

**CITY OF BONITA SPRINGS, FLORIDA
ORDINANCE NO. 09- 04**

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, TO BE KNOWN AS THE CITY OF BONITA SPRINGS FINANCE ORDINANCE; AMENDING AND RESTATING ORDINANCE NO. 04-11; PROVIDING AUTHORITY, TITLE AND CITATION, DEFINITIONS, ADDING E-VERIFY VERIFICATION WITH RESPONSIBILITY FOR PURCHASE PLANNING; PURCHASE TRANSACTIONS; PURCHASES AND CONTRACTS EXEMPT FROM COMPETITIVE BIDDING; WAIVER OF COMPETITIVE BIDDING BY CITY COUNCIL; EMERGENCY PURCHASES; ENCUMBRANCE OF FUNDS; INSPECTION OF ALL MATERIALS AND SERVICES PURCHASED; SURPLUS PROPERTY TRANSFER, SALE OR EXCHANGE; COOPERATIVE PURCHASES BY CITY AND OTHER GOVERNMENTAL AGENCIES; PROVIDING FOR A LOCAL VENDOR PREFERENCE WITH RECIPROCITY; AMENDING MISCELLANEOUS FEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT AND REPEAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bonita Springs ("City") on June 21, 2000 enacted the Bonita Springs Finance Ordinance, Ordinance No. 00-05, pursuant to the home rule authority for municipalities in the Florida Constitution, Section 29 of the City Charter for the City of Bonita Springs, Chapter 166, Florida Statutes, and other applicable provisions of law; and

WHEREAS, on June 3, 2002, the Ordinance was amended by Ordinance No. 02-10 to increase the City Manager's spending authority, to keep in line with other Southwest Florida local governments and to assist in the development and operation of the rapidly growing and developing City of Bonita Springs; and

WHEREAS, in 2004 Bonita Springs City Council codified the two ordinances by enactment of Ordinance No. 04-11; and

WHEREAS, Bonita Springs City Council desires to amend its finance ordinance, so as to include a local vendor preference.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Authority.

This ordinance is enacted pursuant to the home rule authority for municipalities in the Florida Constitution, Section 29 of the City Charter for the City of Bonita Springs, Chapter 166, Florida Statutes, and other applicable provisions of law. Amendments to Finance Ordinance are shown with deleted text identified by strike through and additional text identified with underlining.

Section 2. Title and Citation.

This ordinance shall be known and cited as the "City of Bonita Springs Finance Ordinance".

Section 3. Definitions.

The following terms shall have the following meanings:

- A. "Supplies", "goods", "materials", and "equipment" means articles or things which shall be furnished to or used by the City, including all printing, binding, or publication of stationery, forms, journals and reports.
- B. "Contractual services" means services supplied by contract or purchase order, including, without limitation, professional services; telephone; gas; water; electric light and power service; towel and cleaning service; insurance; leases and concessions for all grounds, buildings, office or other space required by a using agency; and the rental, repair or maintenance of equipment, machinery, and other City-owned personal property
- C. "Vendor's list" means an up-to date file on qualified sources of supply of articles of established quality.

Section 4. Responsibility for purchase planning / E-Verification.

- A. The City Manager shall schedule purchases so as to obtain them at the prices most advantageous to the City.
- B. The City Manager shall maintain an up-to-date vendor's list for each category of commodities repetitively purchased for the City's use.
- C. Effective June 1, 2009, any vendor or contractor providing services to the City, as a condition of each contract, must use E-Verify to verify the employment of: any person hired during the contract term by the contractor and assigned by the contractor to perform work for the City.
 - i. Proof of enrollment with e-verify will be determined by the City Manager or designee through www.smartbusinesspractices.com/pilot. In the event the service provider is not listed, they must file evidence of their MOU with the Secretary of Homeland Security before the contract with the City may be signed.
 - ii. All service providers must meet this requirement, regardless of exemption from bidding and Competitive Negotiations Act requirements, unless (1) the amount of services is below \$5,000 in the City's fiscal year; (2) the contract is for a single performance to be completed in less than 30 days; or (3) the service provider provides an affidavit that they are an individual and no one else will be hired to perform the work.
 - iii. In the event a service provider is convicted of hiring undocumented workers to perform on a city contract or admits to noncompliance

through the execution of a consent agreement, the City is prohibited to contracting with that service provider for a period of one (1) year from the date of the conviction or the date of the consent agreement.

Section 5. Purchase transactions up to \$50,000.00.

