



ORDINANCE NO. 2015-020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. CLOUD, FLORIDA, PROVIDING FOR LOCAL VENDOR PREFERENCE FOR OSCEOLA COUNTY INDIVIDUALS, FIRMS OR COMPANIES WITH REGARD TO THE PROCUREMENT OF PRODUCTS, MATERIALS AND SERVICES BY THE CITY OF ST. CLOUD; PROVIDING THAT QUALIFIED LOCAL VENDORS SHALL IN CERTAIN INSTANCES BE PROVIDED A LOCAL VENDOR PREFERENCE WITH REGARD TO THE NET BID PRICE IF THE LOCAL VENDOR IS OTHERWISE FULLY QUALIFIED TO MEET CITY REQUIREMENTS; PROVIDING THAT ALL OTHER PROVISIONS OF THE CITY'S PURCHASING POLICY AND APPLICABLE LAW SHALL REMAIN IN EFFECT AND APPLY TO AND GOVERN PURCHASES BY THE CITY; PROVIDING FOR SEVERABILITY, CONFLICT, EFFECTIVE DATE AND AUTOMATIC REPEAL.

WHEREAS, the City Council has determined and does hereby find that there is a continued need to promote business enterprises that own property, operate businesses and offices, employ individuals and pay taxes within Osceola County; and

WHEREAS, the City Council previously adopted Ordinance No. 2013-04 which contained an automatic repeal date effective March 28, 2015; and

WHEREAS, the City Council has determined that the local vendor preference policy adopted by Ordinance No. 2013-04 should continue for another two (2) years; and

WHEREAS, the City Council of the City of St. Cloud has determined and does hereby find that it is in the best interest of the City of St. Cloud, its citizens and the business community of St. Cloud and Osceola County to continue the local vendor preference with regard to the procurement of products, materials and services for a period of two (2) years.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of St. Cloud, Florida, as follows:

SECTION I. The City of St. Cloud Local Preference Purchasing Ordinance is hereby adopted and shall read as follows:

PREFERENCE

LOCAL PREFERENCE. There is hereby established a local vendor preference that shall apply to all purchases or acquisitions of products, materials and services of the City of St. Cloud, except as may be exempted herein or by applicable State or Federal Law.

- (1) "Local Preference" applies to Osceola County persons, firms, and/or corporations which meet the established criteria set forth below. The local preference is subject to the policies and procedures as established by the City of St. Cloud Purchasing Policy. In all purchases or acquisitions of products, materials and services by the City of St. Cloud, qualified Osceola County persons, firms, and/or corporations shall receive a local vendor preference. The local preference as set forth herein shall apply and shall result in the otherwise qualified local vendor being awarded the contract, at the amount of the submitted bid, if the local vendor's bid is the next lowest bid and the bid amount is within the applicable percentage of the lowest bid submitted by a non-local vendor, as set forth below.
 - (a) Five percent (5%) of the net bid price up to \$249,999.99, as referenced on the bid price schedule.
 - (b) Four percent (4%) of the net bid price from \$250,000.00 to \$999,999.99, as referenced on the bid price schedule.
 - (c) Three percent (3%) of the net bid price from \$1,000,000.00 to \$1,999,999.99, as referenced on the bid price schedule.
 - (d) Two percent (2%) of the net bid price of \$2,000,000.00 as referenced on the bid price schedule, up to a not-to-exceed local vendor preference of \$60,000.00.
- (2) To qualify as an "Osceola County person, firm, and/or corporation," a vendor must meet one of more of the following criterion:
 - (a) Have its headquarters, manufacturing facility, or locally-owned franchise located in, or having a street address within, the legal boundaries of Osceola County for at least one (1) year immediately prior to the issuance of the request for quotation, proposal or formal bid solicitation. (Post office boxes do not qualify as a verifiable business address.);
 - (b) Employs thirty percent (30%) or more full time employees whose primary residence is located within the legal boundaries of Osceola County; or
 - (c) The Owner/Principal of the business maintains his or her primary residence within the legal boundaries of Osceola County.
- (3) Unless the vendor has been pre-determined by the City to meet the above-referenced criterion, a Local Vendor Affidavit of Eligibility, in a form approved by City, shall accompany the quotation, proposal or bid submittal in order to be considered valid. The City at anytime, for purposes of validating eligibility hereunder, may request the vendor provide the following current information:
 - (a) A physical business address:

- (b) A copy of a current Osceola County Local Business Tax Receipt (formerly known as an “occupational license”) to verify the business location;
 - (c) Proof of payment of real and/or tangible property tax due to Osceola County;
 - (d) A copy of the firm’s or corporation’s articles of incorporation and its Florida Certificate of Incorporation. If the company is not incorporated, a list of names and addresses of all owners/partners and percentage of ownership for each as well as a fictitious name registration shall be provided;
 - (e) A complete list of all employees, an address for each employee, and proof of payment to each employee such as a payroll and/or cancelled check;
 - (f) Any additional information necessary to verify local status.
- (4) An Osceola County entity or individual that is awarded a contract by virtue of this local vendor preference shall maintain the above-referenced applicable criteria throughout the term of the awarded contract. As part of the contract, the individual or entity shall agree that if he, she or it no longer qualifies as an eligible Osceola County individual or entity, that it will credit the City under the applicable contract an amount equal to the percentage differential referenced above. The contract shall further provide that in the event that the amount owed under the terms of the contract at the time the individual or entity is determined to no longer be eligible for the preference herein, is less than the percentage differential, the individual or entity shall reimburse the City for the subject amount.
- (5) Exceptions to this policy shall include, but are not limited to, the following:
- (a) Purchases that are funded in whole or in part by assistance from any federal, state, or local agency that disallows local preference;
 - (b) Purchases made through a cooperative agreement (i.e., one or more agencies combining requirements in order to benefit from discounts that may be obtained through volume purchasing);
 - (c) Purchases made from another state, federal or other governmental agency’s agreements or contracts (i.e. piggy-backing);
 - (d) Purchases subject to Section 287.055, Florida Statutes, the Consultants’ Competitive Negotiation Act, as amended.
- (6) Procurements subject to formal proposal where price is not a primary factor and/or is not part of the criterion are not subject to local vendor preference; however, a firm’s location may be considered in the evaluation criterion.
- (7) Notwithstanding anything contained herein to the contrary, the City reserves its right to reject any bid received as non-responsive at any time prior to the award of a contract.

SECTION II. Severability. It is declared to be the intent of the City Council that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a 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 hereof.

SECTION III. Conflict and repeal. Any portion of the St. Cloud Code, the St. Cloud Land Development Code or any ordinance or resolution or part thereof in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION IV. Codification. The text of this Ordinance shall not be codified, provided, however, that a copy of this Ordinance shall be maintained in the Office of the City Clerk and the Purchasing Director.

SECTION V. Effective date and sunset date. This Ordinance shall be published as provided by law and shall become law and shall take effect on the date of its Second Reading and Final Passage and shall thereafter sunset and be automatically repealed two years from the date of its adoption.

First Reading this 9th day of April, 2015.
Second Reading this 23rd day of April, 2015.

PASSED AND ADOPTED by the City Council of the City of St. Cloud, Florida, this ___ day of April, 2015.

CITY OF ST. CLOUD



Rebecca Borders, Mayor

ATTEST:



Linda P. Jaworski, City Clerk

LEGAL IN FORM AND VALID IF ADOPTED
deBeaubien, Knight, Simmons, Mantzaris & Neal LLP



Daniel F. Mantzaris, City Attorney