

ORDINANCE NO. 9, 1998 SERIES

AN ORDINANCE RELATING TO THE ALLOWANCE OF PREFERENCES
FOR LOCAL BUSINESSES IN PROCUREMENTS
FOR THE CITY OF FRANKFORT AND ITS AGENCIES

WHEREAS, the City of Frankfort is constrained only by KRS 424.260 in advertising for bids on purchases over Ten Thousand Dollars (\$10,000) under certain circumstances; and

WHEREAS, the City of Frankfort has the discretion to accept other than the lowest bid on any given purchase; and

WHEREAS, the Board of Commissioners has determined it is in the best interest of the City of Frankfort to grant a preference to those who contribute to the economy of Frankfort and Franklin County through business activities within the city and county.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FRANKFORT,
KENTUCKY,

-Section 1-

As used in this Ordinance unless the context otherwise requires:

- (A) "Local business" means a business which:
- (1) has an office or place of business located within Frankfort or Franklin County, and
 - (2) is subject to the occupational license fee imposed by the City of Frankfort or Franklin County and which filed an occupational license fee return in the name of such business for two (2) years immediately preceding the year in which the contract is to be awarded, and
 - (3) has been certified as a local business pursuant to Section 3 of this Ordinance.
- (B) "Available locally" means that one or more local businesses is capable of furnishing supplies or services in a timely manner, in sufficient quantity and of a quality substantially the same as similar supplies or services available from a non-local business.
- (C) "Non-local business" means a business which is not a local business.

- (D) "City of Frankfort" shall mean the City, its members and the agencies or departments of said government, but shall not include any other County or Constitutional officers or their agencies.

-Section 2-

- (A) Regardless of which procurement procedure is used to obtain supplies and services for the City of Frankfort, preferences shall be given to local businesses as provided in this section.
- (1) If it is determined that supplies or services are to be purchased by non-competitive negotiations, as that term is used in KRS 45A.380, and such supplies or services are available locally, the City of Frankfort shall enter into non-competitive negotiations with a local business. A non-local business may be awarded a contract through non-competitive negotiation only if no agreement can be reached with a local business or if the supplies or services required are not available locally.
 - (2) If supplies or services are purchased in an amount less than the amount specified in KRS 424.260, such supplies or services shall be purchased from a local business unless unavailable or the cost of such supplies or services exceeds by 5% or more the cost quoted by a non-local business.
 - (3) If supplies or services are to be purchased by competitive sealed bidding, as that term is used in KRS 45A.365, and the supplies or services are available locally, the bid price or cost quoted by each local business shall be reduced by five percent (5%) for the purpose of determining the lowest bid price; however, nothing in this paragraph shall be deemed to prohibit the awarding of contracts by the City of Frankfort on the basis of evaluated bid price, as that term is defined in KRS 45A.345.
 - (4) If supplies or services are to be purchased by competitive negotiation, as that term is used in KRS 45A.370, and such supplies or services are available locally, the offer price or cost quoted by each local business shall be reduced by five percent (5%) for the purpose of evaluating which offer is most advantageous

to the City of Frankfort. In addition, it shall be considered an advantageous factor that an offeror is a local business.

- (B) If a contract is for services, and a bidder or offeror will use subcontractors to perform all or part of the work required under the contract, the bidder or offeror, in order to qualify for the five percent (5%) preference under this section, shall not subcontract more than twenty percent (20%) of the work to non-local businesses unless such services are not available locally.
- (C) In the event no bids or offers are received from a non-local business on any solicitation or where the supplies or services are not available from a local business then the preference established herein shall not apply. Preferences shall not be allowed where the supplies or services required are not available locally.
- (D) Each invitation for bids or requests for proposals shall state explicitly that preferences shall be afforded local business in accordance with the provisions of this Section and shall require a local business to affirmatively request the preference in its bid or offer.

-Section 3-

- (A) No business shall be considered a local business for the purposes of this Ordinance, unless such business shall have qualified with the City of Frankfort Purchasing Department as a local business, by making application to the Purchasing Agent of the City of Frankfort and receiving a local business number. The procedure for application and certification shall be as provided in this Section.
- (B) The Purchasing Agent shall prepare an application form for certification as a local business with said form requesting such information and proof as deemed necessary to qualify the applicant under the terms of this Ordinance.
- (C) A local business shall complete the application form and submit it to the Purchasing Agent, along with proof of a valid and current Business License with either the City of Frankfort or the Franklin County Occupational License Office, prior to the awarding of any contract in which the local business desires to be given a preference.
- (D) The Purchasing Agent shall examine the application and if

necessary may seek additional information or proof to assure that the business is entitled to the preference. If all is in order, the Purchasing Agent shall issue the local business a distinctive certification number, which shall be valid until revoked by the Purchasing Agent, and which, when used on bids and other purchasing documents, shall entitle the business to the preference. The local business shall be re-evaluated annually to ensure that the business is maintaining qualification criteria.

-Section 4-

- (A) The Purchasing Agent shall prepare regulations or rules for the purpose of implementing the provisions of this Ordinance which shall be submitted to the Board of Commissioners for approval. Unless disapproved by the Board of Commissioners, the regulations or rules shall automatically become effective thirty (30) days after submission.
- (B) The Purchasing Agent shall prepare and submit to the Board of Commissioners on an annual basis a report demonstrating the effect and cost of this Ordinance.

First passage on the 5 day of March, 1998.

Final adoption on the 2 day of April, 1998.

Walter L. Myer
MAYOR

Attest:

Shirley B. Brown
CITY CLERK

Published by summary on April 9, 1998.

SUMMARY

This ordinance grants a preference for local businesses in procurements for the City of Frankfort.

Shirley B. Brown
CITY SOLICITOR