

TAB 5

POINT PAPER
Local Preference Ord. 09-990
April 6, 2009

Problem: In order to boost the local economy and promote local business, the City of Palmetto is proposing changes to our existing purchasing policy.

Background:

In an effort to let our City vendors know that we are committed to using local businesses whenever possible, the City has undertaken several efforts to increase awareness with our local businesses. For example, we have notified existing customers via utility bill messages and additional information about doing business with the City has been posted to the web site. The City Clerk also participated in a panel discussion hosted by the Manatee EDC on February 20th with other local businesses. Based on comments from the Commission at the last workshop on March 9, 2009 staff has made modifications to the existing purchasing ordinance (Chapter 2 of Code of Ordinances). A track changes version of the ordinance has been included for your review. In summary, the following changes were made:

- Increased the upper threshold for informal competitive quotes. The range was changed from \$10,000 - \$25,000 to \$10,000 - \$50,000.
- Added local preference language for small dollar purchases (i.e., <\$10,000) and informal competitive quotes (\$10,000 - \$50,000). Priority is given to City of Palmetto businesses first and Manatee County businesses second.
- Added local preference language to invitation to bids and requests for proposal. Refer to 2-57 section (4).

Alternatives:

1. Motion to approve Ordinance 09-990 for first reading and schedule a public hearing for April 20, 2009.
2. Do not approve ordinance 09-990 for first reading.

Recommendation:

Alternative #1

Budget Impact:

No fiscal impact identified. However, staff will be made aware of new threshold amounts and education will occur regarding the local preference language.

**CITY OF PALMETTO
ORDINANCE NO. 09-990**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE CODE OF ORDINANCES REVISING THE REQUIREMENTS FOR PROCURING GOODS AND SERVICES; REVISING WHEN INFORMAL COMPETITIVE QUOTES MAY BE UTILIZED AND WHEN SEALED BIDS OR PROPOSALS ARE NECESSARY; ADDING PROVISIONS OF CONSIDERATION OF LOCAL VENDORS IN THE PROCUREMENT PROCESS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions, and render municipal services; and

WHEREAS, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AS FOLLOWS:

Section 1. Amendment of Section 2-56 of the City of Palmetto Code of Ordinances. Section 2-56 of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Section 2-56. Requisitions and purchase orders.

- (a) *Small dollar purchases.* Except as provided in sole source procurement, emergency, limited availability procurement, or vendor list procurement, purchases of materials, equipment and services, at a price not to exceed ten thousand dollars (\$10,000.00), for items or units purchased for use together, used in the day to day activities of providing city services, where

the city commission has established a budget and provided for the purchase of such materials and equipment, shall be done through the computerized purchasing system. If deemed appropriate by staff to seek quotes for materials, equipment and services, a written deadline for submission must be included in the request for cost estimates. Purchase of the items shall not be broken down or separated into two (2) or more parcels to reduce the price so that the items may be purchased by requisition, if the purchase would otherwise be required pursuant to another section of this article.

- (b) *Informal competitive quotes.* Except as provided in sole source procurement, emergency, limited availability procurement, or vendor list procurement, goods and services costing, in the aggregate, more than ten thousand dollars (\$10,000.00) and not to exceed fifty thousand dollars (\$50,000.00), may be procured by purchase order, acceptance of vendor proposal, or other sound and appropriate procurement, document, provided that:
- (1) Costs quotations and proposals are received in writing, fax or e-mail from three (3) or more vendors prior to an established deadline for submittals; and
 - (2) The goods and services involved are adequately described and specified; and
 - (3) The goods and services are purchased from the lowest responsible, responsive, qualified vendor.
- (c) *Local preferences.* Persons, known to supply the services or goods to be procured, located within the City of Palmetto shall be given first priority to be contacted to obtain such a quote under this Section 2-56. Persons, known to supply the services or good to be procured, located within Manatee County shall be given second priority to be contacted to obtain a quote under this Section 2-56.

Section 2. Amendment of Subsection (a) of Section 2-57 of the City of Palmetto Code of Ordinances. Section 2-57 of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Section 2-57. Sealed bids, proposals and quotes.

