



CITY OF AURORA, ILLINOIS

ORDINANCE NO. 020-029
DATE OF PASSAGE April 28, 2020

An Ordinance amending Chapter 2, Article V, Division 5 of the City Code of the City of Aurora titled "Local Preference in Contracts."

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the City wishes to amend Chapter 2, Article V, Division 5-of the code of the City of Aurora ("City Code") to provide a designated percentage of preference for local businesses, as well as allow local businesses the opportunity to price match the lowest responsible bid if received by a nonlocal business order to be recommended for City Council approval; and

WHEREAS, the revised ordinance will authorize the City Treasurer to adopt rules and regulations to implement the ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows: Chapter 2, Article V, Division 5 of the City Code of the City of Aurora shall be and hereby amended as set forth on Exhibit A attached to this Ordinance.

CHAPTER 2, ARTICLE V, DIVISION 5 – LOCAL PREFERENCE IN CONTRACTS

Sec. 2-406.-Purpose.

The purpose of this Division is to promote local economic conditions by giving preference to local businesses that submit bids for the award of city contracts.

Sec. 2-407.-Definitions.

- (a) "Local business" means a vendor or contractor who has a valid, verifiable physical business address located within the corporate boundaries of the City of Aurora at least twelve months prior to a bid or proposal opening date, from which the vendor, contractor or consultant operates or performs business on a daily basis, including manufacturing production or distribution. The business must disclose the percentage of workforce residing in the City of Aurora; be registered with the City of Aurora, if applicable; be subject to City of Aurora taxes (inclusive of sales taxes); be current with property tax payments and sales tax payments; not have any outside cited code violations; not have any outstanding debts to the City of Aurora; and have adequately qualified and trained staff to service the bid of interest.
- (b) "Nonlocal business" means any vendor or contractor who does not meet the definition of local business.

Sec. 2-408.-Local preference in purchasing and contracting.

Notwithstanding anything to the contrary in this Chapter, the City may give preference to a qualified and responsive local business in the solicitation of bids for supplies, materials and equipment or a contract for any work or public improvement as follows:

- (a) *Competitive bids.* If the lowest responsive responsible bid is received from a local business, it shall be submitted to City Council for consideration. If the lowest responsive responsible bid is received from a nonlocal business, any responsive responsible bid received from a local business that is within the following percentage of the lowest responsive responsible bid may be given a preference as follows: The lowest evaluated bid price from a responsive and responsible local business shall be accepted, provided that the lowest bid is compliant with the following structure:

<u>Bid/Contract Amount</u>	<u>Preference % or Amount</u>
<u>\$0-\$24,999.00</u>	<u>0%; contract is not subject to formal competitive bidding</u>
<u>\$25,000.00 - \$1,999,000.00</u>	<u>5%; to be calculated from the amount of the lowest bid</u>
<u>\$2,000,000.00</u>	<u>0%, not to exceed \$100,000.00</u>

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Bid/Contract Amount	Preference %	Preference Dollar Amount Max	Total Dollar Amount Max
\$0 - \$499,999	4.0%	\$ 20,000	\$ 20,000
\$500,000 - \$999,999	3.0%	\$ 15,000	\$ 35,000
\$1,000,000 - \$1,499,999	2.0%	\$ 10,000	\$ 45,000
\$1,500,000 - \$1,999,999	1.0%	\$ 5,000	\$ 50,000
\$2,000,000 and Above	0.0%	-	-

(b) If the lowest responsive responsible bid is submitted by ~~business is not a qualified nonlocal business~~, and if a qualified local business has submitted a bid which is within the applicable percentage (as hereinafter set forth) of the lowest responsive responsible ~~bidder for a bid~~, the qualified local business shall be given written notice by the City to that effect. At that time, the qualified local business shall be given the opportunity to match the bid price submitted by the nonlocal business in order for its bid to be submitted to City Council for consideration. If the local business elects not to price match the lowest bid, it shall not be awarded the contract and the lowest responsive responsible bid shall be submitted to City Council for consideration regardless of the preference. The City Treasurer is authorized to adopt rules and regulations to implement the procedures set forth in this ordinance, which shall also be set forth in and made part of all bid packages.

