

RESOLUTION NO. 8493

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, REVISING AND AMENDING THE RULES FOR LOCAL VENDOR PREFERENCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Leesburg has heretofore adopted and amended formal policies for the purchase of items or services, and

**WHEREAS**, the City of Leesburg on December 9, 2006 adopted resolution 6710 which restated provisions for “local vendor” preference, and

**WHEREAS**, the City of Leesburg desires by means of this resolution to revise and amend the rules of “local vendor” preference, and

**WHEREAS**, this resolution in its entirety shall supersede and replace all previous resolutions or sections of resolutions that address policy related to “local vendor preference”.

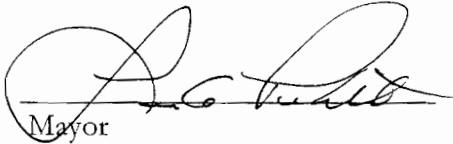
**NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:**

**THAT** the commission recognizes local business and businesses with a local presence contribute to the Leesburg economy through spending, employment, and civic involvement. The commission further recognizes City staff and elected officials must be vigilant and be good stewards of taxpayer money. These two functions must be balanced and not conflict with one another.

**THAT** the attached policy will define and outline the application of a local business and local presence favor and is hereby adopted in replacement of the policy formerly promulgated under Resolution 6710.

**THAT** this resolution shall become effective immediately.

**PASSED AND ADOPTED** by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 27th day of July 2009.



Mayor

ATTEST:



City Clerk

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## LOCAL BUSINESS ENTERPRISE (LBE) POLICY

1. **Definitions** - For purposes of implementing this policy the following definitions are made:
  - a. **“Purchasing Threshold Categories”** - For the purchase of all items or services the categories and associated dollar values are restated here. The dollar value is for the total purchase cost of all items in the transaction, not individual items.
    - i. Category I: Items or services costing less than \$1,000
    - ii. Category II: Items or services costing \$1,000 and over but less than \$5,000
    - iii. Category III: Items or services costing \$5,000 and over but less than \$10,000
    - iv. Category IV: Items or services costing \$10,000 and over but less than \$25,000
    - v. Category V: Items or services costing \$25,000 and over.
  - b. **“City of Leesburg”** shall be defined to mean within the city limits or boundaries of the City of Leesburg, Florida;
  - c. **“Utility Area”** shall be defined to mean within the area served by one of the following City of Leesburg owned and operated utilities:
    - i. Electric Utility
    - ii. Water Utility
    - iii. Wastewater Utility
    - iv. Reclaimed Water Utility
    - v. Natural Gas Utility
    - vi. Solid Waste
  - d. **“Utility Service”** is defined to mean the individual or business currently receives utility services from the City of Leesburg, as either a property owner or tenant of a rented or leased property. For the purposes of this policy, the Communications Utility is excluded due to its services extending outside the 20-mile radius.
  - e. **“20-Mile Radius”** is defined to mean the primary business office or a full time sales office of the vendor is located within a 20 mile radius of City Hall located at 501 W. Meadow Street, Leesburg, Florida 34748. The 20-mile radius will be determined and verified through the City Geographical Information System (GIS) Division.
  - f. **“Local Business Enterprise”** will be defined as follows:
    - i. the primary business office or a full time sales office of the vendor is located within the Leesburg City Limits;
    - ii. the primary business office or a full time sales office of the vendor is located within the City of Leesburg utility services area AND the vendor has an active customer account for one of the utility services previously listed;
    - iii. the primary business office or a full time sales office of the vendor is located within a 20-mile radius of Leesburg City Hall located at 501 W. Meadow St., Leesburg, FL 34748.

