

**ORDINANCE NO. 18, 2022 SERIES**

**AN ORDINANCE AMENDING CITY OF FRANKFORT CODE OF ORDINANCES, SECTION 38.02, REGARDING APPLICATION OF LOCAL PREFERENCES  
IN PROCUREMENT**

WHEREAS, the City of Frankfort has had a longstanding policy of providing preferences to local businesses in its procurement practices; and

WHEREAS, the City wishes to continue this policy, while also providing flexibility for situations in which local preferences are not in the best interest of the City due to price, quality, availability, or other critical factors;

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of the City of Frankfort that City of Frankfort Code of Ordinances Section 38.02 is hereby amended as follows:

§ 38.02 PREFERENCES.

(A) Regardless of which procurement procedure is used to obtain supplies and services for the city, 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 noncompetitive negotiations, as that term is used in KRS 45A.380, and the supplies or services are available locally, the city may enter into noncompetitive negotiations with a local business. A non-local business may be awarded a contract through noncompetitive negotiation only if no agreement can be reached with a local business or if the supplies or comparable 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, the supplies or services may be purchased from a local business unless unavailable or the cost of the 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 5% for the purpose of determining the lowest bid price. Nothing in this division shall be deemed to prohibit the awarding of contracts by the city 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 the supplies or services are available locally, the offer price or cost quoted by each local business shall be reduced by 5% for the purpose of evaluating which offer is most advantageous to the city. 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 5% preference under this section, shall not subcontract more than 20% of the work to non-local businesses unless the 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 subchapter.

(E) Notwithstanding the provisions of this Section, the local preference shall not be required upon a written finding by the City Manager or his or her designee that due to price, quality, expertise, availability, the specialized needs of the City, or other circumstances, it is in the best interest of the City not to apply the preference for a particular procurement action. All other state and local requirements shall continue to apply to the procurement action.

First reading on the 9-26-22.

Final adoption on the 10-24-22.

S/Layne Wilkerson  
T/Mayor

Attest:

S/Chermie Maxwell  
T/City Clerk

Summary: This ordinance amends Section 38.02 of the City of Frankfort Code of Ordinances to provide an exception to the local preference requirements upon appropriate written finding by the City Manager.

S/Laura Milam Ross  
T/City Solicitor

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