

Sponsored by: Council
Introduction Date: February 25, 2014
Public Hearing Dates: May 27, 2014
June 10, 2014
Enactment date: June 10, 2014

CITY OF MARATHON, FLORIDA
ORDINANCE 2014-02

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA; AMENDING CHAPTER 2, ARTICLE VI, DIVISION 2 OF THE CODE OF THE CITY OF MARATHON, PERTAINING TO LOCAL PREFERENCE IN PURCHASING; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Marathon has adopted local preference regulations that provide for any local business that replies to a formal competitive sealed bid, request for proposals, or request for qualifications shall receive a preference bonus of ten percent (10%) during the tabulation of the proposals; and

WHEREAS, in some instances the local preference “bonus” can result in situations where the City pays more for goods or services because the top ranked proposer is not a “local business;” and

WHEREAS, the City desires to amend the local preference regulations to ensure the City procures goods and services on terms and conditions most favorable to the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:¹

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. Chapter 2, Article VI, Division 2 of the Code of Ordinances, City of Marathon, Florida, is hereby amended to read as follows:

Chapter 2- Administration
Article VI. – Finance
Division 2. Purchasing

¹ / Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

Sec. 2-168. Definitions.

For the purposes of this chapter, the following words will be defined as follows:

Local business shall mean a business with a current required Monroe County occupational license ~~or~~ and business tax receipt issued at least one year prior to bid or proposal opening; fifty percent (50%) or more of its workforce lives in the middle keys; and has its headquarters within the corporate limits of the City or has a place of business located within the corporate limits of the City, in an area zoned for the conduct of such business, at which it operates or on a day-to-day basis produces will produce the goods being purchased or perform the services being acquired by the City to be purchased. Post office box numbers or residential addresses alone may not be used to establish status as a local business. If a business is a joint venture, ~~it is sufficient for qualification as a local business if at least one (1) all~~ all of the joint venturers must meets the test set forth above to qualify as a local business.

Prime contractor means any person who has a contract with the City to provide construction services, equipment, labor, materials, professional services, sales, services and supplies.

Professional services shall mean services, the value of which is substantially measured by the professional competence of the person or persons performing them, and which are not susceptible to realistic competition of cost of service alone. Professional services shall include, but not be limited to, services customarily rendered by architects, engineers, attorneys, surveyors, certified public accountants and financial, personnel, systems, planning and management consultants.

Sec. 2-169. Preference for local businesses.

(a) Any prime contractor qualifying as a local business that replies to a formal competitive sealed bid request shall receive a preference bonus of:

10% for bids, proposals or quotations of \$0 - \$250,000

7% for bids, proposals or quotations of \$250,001 - \$500,000

5% for bids, proposals or quotations of \$500,001 - \$750,000

4% for bids, proposals or quotations of \$750,001 - \$1,000,000

2% for bids, proposals or quotation over \$1,000,000

~~ten percent (10%)~~ during the tabulation of the bid proposals. ~~After determining all qualified bidders, the preference bonus shall be calculated by multiplying all properly established local business bid amounts by 0.90.~~ After comparing these adjusted dollar amounts to all other qualified bidders, should the adjusted value establish the local business as the lowest qualified bidder, then the local business shall be awarded the bid at the original amount submitted. Preference shall be calculated based on the total bid or quote price, including any alternate or optional service or product in the bid or quote selected by the City.

- (b) If a prime contractor that does not qualify as a local business subcontracts fifty percent (50%) or more of the construction services, equipment, labor, materials, professional services, sales, services or supplies to one or more local businesses as defined herein, the prime contractor shall be given one-half of the preference afforded local prime contractors as described in this section 2-169 (a) hereinabove.
- (c) Any local business that submits a proposal or statement of qualifications as part of a request for proposals or qualifications process may be given a preference by the City of up to five (5) additional points in the overall scoring system if the evaluation criteria includes evaluation factors that recognize a preference for local businesses; such as, but not limited to, use of local workforce, response time, knowledge and compliance with local regulations, and local references, shall receive a preference bonus of ten percent (10%) of the overall points received by such local business as part of the evaluation and scoring process. Based upon an analysis of the market place for each project, City staff shall make a determination for inclusion of a local preference in the criteria for consideration for each request for proposal or statement of qualifications.
- (d) ~~Any local business that submits a proposal as part of a request for qualifications process shall receive a preference bonus of ten percent (10%) of the overall points received by such local business as part of the evaluation and scoring process.~~
- (d) ~~If a local preference is to be employed as provided for by this section, the invitation for bid documents, the request for qualifications documents, or the request for proposal documents shall set forth such local preference requirements.~~