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- iv. A 'home office' for a business' sales representative does not qualify as a full time sales office.
  - g. **"Attest"** shall mean the contractor has submitted a notarized affidavit as provided in the bid documents showing sub-contractors and/or material suppliers along with the requested information and dollar value for each.
  - h. **"Qualified Local Business Enterprise"** is used only for Category V public works projects. A contractor, local or non-local, can be 'local qualified' if at least 51% of the total project cost will be paid to Local Business Enterprise sub-contractors and/or material suppliers. 'Qualified' does not speak to the ability of the contractor. Qualified indicates a contractor has met the requirements to be deemed a "Qualified Local Business Enterprise".
  - i. **"Professional services"** includes any services where the City is obtaining advice, instruction, or specialized work from an individual, firm, or corporation specifically qualified in a particular area.
  - j. **"General services"** means support services performed by an independent contractor requiring specialized knowledge, experience, or expertise that includes, but is not limited to, pest control, janitorial, laundry, catering, security, lawn maintenance and maintenance of equipment.
  - k. **"Goods or personal property"** includes, but is not limited to, supplies, equipment, materials and printed matter.
  - l. **"Public Work"** is any construction or engineering project carried out by the City of Leesburg on behalf of its' citizens. The projects may include but not be limited to buildings or infrastructure such as roads, utilities and parks.

## 2. Preference Categories

- a. **Categories I, II, III (less than \$10,000.00)** – Favor will be given to a local business under Categories I, II, and III if the quote of the local business is no more than 5% greater than the low quote of a non-local business. This applies to the purchase of both goods and services.
- b. **Category IV (\$10,000.00 to \$24,999.99)** – Favor will be given to a local business under Category IV if the quote of the local vendor is no more than 2% greater than the low quote of a non-local business. This applies to the purchase of both goods and services.
- c. **Category V – Goods or Personal Property (\$25,000.00 and Greater)** - Purchase of personal property, general services, and professional services under Category V by means of competitive bid, request for proposals, qualifications or other submittals and competitive negotiation and selection. Except where federal or state law/requirements mandate to the contrary, special assistance shall be given to Local Business Enterprises in the following manner:

- i. Competitive solicitation. When a responsive, responsible non-local business submits the lowest price bid, and the bid submitted by one or more responsive, responsible Local Business Enterprises is within ten percent (10%) of the price submitted by the non-local business, then that non-local business and each of the aforementioned Local Business Enterprises shall have the opportunity to submit a best and final bid/offer equal to or lower than the amount of the low bid previously submitted by the non-local business. Contract award shall be made to the responsive, responsible business submitting the lowest best and final bid/offer.
- ii. In the case of a tie in the best and final bid/offer between a Local Business Enterprise and a non-local business, contract or purchase award shall be made to the local business. Should there be a tie between one or more Local Business Enterprises the Local Business Enterprise closest to City of Leesburg City Hall located at 501 West Meadow St. as determined by the Purchasing Manager shall be awarded the contract or purchase.

**d. Category V - Public Works Projects (\$25,000.00 and Greater)**

- i. Favor is given to a Qualified Local Business Enterprise contracting for public works projects under Category V if the quote of the Qualified Local Business Enterprise is no more than 1% greater than the bidder submitting the lowest bid which is neither a Local Business Enterprise nor a Qualified Local Business Enterprise, providing all other conditions are equal. For the purpose of this policy Qualified Local Business Enterprise for public works projects under Category V is defined as follows:
  1. A contractor will be categorized as a Qualified Local Business Enterprise if they have attested through a notarized affidavit they will use at least 51% Local Business Enterprise sub-contractors and/or material suppliers for the subject project.
  2. A Local Business Enterprise must also use no less than 51% sub-contractors and material suppliers who are also Local Business Enterprises.
  3. If the business submitting the bid is a Local Business Enterprise that does not require the use of sub-contractors, they will use their own forces to complete the work, their primary Local Business Enterprise status will warrant them being a local qualified business or contractor.
  4. Qualification as a Local Business Enterprise applies only to the current solicitation. A contractor must qualify for each solicitation for which they are submitting a bid.
- ii. Verification and Audit Procedure – The Purchasing Manager will establish a procedure for the local business qualification which will include at a minimum:
  1. an affidavit to claim the 51% sub-contractors and/or suppliers;
  2. a audit process to verify the attested sub-contractors and/or suppliers qualify as Local Business Enterprises;

