

ORDINANCE NO. 5850

PROPOSED ORDINANCE NO. 20-043

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA RELATING TO THE PURCHASING OF GOODS AND SERVICES; MAKING FINDINGS; ESTABLISHING COMPETITIVE SELECTION THRESHOLDS; PROVIDING FOR THE GRANTING OF A PREFERENCE TO LOCAL BUSINESSES FOR THE PROCUREMENT OF PERSONAL PROPERTY AND CONTRACTUAL SERVICES UNDER CERTAIN CONDITIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Division I, Section 24 of the Charter of the City of Lakeland, Florida, entitled "Purchasing," provides that the City Commission may prescribe regulations for all sales and conditions of all contracts for the furnishing of work, labor and materials to the City; and

WHEREAS, said section of the Charter further provides that an opportunity for competition shall be given in any instance involving purchases or contracts for amounts established by the City Commission by ordinance or resolution; and

WHEREAS, pursuant to the City Charter, the City Commission wishes to establish a City policy providing for competitive selection for purchases or contracts in amounts in excess of Five Thousand Dollars (\$5,000.00); and

WHEREAS, the City Commission finds that, while it is in furtherance of the public health, safety and welfare of the citizens of the City of Lakeland to procure goods and services through a competitive selection process, the procurement process should also recognize and balance the further good to the local economy and citizens of the City of Lakeland of purchasing goods and services from local vendors, who in turn invest and spend sums so earned within the local economy, thereby resulting in additional benefits to the City's economy and citizens; and

WHEREAS, the City Commission further finds that local vendors have familiarity with local conditions and that such local knowledge can result in enhanced benefit to the City and its citizens when procuring goods and services; and

WHEREAS, in recognition of the aforesaid policy considerations, the City Commission now wishes to establish a monetary threshold for the competitive procurement of goods and services by the City and to further establish and set forth the parameters for the provision of a purchasing preference for the procurement of goods and services from local businesses;

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. All sales and conditions of all contracts for the furnishing of work, labor and material shall conform to such regulations as the City Manager or City Commission may prescribe, including those set forth in the City of Lakeland's Purchasing Manual, but in any case, if an amount in excess of Five Thousand Dollars (\$5,000.00) be involved, opportunity for competition shall be given.

SECTION 3. The City Commission does hereby revise, restate and adopt the City of Lakeland's provisions for the granting of a preference to local businesses for the procurement by the City of goods and services 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 to 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.

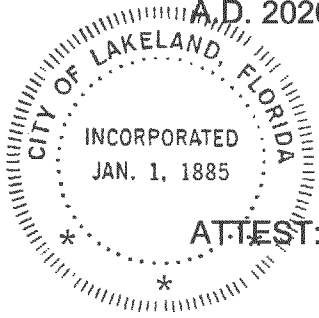
SECTION 4. Resolution 3634, as amended, and all other resolutions or ordinances inconsistent herewith, are hereby repealed.

SECTION 5. 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 6. This Ordinance shall take effect immediately upon its adoption.

PASSED AND CERTIFIED AS TO PASSAGE this 16th day of November,

A.D. 2020.



H. William Mutz

H. WILLIAM MUTZ, MAYOR

ATTEST: *Kelly S. Koos*
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

Palmer C. Davis

PALMER C. DAVIS
CITY ATTORNEY