

## ORDINANCE NO. 14, 2017 SERIES

### AN ORDINANCE AMENDING THE CITY OF FRANKFORT CODE OF ORDINANCES, CHAPTER 38, Sections 38.01, 38.02 and 38.03 concerning purchasing and local preferences.

BE IT ORDAINED BY THE CITY OF FRANKFORT, KENTUCKY, that the following amendments to the City of Frankfort Code of Ordinances Chapter 38, Sections 38.01, 38.02 and 38.03 concerning purchasing and local preferences are hereby adopted.

#### § 38.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AVAILABLE LOCALLY.** One or more local businesses is capable of furnishing supplies or services in a timely manner, in sufficient quantity and of a quality substantially the same as similar supplies or services available from a non-local business.

**CITY.** The city, its members and the agencies or departments of the government, but shall not include any other county or constitutional officers or their agencies.

**LOCAL BUSINESS.** Any person, corporation, limited liability company, partnership or other business entity complying with the following:

- (1) The entity has an established physical office or place of business located within the jurisdictional limits of Frankfort or Franklin County, which is properly zoned and is not a post office address;
- (2) The entity is subject to the occupational license fee imposed by the city or the county and filed an occupational license fee return in the name of the business for two years immediately preceding the year in which the contract is to be awarded; and
- (3) The entity has no delinquent property taxes, occupational license fees, or any other outstanding liens, fines or fees due to the city (examples include sewer, code enforcement, garbage, mowing, etc.).

**NON-LOCAL BUSINESS.** A business which is not a local business.  
(-70 Code, § 3.20.010) (Ord. 10-98, 1998, passed 4-2-98)

#### § 38.02 PREFERENCES.

(A) Regardless of which procurement procedure is used to obtain supplies and services for the city, preferences shall be given to local businesses, as provided in this section.

(1) If it is determined that supplies or services are to be purchased by noncompetitive negotiations, as that term is used in KRS 45A.380, and the supplies or services are available locally, the city may enter into noncompetitive negotiations with a local business. A non-local business may be awarded a contract through noncompetitive negotiation only if no agreement can be reached with a local business or if the supplies or comparable services required are not available locally.

(2) If supplies or services are purchased in an amount less than the amount specified in KRS 424.260, the supplies or services may be purchased from a local business unless unavailable or the cost of the supplies or services exceeds by 5% or more the cost quoted by a non-local business.

(3) If supplies or services are to be purchased by competitive sealed bidding, as that term is used in KRS 45A.365, and the supplies or services are available locally, the bid price or cost quoted by each local business shall be reduced by 5% for the purpose of determining the lowest bid price. Nothing in this division shall be deemed to prohibit the awarding of contracts by the city on the basis of evaluated bid price, as that term is defined in KRS 45A.345.

(4) If supplies or services are to be purchased by competitive negotiation, as that term is used in KRS 45A.370, and the supplies or services are available locally, the offer price or cost quoted by each local business shall be reduced by 5% for the purpose of evaluating which offer is most advantageous to the city. In addition, it shall be considered an advantageous factor that an offeror is a local business.

(B) If a contract is for services, and a bidder or offeror will use subcontractors to perform all or part of the work required under the contract, the bidder or offeror, in order to qualify for the 5% preference under this section, shall not subcontract more than 20% of the work to non-local businesses unless the services are not available locally.

(C) In the event no bids or offers are received from a non-local business on any solicitation or where the supplies or services are not available from a local business, then the preference established herein shall not apply. Preferences shall not be allowed where the supplies or services required are not available locally.

(D) Each invitation for bids or requests for proposals shall state explicitly that preferences shall be afforded local business in accordance with the provisions of this subchapter.  
(-70 Code, § 3.20.020) (Ord. 10-98, 1998, passed 4-2-98)

#### § 38.03 DETERMINATION OF LOCAL BUSINESS STATUS

(A) No business shall be considered a local business for the purposes of this subchapter unless the business shall have qualified with the city's Purchasing Department as a local business. The procedure for qualification shall be as provided in this section.

(B) For each bid, proposal or other purchasing documents submitted, the Purchasing Agent shall determine whether a business

meets the criteria for qualification as a local business as defined in §38.01 above. The determination shall be made by referring to applicable and current city records and property tax records as of the date of the contract award. If a business meets the criteria for a local business, the Purchasing Agent shall certify the business as a local business and attach the certification to the bid, proposal or other purchasing documents used to determine the award of the contract

(C) The Purchasing Agent, if necessary, may seek additional information or proof from a business or other city departments and local agencies to assure that the business is entitled to the preference. The Purchasing Agent shall reevaluate local business status of all submitted bids, proposals or other purchasing documents each time a contract is awarded.

(-70 Code, § 3.20.030) (Ord. 10-98, 1998, passed 4-2-98)

First Reading on the 28 day of August, 2017.

Final Adoption on the 25 day of September, 2017.

Attest:

S/William I. May, Jr.  
T/Mayor

S/Chermie Maxwell  
T/City Clerk

SUMMARY: This ordinance amends the City of Frankfort Code of Ordinances, Chapter 83, Sections 38.01, 38.02 and 38.03 concerning the procedures for determining local business status for purposes of applying a local business preference. The definition of local business in §38.01 is amended to clarify business location requirements and to require that a local business have no outstanding delinquencies, liens, fines or other fees due to the city. Section 38.02 is amended to allow the city to determine whether it shall award a contract to a local business when bidding requirements do not apply to the purchase, and to remove the requirement that a bidder request the local business preference in its bid or offer. Section 38.03 is amended to remove the requirement that local businesses apply for local business status to obtain the preference, and to establish the procedure for the Purchasing Agent to determine local business status for each contract to be awarded.

S/Laura Milam Ross  
T/City Solicitor

Published by Title and Summary October 1, 2017.