, it is not the intent of the Board by the adoption of this Ordinance to prohibit, exclude, discourage or disadvantage persons, firms, businesses or corporations that are non-local in nature from providing goods or services to Lee County as part of the competitive selection process; and,

WHEREAS, it is the intent of the Board to act in concert with Collier County to stimulate the local economy of each county by extending the scope of the local preference created by Lee County Ordinance No. 00-10 to qualified Collier County contractors and vendors and thereby encourage contractors and vendors to bid on contracts and work in the adjoining county.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS that:

SECTION ONE: RECITALS

The above preamble is hereby adopted in its entirety as if set out further at length in this section.

SECTION TWO: AMENDMENTS

Sections Two and Three of Lee County Ordinance No. 00-10 are hereby amended as follows, with deletions identified with strike-through text and additional text underlined.

SECTION TWO: DEFINITIONS

The terms as used in this Ordinance unless otherwise defined herein, shall be defined as those terms are defined in Chapter 287, Florida Statutes, Part One, or shall have their ordinary meaning in common usage.

- 2.1 "Local Contractor/Vendor" shall mean: a) any person, firm, partnership, company or corporation whose principal place of business in the sole opinion of the County, is located within the boundaries of Lee County, Florida; or b) any person, firm, partnership, company or corporation that has provided goods or services to Lee County on a regular basis for the preceding consecutive ~~five (5)~~ three (3) years, and that has the personnel, equipment and materials located within the boundaries of Lee County sufficient to constitute a present ability to perform the service or provide the goods; or c) any person, firm, partnership, company or corporation that qualifies as a "Local Business" under the terms of the Collier County Local Vendor Preference Program on or after the date Lee and Collier County enter an agreement extending reciprocity under their respective Local Vendor Preference Programs to the firms eligible for those programs in the adjoining county; or d) any person, firm, partnership, company or corporation that qualifies as a "Local Vendor" or similar term under the Local Vendor Preference Program of any county adjoining Lee County on or after the date Lee County and the adjoining county enter a reciprocity agreement that is substantially similar to any such agreement between Lee and Collier County.
- 2.2 For purposes of the above definition, Lee County shall mean the County as defined by Section 7.36, Florida Statutes.

SECTION THREE: QUALIFICATION AS A "LOCAL CONTRACTOR/VENDOR"

A. PUBLIC WORKS; CONSTRUCTION SERVICES; PRE-QUALIFICATION

- 3.1 Potential contractors and/or vendors to Lee County who desire to be considered for the Local Bidder's Preference for Public Works Construction Services ~~must be pre-qualified by the County for such~~ submit sufficient information with their bid or quote to allow the Contracts Section to determine their eligibility for such consideration.
- 3.2 Qualification as a "Local Contractor/Vendor" shall be made on applications provided by the Public Works Department, Contracts Section. The Contracts Section will evaluate, confirm and award the status of "Local Contractor/Vendor" to any qualifying business during the evaluation process.
- 3.3 Upon a finding by the County that the application is sufficient and meets the definitional criteria, the Contractor/Vendor will then be placed on a master list kept by the County, for a period of one (1) year. ~~All applications will be required to be updated and reconfirmed annually on the anniversary of the original application.~~
- 3.4 Except for Contractors/Vendors qualified under a Reciprocity Agreement as described above, only Contractors/Vendors who are on the County's "Local Contractor/Vendor List" awarded "Local Contractor/Vendor" status by the Contracts Section will be allowed to

claim the Local Bidders' Preference as provided for by this Ordinance for any County Public Works procurement, either for goods or services. The Contractor/Vendor qualification for a "Local Contractor/Vendor" designation shall not be considered as a basis for any Formal Protests of contract awards under the County's Formal Procurement Processes.

- 3.5 If an application for a "Local Contractor/Vendor" designation is denied by the Public Works Contracts Section, the applicant may then appeal such decision to the County Manager for review and further consideration, and if denied by the County Manager, the applicant may appeal such decision to the Board of County Commissioners, who shall hear such appeal at a regular Board meeting, and whose decision shall be final.

