

ORDINANCE NO. 09-__

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE IX, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, REGARDING PURCHASING AND MINORITY/WOMEN BUSINESS ENTERPRISE PARTICIPATION PROGRAM POLICY, BY AMENDING SECTION 2-400, ENTITLED "LOCAL PREFERENCE IN PURCHASING AND CONTRACTING"; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Leon County Board of County Commissioners ("Board") finds that the economy of the United States has been in a recession since December 2007; and

WHEREAS, the Board finds that Florida's 1.9 million small businesses provide economic opportunities to diverse groups of people and bring innovative products and services to the market place; and

WHEREAS, the Board finds that small businesses account for nearly 60 percent of new jobs created in Florida; and

WHEREAS, the Board finds that the reduction in state revenues has had a disproportionately adverse affect on the local economy through downsizing of state offices, wage freezes, and an 85 percent reduction of Public Education Capital Outlay (PECO) funding for the local universities over the past two years; and

WHEREAS, the Board finds that there are presently approximately 1,085 foreclosures filings in Leon County; and

WHEREAS, the Board finds that the unemployment rate in Leon County has risen from 4.8 percent in September 2008 to 7.2 percent in September 2009; and

1 WHEREAS, the County continues to invest in the local economy with an aggressive
2 capital improvement program to enhance local infrastructure; and

3 WHEREAS, the County recognizes the pivotal role small businesses play in a vibrant,
4 successful, and sustainable economy; and

5 WHEREAS, the County's procurement process is designed to achieve economic parity
6 among all Leon County vendors; and

7 WHEREAS, the Board desires to enact an ordinance amending Section 2-400, Leon
8 County Code of Laws, relating to Local Preference in Purchasing and Contracting;

9 BE IT ORDAINED by the Board of County Commissioners of the County of Leon,
10 Florida, as follows, that:

11 **Section 1.** Section 2-400 of the Code of Laws of Leon County, Florida, is hereby amended to
12 read as follows:

13 (a) *Preference in bidding.* In purchasing of, or letting of contracts for procurement
14 of, personal property, materials, contractual services, and construction of improvements to real
15 property or existing structures in which pricing is the major consideration, the authorized
16 purchasing authority of Leon County may give a preference to local businesses in making such
17 purchase or awarding such contract, as follows:

18 (1) Individuals or firms which have a home office located within Leon, Gadsden,
19 Wakulla, or Jefferson County, and which meet all of the criteria for a local
20 business as set forth in this article, shall be given a preference in the amount of
21 five percent of the bid price.

22 (2) Individuals or firms which do not have a home office located within Leon,
23 Gadsden, Wakulla, or Jefferson County, and which meet all of the criteria for a

1 local business as set forth in this article, shall be given a preference in the amount
2 of three percent of the bid price.

3 The maximum cost differential shall not exceed \$20,000.00. Total bid price shall
4 include the base bid and all alternatives or options to the base bids which are part
5 of the bid and being recommended for award by the appropriate authority.

6 (b) *Preference in requests for proposals.* In the purchasing of, or letting of contracts
7 for procurement of, personal property, materials, contractual services, and construction of
8 improvements to real property or existing structures for which a request for proposals is
9 developed with evaluation criteria, a local preference of the total score may be assigned for a
10 local preference, as follows:

11 (1) Individuals or firms which have a home office located within Leon, Gadsden,
12 Wakulla, or Jefferson County, and which meet all of the criteria for a local
13 business as set forth in this article, shall be given a preference in the amount of
14 five percent.

15 (2) Individuals or firms which do not have a home office located within Leon,
16 Gadsden, Wakulla, or Jefferson County, and which meet all of the criteria for a
17 local business as set forth in this article, shall be given a preference in the amount
18 of three percent.

19 ~~Based upon analysis of the marketplace for each project, staff shall make a~~
20 ~~recommendation for or against inclusion of a local preference in the criteria for~~
21 ~~consideration by the Board as a part of the pre approval agenda item for each~~
22 ~~request for proposal.~~

1 (c) *Notice.* Both bid documents and request for proposal documents shall include
2 notice to vendors of the local preference policy.

3 (d) *Local business definition.* For purposes of this section, "local business" shall
4 mean a business which:

5 (1) Has had a fixed office or distribution point located in and having a street address
6 within Leon, Gadsden, Wakulla, or Jefferson County for at least six months
7 immediately prior to the issuance of the request for competitive bids or request
8 for proposals by the county; and

9 (2) Holds any business license required by Leon County, and, if applicable, the City
10 of Tallahassee; and

11 (3) Is the principal offeror who is a single offeror; a business which is the prime
12 contractor and not a subcontractor; or a partner or joint venturer submitting an
13 offer in conjunction with other businesses.

14 (e) *Certification.* Any vendor claiming to be a local business as defined by
15 subsection 2-400(d) above, shall so certify in writing to the purchasing division. The
16 certification shall provide all necessary information to meet the requirements of subsection 2-
17 400(d) above. The purchasing agent shall not be required to verify the accuracy of any such
18 certifications, and shall have the sole discretion to determine if a vendor meets the definition of a
19 "local business."

20 (f) *Preference in bidding for construction services.* Except where otherwise provided
21 by federal or state law or other funding source restrictions, in the purchasing of, or letting of
22 contracts for procurement of construction services for improvements to real property or existing

1 structures, limited to projects estimated to exceed \$250,000, the County may give preference to
2 local businesses in the following manner:

3 (1) Under a competitive bid solicitation, when the lowest responsive and responsible
4 bid is submitted by an individual or firm that is not a local business, then the
5 local business that submitted the lowest responsive and responsible bid shall be
6 offered the opportunity to perform the work at the lowest bid amount, if that local
7 business's bid was not greater than 110 percent of the lowest responsive and
8 responsible bid amount.

9 (2) All contractual awards issued in accordance with the provisions of this subsection
10 2-400(f) shall contain aspirational trade contractor work targets, based on market
11 and economic factors, of 85 percent as follows: The successful individuals or
12 firms shall agree to engage not less than 85 percent of the dollar value of trade
13 contractor work with local businesses unless the successful individuals or firms
14 prove to the County's satisfaction, that the trade contractor work is not available
15 locally within the Leon, Gadsden, Wakulla or Jefferson County area. The term
16 "trade contractor" shall mean a subcontractor who contracts with the prime
17 contractor and whose primary activity is performing specific activities (e.g.,
18 pouring concrete, masonry, site preparation, framing, carpentry, dry wall
19 installation, electrical, plumbing, painting) in a construction project but is not
20 responsible for the entire project.

21 (3) This subparagraph 2-400(f) shall sunset and stand repealed on January 1, 2013
22 unless reviewed and saved from repeal through reenactment by the Board.

1 ATTESTED BY:
2 BOB INZER, CLERK OF THE COURT
3 LEON COUNTY, FLORIDA

4 By: _____
5 Bob Inzer, Clerk of Court
6 Leon County, Florida

7 APPROVED AS TO FORM:
8
9 COUNTY ATTORNEY'S OFFICE
10 LEON COUNTY, FLORIDA

11 By: _____
12 Herbert W. A. Thiele, Esq.
13 County Attorney

DRAFT