

RESOLUTION NO. 2020-474

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE REVISED AND RESTATED PURCHASING PROCEDURE MANUAL, SECTION III OF THE COUNTY ADMINISTRATIVE CODE, TO INCLUDE A LOCAL PREFERENCE.

RECITALS

WHEREAS, the Board of County Commissioners requested for the inclusion of a local preference in the County's purchasing policy; and

WHEREAS, on September 15, 2020, the Board provided direction as to the parameters of the local preference policy, allowing for consideration of local vendors in the procurement process, provided specified requirements are met; and

WHEREAS, Staff has drafted the local preference policy, based upon the direction provided by the Board on September 15, 2020, for inclusion in the SJC Purchasing Procedure Manual, as section 302.25; and

WHEREAS, the SJC Purchasing Procedure Manual has been revised and restated to include a local preference policy.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The Board of County Commissioners hereby approves the local preference policy for inclusion into the revised and restated SJC Purchasing Procedure Manual.

Section 3. The Board of County Commissioners additionally approves implementation of the local preference policy beginning on January 1, 2021.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this day of December, 2020.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

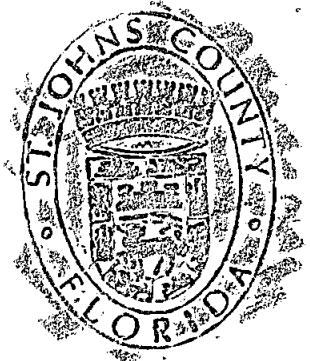
By: Henry Dean

Henry Dean, Vice Chairman

ATTEST: Brandon J. Patty, Clerk of the Circuit Court & Comptroller

By: Sam Halterman  
Deputy Clerk

RENDITION DATE 12/3/20



**Section 302.25 Local Preference.**

(1) **Definitions.** As used in this section, the following words and terms shall have the following meanings.

- (a) *Construction services* means all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improves to a County facility or real property.
- (b) *Services* means all labor, materials, and support provided in connection with performance of work, either on-site or remote, in order to achieve specific objectives and/or outcomes, that does not include Construction Services, which requires specialized knowledge, experience, and/or expertise.
- (c) *Commodities/Goods* means supplies, equipment, materials, printed matter and/or other tangible items or products that may or may not be affixed to County facilities.
- (d) *Local business* means a Vendor that meets the following criteria:
  - i. Must have a physical, brick and mortar place of business located within the geographic boundaries of St. Johns County, with a valid mailing address, in an area zoned for the conduct of such business, from which the Vendor has operated or performed business on a day-to-day basis that is substantially similar to those specified in the solicitation, for a period of at least one (1) calendar year prior to the issuance of a solicitation. Post Office Boxes shall not be considered an acceptable physical address.
  - ii. Must have the physical/ mailing address of the above place of business registered with the Florida Department of State as its principal place of business for at least one (1) calendar year prior to the issuance of the solicitation.
  - iii. Must have a current and valid Local Business Tax Receipt issued by the St. Johns County Tax Collector, and must have Local Business Tax Receipts issued by the St. Johns County Tax Collector from at least one (1) calendar year prior to the issuance of a solicitation, unless Vendor is otherwise exempt from the requirement of a Local Business Tax Receipt in St. Johns County.
  - iv. For construction services and services, must perform a minimum of fifty percent (50%) of all work specified under a procurement with local business resources. Fifty percent (50%) of all work must equal fifty percent (50%) of the contract price.
- (e) *Prime Bidder/Respondent* means any entity that submits a response to a solicitation with the intent to provide specific construction services, sales, supplies, materials, professional services, labor and/or equipment.
- (f) *Prime Contractor/Vendor* means any entity that contracts directly with the County to provide specific services, perform construction services, or provide commodities/goods.
- (g) *Sub-contractor* means any entity providing goods and/or services to a Prime Contractor for profit, if such goods and/or services are procured or used in fulfillment of the Prime Contractor's obligations arising from a contract with the County, except persons providing

goods to a Prime Contractor whose contract with the County is for the provision of materials, equipment or supplies.