- A. All single purchases, within a fiscal year, of equipment, goods, supplies, contractual services, or merchandise for \$50,000.00. or less, in aggregate amount may be made in the open market without newspaper advertisement. Purchases above \$3,000.00 and below \$5,000.00 shall be made with at least 3 phone quotes. Any purchase above \$5,000.00 and below \$25,000.00 shall require 3 written quotes. Any purchase above \$25,000.00 but below \$50,000.00 shall be by sealed bid, following the procedures set forth in Section Six below, however, the City Manager shall be authorized to execute any contract below the \$50,000.00 threshold without any further action required by City Council.
- B. The City Manager shall keep a record of all requisitions and bids. Such records shall be open to public inspection.

Section 6. Purchase transactions over \$50,000.00.

- A. All single purchases of equipment, goods, supplies, contractual services, or merchandise which are estimated to exceed \$50,000.00, shall be awarded on the basis of competitive bidding, except as provided in Sections 7, 8 and 9. Purchases or contracts shall be awarded to the lowest responsible bidder.
- B. Notices inviting sealed competitive bids shall be published by the City Manager at least 1 week prior to bid opening in a newspaper or journal of general circulation in the City. At least 7 calendar days must intervene between the date of publication and the final date for submitting bids. Such notices shall include a general description of the articles to be purchased, state where bid forms and specifications may be secured, and describe the time and place for opening of bids. Bids shall be opened by the City Manager in the presence of the City Clerk at the time and place specified in the notice.
- C. In addition to newspaper advertisement, the City Manager shall solicit sealed bids from all responsible prospective suppliers or vendors who have requested that their names be added to the vendor's list. All pending purchases shall be advertised by notice posted at the place or places for posting of public notices of the City.
- D. All bids under this Section shall be submitted sealed to the Attention of: City Manager, The bids shall be accompanied by surety in the form of a bid bond in the amount as shall be prescribed in the bid proposal unless waived following state statutes. The bids shall be opened in public at the time and place stated in the notice. A tabulation of all bids received shall be

submitted after tabulation to the City Council for review, rejection or award.

- E. The City Council may reject any or all bids, waive irregularities in form not material to the bid, and accept all or part of any bid.
- F. The successful bidder's original of all contracts and other documents pertaining to the award of contracts shall be filed with the official records of the City Clerk's Office, and shall be preserved as required by law and open for public inspection during regular business hours. Copies of the contract shall be distributed according to the rules and regulations of general services. A record of all bids, showing the names of bidders and amounts of the bids, and indicating in each case the successful bidder, shall also be preserved for as required by law and open for public inspection during regular business hours.
- G. Any material change in the contract notwithstanding contract price shall require the contractor to contact the performance bond issuer and update the performance bond.

Section 7. Purchases and contracts exempt from competitive bidding.

The following purchases or contracts, by their very nature, are impracticable of award by competitive bidding and are exempt from the bidding provisions of this ordinance:

- A. Securing the professional services of auditors, attorneys, physicians, and consultants for services, other than capital improvement projects, that are not governed by the Competitive Negotiations Act. The City Attorney will hire any specialized legal services necessary for the City, consistent with this provision.
- B. Emergency purchases, when certified by the City Manager, that the delay incidental to competitive bidding would be detrimental to the interest of the City.
- C. Any item which is a proprietary item, or available from only a single source, and for which there are no competitive alternate sources, provided it is so certified by the City Manager to the City Council.
- D. Specialized services which, by their very nature, are available from only a single source, provided it is so certified by the City Manager to the City Council.
- E. Purchases made from the Federal Government, any State or political subdivision, including the State of Florida or any municipality.

Section 8. Emergency purchases.

- A. An emergency exists when a breakdown in service occurs, or under any other circumstance when supplies are needed for immediate use in work which may vitally affect the safety, health and welfare of the public.
- B. In case of emergency, the City Manager, who shall authorize the purchase of the needed supplies, shall send, within 24 hours, to the City Council, a written explanation of the circumstances of the emergency. The City Manager shall approve all emergency requisitions. Any emergency purchase of over \$50,000.00 must be approved by the City Manager and subsequently approved by City Council.

Section 9. Waiver of competitive bidding by City Council.

Except as provided by the Competitive Negotiations Act, the City Council, when deemed in the best interest of the City, may waive all bidding requirements.

Section 10. Encumbrance of Funds.

Except in cases of emergency, the City Manager shall not issue any order for delivery on a contract or purchase unless there is to the credit of the department concerned a sufficient unencumbered appropriation balance and sufficient funds on deposit to defray the amount of such an order, or a budget amendment/transfer is in process for approval by the City Council.

Section 11. Inspection of all materials and services purchased.

The City Manager shall inspect, or arrange for the inspection of all deliveries of supplies, materials, equipment or contractual services to determine conformance with specifications set forth in the order or contract.

Section 12. Surplus property transfer, sale or exchange.