3. an audit process to verify the attested sub-contractors and/or suppliers are in fact being used;
  - a. Contractors may use alternate sub-contractors and/or suppliers if approved by the Purchasing Manager and the changes meet the 51% requirement.
- iii. Penalty for Non-Compliance – If the awarded contractor, after being local business qualified and awarded the 1% preference, does not meet the 51% requirement for sub-contractors and material suppliers in performance of the contract a penalty may be assessed by the Purchasing Manager.
  1. A penalty equal to 1% of the original awarded project cost may be assessed. This amount is the value of the preference they received during bid evaluation.
  2. This amount will be withheld from any retainage or final payments owed to the contractor.
  3. If final payment and all retainage has been paid, a demand will be made for the contractor to pay the assessed penalty to the City and the penalty will bear interest at the rate of 1% per month until paid in full. If the City is required to initiate legal action to collect the penalty it shall be entitled to recover its reasonable attorneys' fees.
- iv. Reporting – The Purchasing Manager will report to the commission on a quarterly basis the results of completed public works projects and the effects of the 'local qualified business' policy.
- e. **Category V – Professional Services (\$25,000.00 and Greater)** - Procurement of Professional Services as governed by State of Florida statute 287.055 - Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; better known as the “Consultants Competitive Negotiation Act (CCNA)”.
  - i. State of Florida statute 287.055 section (4)(a) provides for 'location' as a factor in the competitive selection.
  - ii. Under this policy, a Local Business Enterprise may be awarded a point preference. This preference may be awarded under the following circumstances as determined by the Purchasing Manager.
    1. The location of the professional provides a benefit for a better understanding and knowledge of local conditions, or
    2. The location of the professional will result in lower costs to the City due to the nature of the project or work to be performed has statutes directing the procurement of Professional Services.
    3. The number of points awarded for the Local Business Enterprise preference must be stated in the evaluation criteria section of the solicitation document when issued.
- f. **Category V – RFP or RFQ for Services (\$25,000.00 and Greater)** – Procurement of services using a Request for Proposal/Qualification not governed by State of Florida statute 287.055.

- i. Under this policy, when a Request for Proposal or Request for Qualifications is used to procure services:
      1. costing \$25,000 or greater,
      2. not governed by State of Florida statute 287.055, and
      3. not a Public Works Project.
    - ii. A Local Business Enterprise may be awarded a point preference.
    - iii. The number of points awarded for the Local Business Enterprise preference must be stated in the evaluation criteria section of the Request for Proposal or Request for Qualification document when issued.
3. **Manufacturers Representative** – The City conducts business in our utilities that involves a manufacturer and their representative. The cost of goods sold, or payment is made to the manufacturer. The City recognizes this relationship as standard practice in some industries. This policy is applied in the following situations:
  - a. This policy is applicable to a Local Business Enterprise having an established relationship with a manufacturer as a Manufacturer’s Representative, Manufacturers Agent, or Manufacturers Agency.
  - b. The Local Business Enterprise must demonstrate an acceptable history of their relationship with the manufacturer.
4. **Suspension of Policy**
  - a. Application of this policy may be waived in the following circumstances:
    - i. Emergency Event – If an emergency event is declared by the City application of this policy may be suspended by the Purchasing Manager.
    - ii. Emergency Purchases – This policy may be waived on purchases deemed an ‘Emergency Purchase’ as defined in the City of Leesburg Code of Ordinance.
    - iii. Increased Participation - This policy may be waived by the Purchasing Manager if doing so would increase participation in a specific solicitation.
    - iv. Best Interest of the City – The Purchasing Manager may waive application of this policy if doing so is in the best interest of the City.