

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2 (ADMINISTRATION), ARTICLE 1 (IN GENERAL) OF THE CODE OF THE CITY OF FORT WORTH (2015), AS AMENDED, BY REVISING SECTION 2-14, RELATING TO LOCAL CONTRACTING PREFERENCES, TO MIRROR STATE LAW IN REGARD TO LOCAL PREFERENCE IN LOW BID PROCUREMENTS AND TO PROVIDE FOR THE POSSIBILITY OF A LOCAL PREFERENCE IN BEST VALUE PROCUREMENTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL PRIOR ORDINANCES AND REPEAL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Fort Worth (“City”) is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, Sections 271.905 and 271.9051 of the Texas Local Government Code allow for use of local contracting preferences in low-bid procurements provided that the local bidder submits a bid within a specified percentage of the lowest bid and offers the best combination of contract price and additional economic development opportunities, including the employment of city residents and increased tax revenues to the city; and

WHEREAS, Section 252.043 of the Texas Local Government Code allows the City to award to the bidder who provides goods or services at the best value for the City and, in determining best value, to consider any relevant criteria specifically listed in the request for bids; and

WHEREAS, the City Council finds that awarding more contracts to local businesses can provide additional value to the City in the form of increased local capacity that allows the City to: (1) maintain and expand an able and competitive pool of businesses from which to procure goods and services; (2) improve employment opportunities for City residents; and (3) increase tax revenues to the City; and

WHEREAS, the City Council finds that the principal place of business of a business can be a relevant best-value criterion in encouraging local business capacity, and employment opportunities and increasing the tax base;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS THAT:

SECTION 1.

Chapter 2, "Administration," Article I, "In General," Section 2-14 "Procedures For Granting Local Preferences in Purchasing and Contracting for Certain Personal Property and Services" of the Code of the City of Fort Worth (2015), as amended, is hereby revised to retitle subsection (b) and (c), add new subsections (d) and (e), to re-designate current subsection (d) as subsection (f) and amend same and to re-designate current subsection (e) as subsection (g), with such revisions to read as follows:

§ 2-14 PROCEDURES FOR GRANTING LOCAL PREFERENCES IN PURCHASING AND CONTRACTING FOR CERTAIN PERSONAL PROPERTY AND SERVICES.

....

(b) *Contracts for personal property or services in an amount greater than \$50,000 and less than \$500,000 using lowest responsible bidder criteria.*

....

(c) *Contracts for personal property in an amount equal to or greater than \$500,000 using lowest responsible bidder criteria.*

....

(d) Contracts for construction services in an amount between \$50,000 and \$99,999.99 using lowest responsible bidder criteria. In purchasing any construction services, if the city receives one or more competitive bids from a bidder that is a local business and whose bid is within five percent (5%) of the lowest bid price received by the city from a bidder that is not a local business, the city may enter into a contract in an amount greater than fifty thousand dollars (\$50,000.00) but less than ninety-nine thousand nine hundred ninety-nine dollars and ninety-nine cents (\$99,999.99) with:

- (1) the lowest responsible bidder; or
- (2) a responsible bidder that is a local business as defined herein, provided the City Council determines that awarding to the local bidder offers the city the best combination of contract price and economic development opportunities.

(e) Contracts for services, construction services, or personal property procured using the best value criteria. The City finds that awarding more contracts to local businesses can provide additional value to the City in the form of increased local capacity that allows the City to: (1) maintain and expand an able and competitive pool of businesses from which to procure goods and services; (2) improve employment opportunities for City residents; and (3) increase tax revenues to the City. Therefore, when procuring any services, construction services, or personal property that is not affixed to real property, in determining the best

value for the City, the City may consider, in addition to other relevant criteria as may be determined by the City:

The bidder's principal place of business, if specifically included in the request for bids or proposals.

~~(d)~~ (f) *Exceptions.*

...

(a) Personal property that is not affixed to real property or services that are not acquired pursuant to Tex. Local Government Code Title 8; or

(b) Professional services.

~~(c) Construction services.~~

...

~~(e)~~ (g) Rejection of all bids. This section does not prohibit the city from rejecting all bids.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil and criminal, whether pending in court or not under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of these ordinances are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance is declared void, ineffective, or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality will not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, because the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective, or unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 5.

All ordinances for which provisions have been made are hereby expressly repealed if in conflict with the provisions of this ordinance.

SECTION 6.

This ordinance takes effect after adoption.

APPROVED AS TO FORM AND LEGALITY:

ATTEST:

Taylor Paris
Assistant City Attorney

Jannette S. Goodall, City Secretary

ADOPTED: _____

EFFECTIVE: _____