- A. All departments shall submit to the City Manager at such times and in such form as prescribed in the rules and regulations on purchasing, inventory reports of supplies, materials and equipment. These reports shall show supplies, which are usable and those no longer used or which have become obsolete.
- B. The City Manager may transfer surplus stock to another department which has need of it.
- C. The City Manager shall have authority to sell all supplies which have become unsuitable to use, or to exchange or trade them for new supplies. All such sale, exchange, or trade shall be in accordance with the provisions of Chapter 274, Florida Statutes and details of all transactions shall be forwarded to City Council for approval.

Section 13. Cooperative purchases by City and other governmental agencies.

That upon the approval of the City Council, the City Manager may enter into a cooperative purchasing arrangement with other governmental agencies and agencies qualified by the state for governmental purchasing for all services, supplies, materials, and equipment used by the City. This is commonly referred as to piggy-back on another government's purchase. The bidding requirements set forth in ordinance shall not apply where the City purchases services, supplies, materials, or equipment under contract obtained by another governmental unit.

Section 14. Miscellaneous Fees.

The following fees will be charged by the City for copying documents and other miscellaneous services:

Miscellaneous duplication of official documents including ordinances and resolutions	\$.15 for each page (\$.20 for 2-sided copies) plus postage
Preparation of verbatim transcripts	City's Cost to have record transcribed by a Court Reporter, including any employee's hourly wage or portion thereof plus miscellaneous document charges
Duplication of audio tapes	\$8.00 per tape \$6.00 if tape supplied
Certification of document	\$1.00
Computer disk copies (CD, DVD, etc.)	\$10.00 plus \$5.00 for each additional copy
Computer print out	\$1.00 per page
Over sized copies	\$5.00 per copy
Requests involving significant staff time (Any request taking over 15 minutes)	Employee's hourly wage per hour or portion thereof, plus miscellaneous document charge

An advance deposit of 50% is required for any copying where the estimated miscellaneous fees are expected to exceed \$25.00. Failure to pay any past due miscellaneous fees above \$5.00 will require for the requestor to become current with the amount owed before the City will comply with any other public records request requiring copying or other replication services, including certification.

Section 15. Preference to Local Business.

The City shall give preference to local businesses in the following manner:

- (1) “Local Business” defined.
Local business means the vendor has paid the requisite business license tax issued by Lee County at least one (1) year prior to do business in Bonita Springs, with a physical business address located within the limits of Bonita Springs. Post Office Boxes are not a physical address. Vendors must advise they are a local business at the time of submitting their bid or proposal to be eligible as a “local business”.
- (2) Under any such applicable solicitation, bidders / proposers desiring to receive local preference will be invited and required to affirmatively state their status as a local business. Except where federal or state law, or any other funding source, mandates differently, the City will give preference to local businesses in the following manner:
 - (a) Competitive bid (local price match option). When a qualified and responsive, non-local business submits the lowest price bid, and the bid submitted by one or more qualified and responsive local business is within ten percent (10%) of the price submitted by the non-local business, then the local business with the apparent lowest bid offer (i.e.; the lowest local bidder) shall have the opportunity to submit, an offer to match the price(s) offered by the overall lowest, qualified and responsive bidder within three working days of the bid opening. If the lowest local bidder submits an offer that fully matches the lowest bid from the lowest non-local bidder tendered previously, then award shall be made to the local bidder. If the lowest local bidder declines or is unable to match the lowest non-local bid price(s), then award will be made to the non-local business.
 - b) Request for proposals, qualifications or other submittals and competitive negotiation and selection. For all purchases under the Competitive Negotiations Act (Florida Statutes § 287.055) and Section 7 of this Ordinance, the RFP solicitation may include a weighted criterion for local preference that equals ten percent (10%) of the total points in the evaluation criteria published in the solicitation.
- (3) The application of Local Preference to a particular purchase or contract may be waived upon approval of the City Council or City Manager (under \$50,000 threshold for purchasing authority).
- (4) The preference does not prohibit City Council to compare quality of materials proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals.

- (5) Reciprocity. In the event Lee or Collier County, or any municipality ("local government") within Lee or Collier County extends preferences to local businesses, City Council may enter into an interlocal agreement with such local government to award the preference to vendors of that specific local government. In no event shall the preference accorded other local government firms exceed the amount of preference that such local government extends to Bonita Springs firms competing for its contracts.

Subsequent Review and Sunset Provision. This local preference section is being added in support of the local economy during difficult economic times in Bonita Springs. This section of the Finance Ordinance will sunset on June 1, 2011, unless further extended by City Council by ordinance.

Section 16. Severability.

If any provision of this ordinance, or its application, is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 17. Conflict.

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Section 18. Effective date.

This ordinance shall take effect 30 days after adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Florida this 18th day of March, 2009.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____

City Attorney

Vote:

Ferreira	Aye	Nelson	Aye
Lonkart	Absent	Simons	Aye
McCourt	Nay	Spear	Aye
Martin	Aye		

Date Filed With City Clerk: 3-19-09