- (a) *Conditions for use.* Except as provided in sole source procurement, emergency, limited availability procurement, or vendor list procurement, all contracts for the procurement of goods and services costing, in the

aggregate, in excess of fifty thousand dollars (\$50,000.00) shall be let on the basis of sealed bids, proposals or quotes solicited through formal advertisement in a newspaper of local or area circulation.

- (1) *Invitation for bids and requests for proposals.* Advertisements shall, as a minimum, include a notice of the time and place of public opening, and shall include instructions for obtaining detailed documents or procurement specifications.
- (2) *Public notice.* Public notice of the invitation for bids or requests for proposals shall be given not less than fourteen (14) calendar days prior to the date set forth in the notice for the opening of bids or proposals. Such notice may be given by mail or by publication in a newspaper of general circulation in the county. The public notice shall state the place, date, and time of the opening of such bids or proposals. Persons, if known to provide the goods or services to be procured, located within Manatee County shall be notified in writing, either formally or informally, of the invitation to bid or request for proposal; provided that inadvertent failure to transmit by the City or failure to receive such notice shall not adversely effect the procurement process or any contract awarded. The date and time of such opening may be extended by the city commission for good cause.
- (3) *Bids or proposal opening.* Bids or proposals shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids or requests for proposals. The amount and terms of each bid or proposal and such other relevant information as deemed appropriate, together with the name of each person submitting a bid or proposal, shall be recorded.
- (4) *Bid or proposal evaluation and acceptance.* Bids or proposals shall be unconditionally accepted without altercation or correction, except as authorized in this article. Bids or proposals shall be evaluated based on the requirements and specifications, criteria for evaluation and the contractual terms and conditions set forth in the invitation for bids or requests for proposals. No criteria may be used in evaluation that are not set forth in the invitation for bids or requests for proposals, this article or regulations issued pursuant hereto.
- (5) *Correction or withdrawal of bids or proposals; cancellation of awards.* Correction or withdrawal of inadvertently erroneous bids or proposals before or after opening, or cancellation of awards or contracts based on mistakes, may be permitted where appropriate.

In any bid based, in whole or in part, upon a price calculated by multiplying a unit cost by the number of units to be purchased, the accurate calculation of price shall control over a total price that is based on an error in such calculation. Bids or proposals may be modified or withdrawn by written notice received in the office of the city clerk, prior to the time set for opening of bids or proposals. After the opening, corrections shall be permitted only to the extent that the person submitting a bid or proposal can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the price and term of the bid or proposal actually intended. The person submitting the bid or proposal with the lowest price alleging a material mistake of fact may be permitted to withdraw their bid or proposal if:

- a. The mistake is clearly evident on the fact of the document but the intended correct bid or proposal is not similarly evident; or
- b. The person submits evidence that clearly and convincingly demonstrates that a mistake was made.

- (6) *Award.* The contract shall be awarded with reasonable promptness by appropriate written notice to the person whose bid or proposal meets the requirements and criteria set forth in the invitation for bids or requests for proposals. In the event the accepted bid or proposal for construction project exceeds available funds, the city commission is authorized, when time or economic considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment of the price, in order to bring the bid or proposal within the amount of available budgeted funds

The remaining subsections (b) through (e) of Section 2-57 shall remain in full force and effect.

Section 3. Repeal of Ordinance. This Ordinance hereby repeals any and all provisions of ordinances in conflict herewith to the extent of such conflict.

Section 4. Severability. If any section, sub-section, paragraph, sentence, clause or phrase in this Ordinance shall be held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions hereof.

Section 5. Effective Date. This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor, or if disapproval occurs, upon reconsideration by

the City Commission and passing of the Ordinance by at least four (4) votes of the City Commission.

PASSED AND DULY ADOPTED, by the City Commission, in open session, with a quorum present and voting, this 20th day of April, 2009.

First Reading: April 6, 2009

Publication: April 10, 2009

Second Reading and

Public Hearing: April 20, 2009

CITY OF PALMETTO, FLORIDA, BY
AND THROUGH THE CITY
COMMISSION OF THE CITY OF
PALMETTO

By: _____
SHIRLEY GROOVER BRYANT, MAYOR

ATTEST: James R. Freeman
City Clerk

By: _____
City Clerk/Deputy Clerk.