

ORDINANCE NO. 26-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING SECTION 2-4 OF THE CITY CODE TO ALLOW PREFERENCES FOR LOCAL VENDORS AS TO CITY PURCHASES; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City spends significant amounts in purchasing personal property, materials, and contractual services, the dollars for which are derived, in large part, from taxes and fees imposed on local businesses; and

WHEREAS, the City Council has determined that funds generated from the community should, to the extent possible, be placed back into the local economy; and

WHEREAS, under the terms and conditions of this Ordinance, the City Council has determined that it is in the best interest of the City to give a preference to local businesses in making purchases whenever the application of such a preference is reasonable in light of the dollar value of proposals received in relation to such expenditures; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of Cocoa.

Section 2. **Code Amendment.** Chapter 2, Section 2-4, of the Code of Ordinances, City of Cocoa, Florida, is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from the Ordinance of text existing in Chapter 2, Section 2-4. It is intended that the text in Chapter 2, Section 2-4 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this ordinance.):

Sec. 2-4. Purchasing and contract procedures.

* * *

(e) In the letting of contracts for procurement of materials, supplies, equipment or services, the City shall give a preference to local businesses in the following manner:

(1) The City shall give a preference to local businesses located within Brevard County in an amount not to exceed 5% of the total bid price submitted by the local business. If the lowest bidder is not a Brevard County-based business and a local business has submitted a bid within 5% of the lowest bid, the local business bidder with the lowest bid within 5% shall be deemed the lowest bid upon written notice by the City, provided the local business responds in writing to the written notice by affirmatively agreeing to match the bid of the lowest bidder. Said written response agreeing to match the lowest bid must be delivered to the City no later than two (2) business days from the date that the City delivered the written notice. If the local business refuses to match the lowest bid or fails to timely respond to the City's written notice, the local business' bid shall not be adjusted.

(2) A business is considered a local business for purposes of this section if it has a permanent, physical business address located within the City or Brevard County limits, and such location is evidenced by a local business tax receipt that has been issued for at least six (6) months prior to the date that the bid was submitted to the City. A post office box shall not be considered a physical business address. Local businesses must provide documentation of their status at the time of bid submittal.

(3) The local preference policy shall not apply to the following purchases or contracts:

(i) Contracts or purchases in excess of one million dollars (\$1,000,000.00).

(ii) Contracts for professional services, including those awarded under the Consultant's Competitive Negotiation Act (Section 287.055, Florida Statutes).

(iii) Purchases or contracts which are funded, in whole or in part, by a governmental entity whose laws or regulations governing such funding prohibit application of a local vendor preference.

(iv) State or federal law prohibits the use of local preferences.

(v) Goods or services provided pursuant to a cooperative purchasing agreement.

(vi) When the City has waived competitive bidding requirements.

(vii) Purchases made or contracts let under emergency situations.

(viii) Purchases or contracts let under a bid or request for proposal which the City has expressly waived, in the invitation to bid or request for proposal, the requirements of this local preference policy.

(ix) The City has deemed the business unqualified to perform the work.

(x) The City rejects all bids or proposals.

(xi) All the bids exceed the City's budgeted amount for the project.

(4) The local preference requirements of this section do not prohibit the City from comparing the quality of materials proposed for purchase or prohibit the City from comparing qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. The City reserves the right to award contracts to the lowest and best bidder regardless of the application of any local preference.

(5) The City Manager will provide an annual report to the City Council in January summarizing the previous year's use of the local preference to award City contracts.

Section 3. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 4. Incorporation Into Code. This Ordinance shall be incorporated into the City Code for the City of Cocoa, and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 5. Update the City's Financial Operations Manual. This Ordinance shall be incorporated into the City of Cocoa Financial Operations Manual by the Finance Director.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the ____ day of _____, 2020.

Jake Williams Jr., Mayor

ATTEST:

Carie Shealy, City Clerk