(2) **Local Preference Procedure.** Except where otherwise provided by federal or state law, or other funding source restrictions, procurement of commodities/goods, construction services, shall give preference to local businesses in the following manner:

(a) **Preference in Informal Quotes and Formal Sealed Bids.** In the procurement of commodities/goods, construction services, or services, through the use of informal quote or formal sealed bid, St. Johns County shall give a preference to the lowest, local bidder, if the lowest, local bid is within ten percent (10%) of the lowest non-local responsive and responsible bid/quote. The local low bidder within ten percent (10%) of the lowest non-local responsive and responsible bid/quote shall have an opportunity to match the lowest non-local bid/quote within forty-eight (48) hours of receipt of the bid/quote. If the local low bidder agrees to match the non-local low bid/quote, the local low bidder shall be recommended for award, provided the local low bidder otherwise fulfills all requirements of the bid/quote. In the event there is a tied low bid between a local and non-local bidder, the local bidder shall be recommended for award, provided all other requirements and qualifications are met by the local bidder.

(b) **Preference in Requests for Proposals or Requests for Qualifications.** In the procurement of goods, construction services, or services through a Request for Proposals or Request for Qualifications, St. Johns County shall give a preference for Respondents that meet the definition of "local business" by awarding ten (10) points out of the total score for each evaluator. The points for local business shall be calculated and provided to evaluators by SJC Purchasing. In solicitations where multiple stages of evaluation may be included, local preference shall only be included in the first stage of evaluation.

(c) **Preference in Single or Sole Source Procurements.** In the purchase of commodities/goods, construction services, or services through a single source or sole source procurement, St. Johns County may include a local preference in the event submittals are received in response to a single source/sole source posting. If a submitting Vendor satisfies all requirements and qualifications necessary to meet the specified need of St. Johns County, a local vendor may be given the opportunity to match the price of a non-local vendor, if the non-local vendor's price is lowest. In the event the single or sole source purchase includes considerations of a proprietary nature, or other factors which would preclude consideration for alternate vendors or proposals, the County may elect not to include local preference consideration for any single or sole source procurement as necessary to best serve the needs of the County.

(3) **Waiver.** The County Administrator, or designee may waive the inclusion of local preference policy in any procurement, in order to best serve the needs of St. Johns County. Waiver of local preference for any procurement shall be made, in writing, by the County Administrator, or designee with justification as to why inclusion of local preference does not serve the best interests of St. Johns County. Waiver of the application of the local preference is based upon analysis of the marketplace and in consideration of the special or unique quality of the goods, construction services, general services or professional services sought to be purchased by the County.

(4) **Notice.** Notice of the local preference policy shall be provided in any procurement document being issued for response from vendors.

(5) **Exceptions.** The local preference set forth in this policy shall not apply to the following:

- (a) Purchases or contracts that are funded, in whole or in part, by assistance of any federal, state or local agency that prohibits the application of local preference.
- (b) Purchases or contracts that are funded, in whole or in part, with funds that governed by or subject to laws, regulations, rules and/or policies that prohibit the application of local preference.
- (c) Goods or services purchased under a cooperative purchasing agreement, state contract or interlocal agreement.

(6) **Penalties.**

- (a) *Misrepresentation.* A vendor who misrepresents the information by which its firm qualifies for local preference in a quote, bid, proposal, or qualification package submitted to the County shall lose the privilege to claim local preference status for a period of time to be determined by the County Administrator, but that shall not exceed one (1) year from the date of award of a contract, or date of completion of a contract, whichever is longer, unless additionally approved by the Board of County Commissioners.
- (d) *Failure to maintain local business preference qualifications.* Any vendor that does not maintain its qualification as a local business or minimum performance by local businesses (if applicable) that resulted in the awarded contract will be in breach of contract and, in the County's sole discretion, be subject to termination of the contract, suspension of payments under the contract, and/or loss of the privilege to submit for local preference.
- (e) *Lack of good faith.* A vendor may show that it attempted through reasonable and objective means and in good faith to comply with the terms of the contract relating to local business preference but was unable to comply. If the County, in its sole discretion, determines that a vendor has failed to act in good faith in establishing or maintaining local preference to secure or perform work required under a contract, all amounts paid to the vendor under the contract intended for expenditure with the local business may be forfeited and recoverable by the County. Additionally, the contract may be rescinded and the County may return all or a portion of the goods received and recover all amounts paid under the contract for the goods which were returned.