

ORDINANCE NO. 5912

PROPOSED ORDINANCE NO. 21-059

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA RELATING TO THE PURCHASING OF GOODS AND SERVICES; MAKING FINDINGS; AMENDING ORDINANCE NO. 5850 TO MODIFY THE PREFERENCE GRANTED TO LOCAL BUSINESSES FOR THE PROCUREMENT OF GOODS AND SERVICES PURSUANT TO REQUESTS FOR PROPOSALS, REQUESTS FOR QUALIFICATIONS AND SIMILAR PROCUREMENT METHODS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lakeland Purchasing Division, pursuant to Ordinance No. 5850, provides a purchasing preference for the procurement of goods and services from local businesses, including in situations utilizing Requests for Proposals ("RFP's"), Requests for Qualifications ("RFQ's") and similar evaluation processes; and

WHEREAS, the City Commission wishes to modify the preference given to local vendors for RFP's, RFQ's and similar procurements from a flat point basis to a percentage basis in order to provide more consistency from procurement to procurement;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA:

SECTION 1. The foregoing findings are true and correct and are incorporated herein by reference and made a part hereof.

SECTION 2. City of Lakeland Ordinance No. 5850 is hereby amended as follows:

Local Preference

A. **Definition of *Local Business*.** A Local Business shall be defined as a vendor, supplier or contractor that: (i) conducts business within the jurisdictional limits of Lakeland Electric's service territory by providing goods, services or construction; (ii) maintains a physical business location within the jurisdictional limits of Lakeland Electric's service territory in an area legally zoned for conducting such business; (iii) conducts business on a daily basis from the local business location; (iv) has conducted business from such location for at least twelve (12) consecutive months prior to the due date for the applicable bid or proposal; and (v) provides a copy of its local business tax receipt, if located within the City of

Lakeland, or a copy of its Polk County local business tax receipt, if located outside of the City limits but within Lakeland Electric's service territory.

B. Local Preference Policy. Except as provided herein or otherwise provided by federal or state law, or due to other funding restrictions, the City shall give preference to local businesses for purchases of goods, general services, construction services and professional services in the following manner:

1. *Competitive Quote or Bid Solicitation.*

a. When written quotations or sealed bids received do not exceed \$250,000* and the lowest price offered is not by a local business, but a local business is within ten percent (10%) of the lowest price offered, then the local business will be awarded the quotation or bid.

b. When sealed bids received exceed \$250,000 and are up to \$500,000* and the lowest price offered is not by a local business, but a local business is within seven and one-half percent (7.5%) of the lowest price offered, then the local business will be awarded the bid.

c. When sealed bids received exceed \$500,000 and are up to \$1,000,000* and the lowest price offered is not by a local business, but a local business is within five percent (5%) of the lowest price offered, then the local business will be awarded the bid.

d. When sealed bids received exceed \$1,000,000* and the lowest price offered is not by a local business, but a local business is within two and one-half percent (2.5%) of the lowest price offered, and provided the difference in price does not exceed \$100,000, then the local business will be awarded the bid.

e. The total quote or bid price shall include the base bid price and any additions to the base bid price resulting from alternates which were part of the bid and awarded by the City.

f. Notwithstanding the foregoing, award shall only be made to responsive and responsible bidders that are fully qualified and otherwise meet all City requirements.

g. In the event two or more local businesses offer prices that are within the above local preference percentages, award shall be made to the local business offering the lowest price that is otherwise responsive, responsible and fully qualified to meet all City requirements.

2. *Other Types of Competitive Solicitations.* For all other competitive solicitations such as Requests for Proposals, Requests for Qualifications, Letters of Interest or other competitive negotiations and selections for which objective factors are used

to evaluate responses by assigning point totals, local businesses shall be assigned ~~ten (10)~~ additional points equivalent to five percent (5%) of their total combined evaluation score.

* Based upon the lowest bid.

C. Exceptions to Local Preference Policy.

1. The Local Preference Policy established herein shall not apply to any of the following:

a. Goods or services provided under cooperative, state, federal or interlocal agreements;

b. Purchases or agreements which are funded, in whole or in part, by federal, state or other grant funds where such funding prohibits application of local preference;

c. Emergency or sole source purchases; or

d. Purchases for professional services which are subject to Florida Statute §287.055, the Consultant's Competitive Negotiation Act.

2. Application of the City's Local Preference Policy to a particular purchase, contract or other procurement may be waived upon written recommendation by City staff and approval by the City Commission.

3. The City's Local Preference Policy does not prohibit the right of the City to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and to compare qualification, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals and to procure goods and services based upon the best interest of the City.

4. The Local Preference Policy established herein does not prohibit the City from granting any other preference permitted by law, in addition to the preference authorized herein.

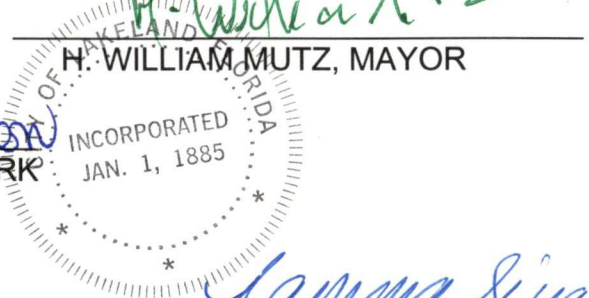
D. Enforcement of a Local Preference Policy. The Local Preference Policy established herein is not intended, nor shall it be construed, to create a private cause of action in favor of a Local Business otherwise entitled to selection for the provision of goods or services to the City under the provisions of this Ordinance.

SECTION 3. If any word, sentence, clause, phrase, or provision of this Ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

SECTION 4. This Ordinance shall take effect immediately upon its adoption.

PASSED AND CERTIFIED AS TO PASSAGE this 3rd day of January, A.D. 2022.

[Handwritten signature in green ink]



H. WILLIAM MUTZ, MAYOR

ATTEST: *[Handwritten signature in blue ink]*
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS: *[Handwritten signature in blue ink]*
PALMER C. DAVIS
CITY ATTORNEY