

ORDINANCE NO. 2607

AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA AMENDING CHAPTER 2, ARTICLE IX OF THE CITY'S CODE OF ORDINANCES, ENTITLED "CONTRACTS AND PURCHASING", BY AMENDING SECTION 2-226, ENTITLED "PROCUREMENT REQUIREMENTS" AND SECTION 2-227, ENTITLED "LOCAL BUSINESS PREFERENCE"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Staff periodically reviews the Ordinances of the City of Plantation, Florida and makes recommendations to the City Council to revise its Ordinances; and

WHEREAS, the City Council of the City of Plantation, Florida deems it to be in the best interests of the citizens, businesses, and residents of the City to amend the Code of Ordinances as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANTATION, FLORIDA THAT:

SECTION 1. The foregoing recitals are hereby ratified as being true and correct and incorporated herein by this reference.

SECTION 2. Section 2-226 of Chapter 2 of the City's Code of Ordinances, Article IX entitled "Contracts and Purchasing", is hereby amended as follows:

Sec. 2-226. - Procurement requirements.

- (a) For purposes of this subsection (a), the term "purchase" shall refer to purchase of supplies, equipment, or material for the city government, or for the construction of public streets, bridges, buildings or structures, park areas, or public utilities works (i.e., plants, lift stations, pumping stations, wells, storm drainage basins, and underground infrastructure). The word "purchase" shall not include maintenance activities or projects designed to maintain the foregoing.
- (b) All purchases in an amount of ~~three thousand dollars (\$3,000.00)~~ five thousand dollars (\$5,000.00) and under shall be based upon ~~may be based upon telephone quotes~~ a minimum of one (1) quote by any one (1) or more of the following ways: by direct mail; by telephone or email; or by quotes received electronically via the

~~internet. , without any advertising.~~ All purchases in an amount greater than ~~three~~ five thousand dollars (\$~~35,000.00~~ 35,000.00) and less than or equal to ~~fifteen~~ thirty-five thousand dollars (~~\$135,000.00~~ \$135,000.00) shall be approved after informal competitive bids or proposals are obtained from at least three (3) different sources and memorialized in writing. ~~without any advertising.~~ All purchases greater than ~~fifteen~~ thirty-five thousand dollars (~~\$135,000.00~~ \$135,000.00) and less than or equal to ~~seventy-five~~ one hundred thousand dollars (~~\$75 100,000.00~~ \$75 100,000.00) may be approved after informal competitive bids or proposals are obtained from at least three (3) different sources in writing and after an internet posting soliciting such informal bids or proposals, and is posted for at least three (3) complete work days prior to the solicitation deadline.

For informal competitive bids or proposals, in the event that fewer than three (3) bids or proposals are received, the City may perform the following actions: 1. Award the contract to a responsive and responsible bidder who submitted the lowest bid or proposal; or 2. Reject all bids or proposals and resolicit with modified scope of services/work.

For informal competitive bids or proposals, in the event that fewer than two (2) bids or proposal are received, the City may perform the following actions: 1. If the single bidder or proposer submits a responsive and responsible bid or proposal, the City may enter into negotiations with the Bidder or Proposer for general enhancements to the terms and conditions and subsequently award the bid or proposal to the bidder or proposer; or 2. Reject all bids or proposals and resolicit with modified scope of services/work.

- (c) All purchases in an amount that exceed ~~seventy-five~~ one-hundred thousand dollars (~~\$75~~100,000.00), shall be presented to the city governing body for approval only after the city formally advertises for and seeks to competitively award a contract using one of the competitive procurement processes set forth in section 2-220 of this Code. Except where provided otherwise by state statute, the advertisement for competitively procured bids or proposals shall occur in a newspaper of general circulation published in the county, such publication to appear at least once in a newspaper not less than ten (10) days prior to the initial receipt of bids, proposals, or responses.
- (d) Purchases in the amount of ~~twenty-five~~ thirty-five thousand dollars (~~\$235,000.00~~ \$235,000.00) or less, may be authorized by the Mayor. All purchases in excess of ~~twenty-five~~ thirty-five thousand dollars (~~\$235,000.00~~ \$235,000.00) shall be approved by the City Council.
- (e) The numerical dollar thresholds set forth in subsection (b), (c) and (d) of this section concerning the purchasing process shall be reviewed at least every four (4) years and presented to the City Council for consideration of an adjustment. ~~adjusted by the each year by the percentage change in the Consumer Price Index—All Urban Consumers—South Urban Area from January 1, 2005 to January 1 of the year in which the purchase is being made. Additionally, the city governing body may also promulgate a by resolution which can increase any numerical dollar thresholds set~~

82 ~~forth in this section; however, such resolution must be considered and passed as an~~
83 ~~agendaed item at a city council meeting. When and if the city governing body~~
84 ~~increases the numerical thresholds herein by resolution, the Consumer Price Index~~
85 ~~shall thereafter be the percentage change in the Consumer Price Index from January~~
86 ~~1 of the year in which the resolution became effective to January 1 of the year in~~
87 ~~which the purchase is being made.~~
88

