

ORDINANCE NO. 2011-32

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE VIII ENTITLED "PURCHASING" BY ADDING THERETO SECTION 2-328 ENTITLED "LOCAL VENDOR PREFERENCE"; CREATING AN EVALUATION CREDIT TO ALL BUSINESSES LOCATED WITHIN THE TOWN OF DAVIE AND BROWARD COUNTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town wishes to amend Section 2, Article VIII, by adding Section 2-328 entitled "Local Vendor Preference" to the Purchasing procedures as set forth in Ordinance 88-70; and

WHEREAS, the Town of Davie Town Council wishes to promote local businesses and encourages their participation in competing for goods and services purchased by the Town; and

WHEREAS, this section of the purchasing procedures will award a five percent (5%) evaluation credit to all businesses located within the Town of Davie and a two and one half percent (2 ½%) evaluation credit to all businesses located outside of Davie but within Broward County; and

WHEREAS, it is in the best interest of the Town to make appropriate amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That Chapter 2, Article VIII, of the Town Code is hereby amended by adding thereto Section 2-328 entitled "Local Vendor Preference" which shall read as follows:

Section 2-315. Purchases – Not exceeding two thousand five hundred dollars.

Purchases not exceeding two thousand five hundred dollars (\$2,500.00) may be effected without formal or informal bids.

Section 2-316. Same – Exceeding two thousand five hundred dollars but not exceeding twenty-five thousand dollars.

Purchases in amounts of over two thousand five hundred dollars (\$2,500.00) but not exceeding twenty-five thousand dollars (\$25,000.00) may be effected without advertising for formal sealed bids, but at least three (3) informal bids shall be obtained if practicable. All purchases made through the informal bid process will

require written unsealed bids including fax transmissions from prospective vendors and will be obtained by the Purchasing Department with the use of a specification prepared by the using department. In all instances, the Procurement Manager shall have the right to require adequate documentation to insure the bids are fairly acquired and that a competitive environment is maintained.

Section 2-317. Same - In amounts over twenty-five thousand dollars.

Purchases exceeding twenty-five thousand dollars (\$25,000.00) shall require newspaper advertising as prescribed by applicable ordinances or advertising by posting in two (2) conspicuous places in the Town limits for formal sealed bids to be opened in public pursuant to applicable Town ordinances and Finance Department regulations. Purchases shall be made from, or the contract awarded to, the lowest qualified responsive and responsible bidder: provided, however, that any and all bids may be rejected by the Town Council upon the vote of three (3) of its members. The Town Council shall approve such contracts or purchases by appropriate resolution.

Section 2-318. Same - Purchases defined.

As used herein, the word "purchase" is defined to include contracts awarded for construction, alterations, repairs, maintenance, or services as well as contracts purchasing or realty.

Section 2-319. Same - Professional Services.

Competitive bidding shall not be required on contracting for professional services of accountants, dentists, lawyers, physicians, psychologists, veterinarians, or other such occupation which by reason of specialized training and expertise is generally recognized as a profession. The Town will at all times comply with applicable state statutes regarding consultants competitive negotiations for services as defined by F.S.S. 287.055.

Section 2-320. Same - Leases.

Leases in which the Town is either lessee or lessor may be for such period as the Town Council may deem desirable. If it deems such necessary the Town Council may enter into lease purchase agreements.

Section 2-321. Same - Bonding.

The Town Council may by resolution, require that successful bidders provide performance bonds, labor and material bonds, or other appropriate types of bonds. The Town Council may, by resolution, provide that in connection with any contract, a percentage of the contract amount be withheld for a period of thirty (30) days beyond the date the Town finally accepts material, equipment, work or services provided under the terms of such contract.

Section 2-322. Same - Joint procurement.

The Town Council may, by resolution, authorize participation by the Town in joint procurement of materials, work or services with other public corporations within the state.

Section 2-323. Same - Council Approval.

The Town Council's approval shall be required on all contracts for services in excess of five thousand dollars (\$5,000.00).

Section 2-324. Same - Additional purchases requirements and procedures.

The Town Council is hereby authorized to establish additional requirements in connection with purchases; provided that they are not inconsistent with any of the provisions herein.

The Town shall not purchase any goods or services from firms that employ any Town of Davie employees in any capacity. Any such company will be disqualified from participating in any bidding activity.