Sec. 2-170. Applicability and exemptions.

- (a) The local preference shall apply to the purchases of construction services, equipment, labor, materials, professional services, sales, services and supplies material, supplies, equipment, improvements or services in for which the City either solicits competitive, sealed bids, issues a request for proposals, or issues a request for qualifications.
- (b) The local preference provided for by this chapter shall not be applied where application of the preference would conflict with a statute, administrative rule, or the terms of any grant funding the purchase or contract, or in the event of an emergency or sole source purchase.
- (c) The With regards to contracts for professional services, the provisions of this chapter may be waived by the City Council upon the written recommendation of the City Manager that waiving the local preference is in the best interest of the City. The provisions of this chapter may be waived by the City Manager for purchases below the award authority of the City Council upon the written recommendation of the affected department director that waiving the local preference is in the best interest of the City. If the provisions of this chapter are waived for a particular award, the

~~professional services~~ construction services, equipment, labor, materials, professional services, sales, services and supplies may be selected based on experience, skill, education, recommendations or any other qualifications the Council or City Manager finds relevant.

- (d) Should Monroe County extend preferences similar to those set forth herein to vendors whose business locations are within the geographic boundaries of the City, the preferences set forth herein shall be extended and made available to vendors whose business location is within the geographic boundaries of Monroe County. In no event shall the amount of the preference accorded by the City to non-Marathon vendors exceed the amount of preference that Monroe County extends to Marathon vendors competing for its contracts.

Sec. 2-171. Enforcement and penalties.

- (a) A prime contractor granted a local business preference under this section resulting in a written contract with the City shall stipulate to maintaining its status as a local business throughout the term of the contract, including subcontractors for which local preference is granted. This requirement shall be included in the contract between the prime contractor and subcontractor.
- (b) A prime contractor seeking a local business preference under this chapter shall be required to disclose all subcontractors in its bid or proposal and stipulate to continued utilization of subcontractors for which local preference is granted under this chapter in any resulting contract unless approved in writing by the City and without change in price.
- (c) A vendor who misrepresents the local business status of its firm in a bid or proposal submitted to the City will lose the privilege to claim local business preference status for a period of up to one year from the date of the award of the contract or upon completion of the contract whichever is greater. The City Manager, in his discretion, may also recommend that the firm be referred for suspension of eligibility to claim the privilege of local preference.
- (d) Any vendor that does not maintain its local business status or its 50 percent (50%) minimum subcontracting of local businesses which resulted in the awarded contract shall be in breach of contract and will be subject to termination of the contract, suspension of payments under the contract, loss of the local preference status on the contract awarded, and lose the privilege to claim local business preference status as set forth in subsection (c) above.

Section 3. The provisions of the Marathon Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. This Ordinance shall be effective immediately upon enactment.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10TH DAY OF JUNE, 2014.

THE CITY OF MARATHON, FLORIDA



Dick Ramsay, Mayor

AYES: Bartus, Bull, Senmartin, Keating, Ramsay
NOES: None
ABSENT: None
ABSTAIN: None

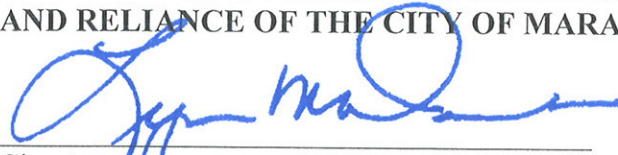
ATTEST:



Diane Clavier, City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



City Attorney