B. PURCHASING DEPARTMENT; GOODS AND SERVICES

- 3.6 The Purchasing Department will utilize the following methodology for qualifying businesses as "Local Contractor/Vendors".

- 3.7 For formal written quotations or bids (one-step and two-step processes), the Purchasing Department will evaluate, confirm and award the status to any business seeking consideration as a "Local Contractor/Vendor" by either:

- I) reviewing the Local Contractor/Vendor status during the Evaluation Phase, for one-step Formal Quotations or Bids, or

- ii) reviewing the Local Contractor/Vendor status during “Step One” of the process, for two-step Formal Quotations or Bids.

3.8 Any appeal brought by a business denied the “Local Contractor/Vendor” designation by the Purchasing Department, shall follow the procedures as set forth in Section 3.5, above.

SECTION THREE:

Lee County Ordinance No. 00-10 is hereby amended to add new Section Four, Reciprocity by Interlocal Agreement, with additional text underlined.

SECTION FOUR: RECIPROCITY AND BY INTERLOCAL AGREEMENT

The Board of County Commissioners may extend the benefit of the Local Contractor/Vendor preference established by this Ordinance to any person, firm, partnership, company or corporation that qualifies as a local vendor under a local vendor preference program in an adjoining county if that county agrees to offer reciprocity to Lee County's Local Contractors/Vendors by interlocal agreement between the two counties. Reciprocity shall commence upon the date of execution of the interlocal agreement by all parties and cease upon the termination date of the agreement, without further Board action or amendment to this Ordinance.

SECTION FOUR: ORDINANCE SECTIONS RENUMBERED

Sections Four through Ten of Lee County Ordinance No. 00-10 are hereby renumbered as follows with no changes to the text.

SECTION FOUR FIVE: **APPLICATION OF THE “LOCAL CONTRACTOR/VENDOR” PREFERENCE**

Sections 4.1 - 4.4 are hereby renumbered as Sections 5.1 - 5.4 with no changes to the text.

SECTION FIVE SIX: **ADMINISTRATIVE PROCEDURES**

Sections 5.1 - 5.2 are hereby renumbered as Sections 6.1 - 6.2 with no changes to the text.

SECTION SIX SEVEN: **REPEAL**

Section 6.1 is hereby renumbered as Section 7.1 with no changes to the text.

SECTION SEVEN EIGHT: **SUPPLEMENTAL AUTHORITY**

Section 7.1 is hereby renumbered as Section 8.1 with no changes to the text.

SECTION EIGHT NINE: **SEVERABILITY**

89.1 If any portion of this Ordinance is for any reason held or declared to be unconstitutional, invalid or void, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision herein shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

SECTION NINE TEN: **CODIFICATION**

910.1 It is the intention of the Board and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Lee County, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that

the word "ordinance" may be changed to "section", "article", or other appropriate designation.

SECTION FIVE: EFFECTIVE DATE

This Ordinance shall take effect immediately upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner Hall made a motion to adopt the foregoing ordinance, seconded by Commissioner Mann. The vote was as follows:

ROBERT P. JANES	<u>Absent</u>
BRIAN BIGELOW	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
TAMMARA HALL	<u>AYE</u>
FRANK MANN	<u>AYE</u>

DULY PASSED AND ADOPTED THIS 25th day of November, 2008.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Ray Judah
Chairman



APPROVED AS TO FORM:

BY: Michael D. Quetz
Office of the County Attorney



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

December 4, 2008

Honorable Charlie Green
Clerk of Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Marcia Wilson, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated December 1, 2008 and certified copy of Lee County Ordinance No. 08-26, which was filed in this office on December 3, 2008.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

RECEIVED
MINUTES OFFICE

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DIRECTOR'S OFFICE

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