Section 2-325. Same - Emergency purchases.

The Town Council may, upon proper showing, authorize emergency expenditures and dispense with the formal requirements for bidding therein.

Section 2-326. Same - Alternate purchasing standards.

As an alternate for purchases governed by this section, the Town Council may comply and accepts bids in accordance with government purchasing standards as the same now exist or may be hereafter amended.

Section 2-327. Same - Purchasing from Town employees.

The Town shall not purchase any goods or services from any person who is actively employed by the Town of Davie or from any business or entity of which the employee or the employee's spouse or child is an agent, officer, partner, director or proprietor or in which they have a material interest. Any such individual or business shall be disqualified from participating in any bidding activity for purchases by the Town unless specifically authorized by action of the Town Council.

Section 2-328. Local vendor Preference Definitions

Local Davie Vendor-a "local Davie vendor" shall mean a person or business entity which has maintained a permanent place of business with full-time employees within the Town limits for a minimum of six months prior to the date of issuance of a bid or proposal solicitation. The permanent place of business may not be a post office box or a residence. The business location must actually distribute goods or services from that location. In addition, the business must have a current business tax receipt from the Town of Davie and have an address that the U.S. Postal Service recognizes as being a Davie address to be eligible.

Local Broward County Vendor- a “local Davie vendor” shall mean a person or business entity which has maintained a permanent place of business with full-time employees within the Broward County limits for a minimum of six months prior to the date of issuance of a bid or proposal solicitation. The permanent place of business may not be a post office box or a residence. The business location must actually distribute goods or services from that location. In addition, the business must have a current business tax receipt from the Broward County or the city within Broward County where the business resides and have an address that the U.S. Postal Service recognizes as being a Broward County address to be eligible.

Bid- A bid shall be any competitive solicitation by specification officially posted by the Town of Davie Purchasing staff on the Town’s website where the award is determined by price.

Proposal-a proposal shall be any competitive solicitation by Request for Proposal (RFP) officially posted by the Town of Davie purchasing staff on the Town’s website where the award is determined by qualifications.

Process

a) Competitive Bid- For bid evaluation purposes, vendors that meet the definition of “local Davie vendor” as detailed above shall be given a 5% evaluation credit. This shall mean that if a “local Davie vendor” submits a bid/quote that is within 5% of the lowest price submitted by any vendor, the “local Davie vendor” shall have an option to submit another bid which is at least 1% lower than the lowest responsive bid/quote. If the “local Davie vendor” submits a bid which is at least 1% lower than that lowest responsive bid/quote, then the award will go to the “local Davie vendor”. If not, the award will be made to the vendor that submits the lowest responsive bid/quote. If the lowest responsive and responsible bidder is a “local Davie vendor”, the award will be made to that vendor and no other bidders will be given an opportunity to submit additional bids as described herein.

For bid evaluation purposes, vendors that meet the definition of “local Broward County vendor” as detailed above shall be given a 2.5% evaluation credit. This shall mean that if a “local Broward County vendor” submits a bid/quote that is within 2.5% of the lowest price submitted by any vendor, the “local Broward County vendor” shall have an option to submit another bid which is at least 1% lower than the lowest responsive bid/quote. If the “local Broward County vendor” submits a bid which is at least 1% lower than that lowest responsive bid/quote, then the award will go to the “local Broward County vendor”. If not, the award will be made to the vendor that submits the lowest responsive bid/quote. If the lowest responsive and responsible bidder is a “local Davie vendor”, the award will be made to that vendor and no other bidders will be given an opportunity to submit additional bids as described herein.

If there is a "local Davie vendor" and a "local Broward County vendor" participating in the same bid solicitation and both vendors qualify to submit a second bid as detailed above, the "local Davie vendor" will be given first option. If the "local Davie vendor" cannot beat the lowest bid received by at least 1%, an opportunity will be given to the "local Broward County vendor". If the "local Broward County vendor" cannot beat the lowest bid by at least 1%, then the bid will be awarded to the lowest bidder regardless of geographic location of the business.