(c) *Ties.* In the event of a lowest evaluated bid price tie between a local business and a non-local business, ~~the bid received from contract shall be awarded to the local business shall for purposes of this ordinance be deemed the lowest responsive responsible bid. business.~~ In the event of a bid price tie between two or more local businesses, the bid received from the local business with the greatest number of full-time employees residing working in the City shall for purposes of this ordinance be deemed the lowest responsive, responsible bid. ~~be awarded the contract or receive the first opportunity to price match negotiate, as applicable. For this section, a tie means the local bidder is not more than the percentages as set forth in Sec. 2-408 (a).~~

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(d) *Notice to Bidders*~~Solicitation~~. The City shall provide formal notice that the preference established by this article shall be applicable in bid specifications, ~~or request for proposals.~~

(e) *Claiming preference.* In order for a local business to be eligible to claim the preference as provided in this article, the local business must request such preference in its solicitation response and provide a current copy of its City issued business registration, if applicable.

(f) *Preference cap.* ~~No contracts shall be awarded to a local business when the~~ If a local business' bid exceeds the lowest responsive and responsible bid by more than the percentages as set forth in Sec. 2-408 (a) it shall not be recommended for approval by City Council.

Sec. 2-409.-Exceptions to local business preference.

- (a) Purchases or contracts funded in whole or in part by a governmental entity other than the City, and the laws, regulations or policies governing such funding prohibit the application of a local preference;
- (b) Purchases made or contracts let under emergency or noncompetitive situations.

Sec. 2-410.-Prequalification; local bidder.

- (a) If an interested business would like to prequalify as a "local business", such a business shall complete and submit the prequalification application along with supporting documentation, as listed below, and the applicable fee as set by the City Council, to the ~~Finance Department~~ Purchasing Division:

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- a. Evidence that the business has established and maintained a physical presence in the City of Aurora, by virtue of the ownership or lease of all or a portion of a building for a period of not less than twelve (12) consecutive months prior to the submission of the prequalification application; and
 - b. Evidence demonstrating that the business is legally authorized to conduct business within the State of Illinois and the City of Aurora, and has a business registered to operate in the City if required; and
 - c. Evidence that the business is not a debtor to the City of Aurora. For purposes of this subparagraph, a debtor is defined as having outstanding fees, water bills, sales tax or restaurant/bar tax payments that are thirty (30) days or more past due, or has outstanding weed or nuisance abatements or liens, has failure to comply tickets or parking tickets that are not in dispute as to their validity and are not being challenged in court or other administrative processes.
- (b) Within twenty-one (21) days after submittal, after review of the prequalification application and supporting documentation by the finance department, the finance department will notify the business on whether the business qualifies as a local qualified business. A business aggrieved by the decision of the finance department in the failure to qualify as a local business shall have the right of appeal to the ~~Chief Finance Officer~~ City Treasurer or designee (who shall not be a member of the finance department). The appeal shall be taken by filing with the City Clerk, within fourteen (14) days after notification of the business's the failure to qualify as a local business, a written statement setting forth fully all of the grounds for the appeal with all supporting documentation. The ~~Chief Finance Officer~~ City Treasurer or designee shall set a time and place for a hearing on the appeal and notice of the hearing shall be given to the business in writing not less than five (5) days before the date set for hearing. The decision of the ~~Chief Finance Officer~~ City Treasurer or designee on the appeal shall be in writing within seven (7) business days. If qualified as a local qualified business, said prequalification shall be valid following the date of certification by the finance department.
- (c) If qualified as a local qualified business, the business shall be required to keep current any information submitted in the prequalification application and/or supporting documentation.

(d) ~~The Chief Finance Officer~~City Treasurer may, from time-to-time request, and a local qualified business shall provide, additional statistical information on the company and its workforce. ~~periodically ask for additional statistical information on the company and its workforce.~~

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PASSED AND APPROVED ON April 28, 2020

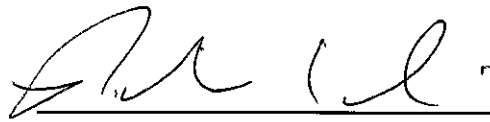
AYES 12 NAYS 0 NOT VOTING 0 ABSENT 0

ALDERMAN	Vote
Alderman Llamas, Ward 1	yes
Alderman Garza, Ward 2	yes
Alderman Mesiacos, Ward 3	yes
Alderman Donnell, Ward 4	yes
Alderman Franco, Ward 5	yes
Alderman Saville, Ward 6	yes
Alderman Hart-Burns, Ward 7	yes
Alderman Smith, Ward 8	yes
Alderman Bugg, Ward 9	yes
Alderman Lofchie, Ward 10	yes
Alderman Jenkins, At Large	yes
Alderman O'Connor, At Large	yes

ATTEST:



City Clerk



Mayor