89 (f) Notwithstanding the obvious benefit and public interest served by having all
90 purchases submitted to competitive procurement, circumstances can arise when the
91 city may determine that competitive procurement is impractical, or that there is no
92 need for the city to seek competitive procurement, or the city may determine that
93 there is an overriding public interest to waive competitive procurement. In cases
94 where the amount of the purchase requires that the city governing body approve the
95 purchase, the city governing body must approve a waiver of competitive
96 procurement. In cases where the governing body need not approve the purchase,
97 the Mayor or the Mayor's designee may approve a waiver of competitive
98 procurement.
99

100 (g) In the following cases, formal or informal competitive procurement shall not be
101 required by this division (although same may be required by operation of state law
102 such as F.S. § 255.20, ~~(2004)~~ (2021), and F.S. § 287.055, ~~(2004)~~ (2021), as
103 amended, for example):
104

105 (1) If the city seeks to acquire (either by purchase, lease or otherwise) a utility,
106 facility, enterprise, work, undertaking or project, or a combination of any of the
107 same, which utility, etc., has already been constructed and is in existence, no
108 advertisement for bids shall be necessary nor will competitive procurement be
109 required;
110

111 (2) Where repairs or renovations are required for existing equipment, machinery, or
112 other improvements (including utilities facilities) and such repairs or renovations
113 can best be done, due to warranties or the nature of such equipment, or machinery,
114 or improvements by authorized dealers;
115

116 (3) Where the item being acquired is by its very nature unique, or is available only
117 through a sole source vendor;
118

119 (4) Where the delay attendant with the competitive procurement procedures is not
120 practical in view of an emergency making time of the essence in obtaining
121 necessary repair or renovation, or is otherwise found to be desirable for acquisition
122 by the city without competitive procurement;
123

124 (5) Where purchases are based upon prices from contracts executed within the
125 preceding eighteen (18) months of the contemplated purchase by the state, a state
126 agency or district, a county or municipal corporations within the state, including

the city, which contracts were based upon an advertised competitive bid or proposal process, and which purchases use city approved forms or contract documents;

(6)Where the purchases are franchised items from the city's franchisees (such as Peoples Gas, Florida Power & Light, BellSouth Telephone, etc.);

~~(7)Where the purchases are standard products (i.e., pens, paper, forms, detergents, chemicals) from vendors with whom the city keeps a monthly account, where the purchase of such standard products may exceed the seventy five thousand dollars (\$75,000.00) threshold either in a single purchase or on an accumulated basis; provided, that vendor is the lowest responsive, responsible per unit bidder for such products on a yearly basis or where the city desires to purchase such items on terms substantially equivalent to the lowest responsive bid received in an advertised competitive bid selection for substantially similar product and has been awarded a contract by the state, state agency or district, a county within the state, or a municipal corporation within the state, including the city itself, within the preceding eighteen (18) months. Such vendor purchases shall be appropriated by resolution as part of the standard weekly bill list resolution approval procedure, after the yearly bid therefor is approved. Nothing in this section will require the city to give such vendor a year's worth of business, nor will the city be precluded from rebidding the vended product at some time within the year;~~

~~(8)~~(7)Contracts for services, except professional services which must be competitively procured pursuant to the Consultants Competitive Negotiation Act as a result of the services exceeding the triggering thresholds for the act's application;

~~(9)~~(8)Emergency purchases, or purchases made during a determined state of emergency or high threat of terrorism or in response to natural disaster, war, or terrorism threats or occurrences. These purchases may be authorized on such terms and conditions as are in good faith believed reasonable and appropriate under the circumstances by the Mayor (or the president of the City Council in the absence or disability of the Mayor), the department head of the city charged by the Mayor with the responsibility to oversee emergency operations, or any of the following individuals: the assistant to the Mayor, the building official, the city engineer, the director of public works, the fire chief, the police chief, or the utilities director;

~~(10)~~(9)Purchases of art for public places;

~~(11)~~(10)Purchases of food and drink for city-sponsored programs or events on public property, hotels, motels, or restaurants;

~~(12)~~(11)Where the city has competitively awarded a contract to a private sector contractor and the contractor has abandoned the project before completion or the local government terminated the contract;

~~(13)~~(12)Purchases of information technology and information technology systems, where such purchases do not entail the custom design of the technology (as distinguished from the configuration and installation of such). (Information technology means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, and electronically collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information or data of any kind or form. Information technology systems means any transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities, equipment, hardware, software, firmware, operations, integration, and networking.);

~~(14)~~(13)Such other instances which may from time to time arise where the city finds there is an overriding public interest to waive competitive bidding;

~~(15)~~(14)The procedures of this section shall not apply to purchases of material, equipment, supplies, services (including professional services), and the continuation of other business arrangements, where the city has an existing agreement and where the Mayor approves an adjustment to the rates or pricing established by such agreement; provided however, that such adjustments:

- a. May only be made once a year;
- b. May be made effective on a fiscal year basis;
- c. May not increase rates or pricing prior to the adjustment by more than ten (10) percent; and,
- d. May not increase rates or pricing such that the cumulative increase of administrative adjustments exceeds twenty (20) percent of the rates or pricing previously approved by the City Council.