If multiple "local Davie vendors" submit bids/quotes which are within 5% of the lowest bid/quote, then all vendors will be asked to submit a "best and final offer (BAFO)". The award will be made to the "local Davie vendor" submitting the lowest BAFO providing that that BAFO is at least 1% lower than the lowest bid/quote received in the original solicitation. If no "local Davie vendor" can beat the lowest bid/quote by at least 1%, then the process will be repeated with all "local Broward County vendors" who have submitted a bid/quote which is within 2.5% of the lowest bid/quote. If no "local Davie vendor" and no "local Broward County vendor" can submit a BAFO that is at least 1% lower than the lowest bid/quote submitted in the original solicitation, the award will be made to the lowest responsive bidder regardless of geographic location of the business.

b) Competitive Proposal- For evaluation purposes, "local Davie vendor" and "local Broward County vendor" shall be a criterion for award in any Request For Proposal unless specifically exempted by the Town Administrator or the Town Council.

c) Exceptions

1. No "local vendor" preference will be included in any competitive solicitation where the Town is the lead agency for the Southeast Florida Cooperative Purchasing Group.
2. Utilization of a State or other agency contract.
3. State or Federal law prohibits the use of local preference.
4. The work is funded in whole or in part by a governmental entity where the laws, rules, regulations or policies prohibit the use of local preferences.
5. Sole source or single source purchases.
6. The "local vendor" is either non-responsive or non-responsible.
7. All bids submitted exceed the budget amount for the project.
8. Emergency purchases.

9. The Town Administrator and/or the Town Council may exempt any competitive solicitation from the local vendor preference.

SECTION 2. 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 portion of this Ordinance.

SECTION 3. This ordinance shall take effect immediately upon its passage and approval.

PASSED ON FIRST READING THIS 7th DAY OF September, 2011

PASSED ON SECOND READING THIS 21st DAY OF September, 2011


MAYOR/COUNCILMEMBER

ATTEST:


TOWN CLERK

APPROVED THIS 21st DAY OF September, 2011

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Herb Hyman/1016

PREPARED BY: Herb Hyman

SUBJECT: Ordinance

AFFECTED DISTRICT: All

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: LOCAL VENDOR PREFERENCE - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE VIII ENTITLED "PURCHASING" BY ADDING THERETO SECTION 2-328 ENTITLED "LOCAL VENDOR PREFERENCE"; CREATING AN EVALUATION CREDIT TO ALL BUSINESSES LOCATED WITHIN THE TOWN OF DAVIE AND BROWARD COUNTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. {Approved at first reading on September 7, 2011. In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice-Mayor Hattan - yes; Councilmember Caletka - yes; Councilmember Luis - yes; Councilmember Starkey - yes.} (Motion carried 5-0)

EXECUTIVE SUMMARY: The Town Council desires to promote local businesses and encourage them to compete for goods and services purchased by the Town. This additional section to the purchasing procedures is established to give local Davie businesses a five percent (5%) evaluation credit on all competitive bids and also gives Broward County businesses not located within the Town of Davie a two and one half percent (2 1/2%) evaluation credit.

In addition to adopting this new section of the Purchasing Ordinance, staff would like to address the following purchasing issues with the Town Council:

1. Contract renewals
2. Cone of Silence vs. Registration of Lobbyists
3. Professional Services-clarification.
4. Bid protest procedure

KEY POINTS:

- **Local Davie businesses will be given a five percent (5%) evaluation credit on all competitive bids.**

- **Broward County businesses not located within the town of Davie will be given a two and one half percent (2 ½%) evaluation credit on all competitive bids.**
- **If a local Davie business is within 5% of the lowest bid submitted, they will be given an opportunity to submit another bid which needs to be at least 1% lower than the lowest bid to receive the award.**
- **Broward County businesses not located within the Town of Davie whose bid is within 2 ½% of the lowest bid will be given the same opportunity to submit a bid which is at least 1% lower than the lowest bid submitted to receive the award.**
- **List of exceptions is also part of procedure.**

PREVIOUS ACTIONS: n/a

CONCURRENCES: The concept of Local Vendor Preference was presented to the Town Council at a previous Council meeting.

FISCAL IMPACT: No

Has request been budgeted? n/a

If yes, expected cost: n/a.

Account name and number:

If no, amount needed: \$

What account name and number will funds be appropriated from:

Additional Comments: The Ordinance will go into effect upon approval at second reading.

RECOMMENDATION(S): Motion to approve resolution

Attachment(s):

n/a