Where an agreement has a fixed term with no provisions for further renewals, the Mayor may extend such term one (1) time as part of an adjustment; provided however, that such extension does not exceed the term of the original contract or the last renewal period (whichever is less), and where the extension permits the city to cancel the agreement without cause with ninety (90) days prior notice of such cancellation.

SECTION 3. Section 2-227 of Chapter 2 of the City's Code of Ordinances, Article IX entitled "Contracts and Purchasing", is hereby amended as follows:

Sec. 2-227. - Local business preference.

(a) *Definitions.* For purposes of this section, the following terms shall have the respective meanings as set forth in this subsection:

Business location means a permanent office or other use of property in which a vendor operates, conducts, engages in or carries on all or a portion of its business, provided that the mere use of a post office box shall not be sufficient to constitute a business location under this provision.

Local business means a vendor or contractor who has paid its local business tax to the City of Plantation at least six (6) months prior to bid or proposal opening date; does business in the city community by providing goods, services, or construction; and maintains a physical business address located within the jurisdictional limits of the city in an area zoned for the conduct of such business from which the vendor or contractor operates or performs business on a day-to-day basis. Post office boxes shall not be used for the purpose of establishing said physical address.

Qualified local business means a local business that satisfies the requirements under the bid or proposal guidelines to perform the services or goods requested.

Vendor means a sole proprietorship, partnership, corporation, limited partnership or limited liability company ~~corporation~~ or other recognized business entity that offers to contract with the city for either goods or services.

(b) *Procedure; notice of option to match lowest response.* The city shall give a preference to a qualified local business that responds to competitive procurement in the following manner:

- (1) If a qualified local business submits a response to one (1) of the city's competitive procurement processes set forth in section 2-220(b) (requests for sealed proposals) (but only where the procurement documents in a request for sealed proposals expressly indicates that the local business preference created by this section will be available), (d) (requests for competitive proposals), 2-220(e) (sealed bids in response to an invitation to bid), and 2-220(f) (design build projects which are procured using a competitive proposal process), or informal purchases in excess of the current amount of ~~three thousand five hundred sixty-nine~~ five thousand dollars (\$~~3,569~~ 5,000.00), as referenced and indexed in section 2-226(b) and as may be increased or decreased by authorized adjustments, and the original response of the qualified local business is within five (5) percent of the low response, then the city shall give the qualified local business the opportunity to meet the price of the low response. The order of preference by which the qualified local business shall be given the opportunity to match the low response shall be from the lowest to the highest response, as long as the initial response was within five (5) percent of the low response.

(d) *Exceptions.* The procurement preference set forth in this section shall not apply to any of the following purchases or contracts:

- (1) Goods or services provided under a cooperative purchasing agreement or interlocal agreement;
- (2) Purchases or contracts which are funded, in whole or in part, by a governmental entity where the laws, regulations, or policies governing such funding prohibit or prevent the application of the preference;
- (3) Purchases made or contracts let under emergency or noncompetitive situations;
- (4) Purchases with an estimated cost of less than the amount stipulated for informal bids, as referenced and indexed in section 2-226(b) (which is currently ~~three thousand five hundred sixty nine~~ five thousand dollars (\$3,5695,000.00)) and as may be increased or decreased by authorized adjustments;
- (5) Purchases or contracts procured utilizing procurement processes set forth in section 2-220(b) (requests for sealed proposals) (except where the procurement documents in a request for sealed proposals expressly indicates that the local business preference created by this section will apply) (c), (requests for qualifications), and (g) (design build projects and professional services contracts which are competitively procured using a qualifications based procurement process); and,
- (6) Notwithstanding the above, any purchase using any of the available procurement processes in this Code wherein the procurement documents expressly indicate that the local business preference set forth in this section shall not be available.
- (e) 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 justification and recommendation by the Mayor and approval of the City Council.
- (f) The preference established in this section does not prohibit the right of the City Council or the Mayor to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals.
- (g) The response preference established in this section does not prohibit the City Council, or Mayor, from giving any other preference permitted by law in addition to the preference authorized in this section.

SECTION 4. It is the intention of the City Council of the City of Plantation that the

provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the

City of Plantation, Florida. The Sections of this ordinance may be re-numbered, re-lettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

SECTION 5. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

SECTION 6. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 7. This Ordinance shall become effective upon passage and adoption and signature by the Mayor.


PASSED AT FIRST READING by the City Council this 17th day of November, 2021.

PASSED AT SECOND READING by the City Council this 8th day of December, 2021.

Signed by the Mayor this 8th day of December, 2021.

ATTEST:


April Beggerow
City Clerk


Lynn Stoner
Mayor

APPROVED

DATE

REQUESTED BY: _____

DEPT. OK: _____

ADMIN. OK: _____

ATTY. OK: _____

AS TO FORM ONLY

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Ordinance No. 2107 was received by the Office of the City Clerk and entered into the Public Record this 9th day of December, 2021.



April Beggerow, City Clerk