

RESOLUTION NO. 031-15
RESOLUTION ADOPTING THE CITY OF GREENVILLE LOCAL PREFERENCE AND
RETENTION OF PROFESSIONAL AND OTHER SERVICES POLICY

WHEREAS, the economic development of the City of Greenville will be promoted by the implementation of a Local Preference and Retention of Professional and Other Services Policy in the procurement of goods and services in that it supports local business;

WHEREAS, in addition to promoting economic development, a Local Preference and Retention of Professional and Other Services Policy provides a benefit to the City of Greenville in that local businesses have the opportunity to be more timely and responsive in providing goods and services; and

WHEREAS, the City Council of the City of Greenville hereby finds and determines that the Local Preference and Retention of Professional and Other Services Policy herein adopted accomplishes the aforementioned goals while ensuring fiscal responsibility and the provision of goods and services in a manner which best serves the needs of the City of Greenville;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE:

Section 1. That the City of Greenville Local Preference and Retention of Professional and Other Services Policy is hereby adopted, said policy to read as follows:

**CITY OF GREENVILLE LOCAL PREFERENCE AND RETENTION OF
PROFESSIONAL AND OTHER SERVICES POLICY**

Section 1. Purpose.

The purpose of the Local Preference and Retention of Professional and Other Services Policy is to ensure the best overall value in the procurement of goods and services while providing a preference to local businesses to support the City's economic development. The City's economic development is supported by the Local Preference and Retention of Other Services Policy in that the policy supports local business. An additional benefit of a Local Preference and Retention of Professional and Other Services Policy is the benefit derived by the City when goods and services are being provided by local businesses which have the opportunity to be more timely and responsive when providing goods and services.

Section 2. Definitions.

- (a) Eligible Local Bidder means a bidder that has paid and is current on property taxes in the City of Greenville and who meets the qualifications set forth in Section 5.
- (b) Non-Local Bidder means a bidder that is not an Eligible Local Bidder as defined in subsection (a).
- (c) Responsible bidder means the bid or proposal is submitted by a bidder that has the skill, judgment and integrity necessary for the faithful performance of the contract, as well as sufficient financial resources and ability.
- (d) Responsive bidder means that the bid or proposal submitted by a bidder complies with the specifications or requirements for the request for bids or request for proposals.
- (e) Professional services means architectural, engineering, planning, design and other professional services of a consulting nature.
- (f) Other services means services that are not professional services as defined in subsection (e).

Section 3. Policy.

The policy of the City of Greenville is to provide a preference to local businesses in the procurement of goods and services for the contracts which the City may apply a local preference when applying federal and state law. When the request for bids involves the bidder submitting a price, a price-matching preference will be given to Eligible Local Bidders on contracts for the purchase of goods and services. The preference will allow an Eligible Local Bidder to match the price and terms of the lowest responsible, responsive bidder who is a Non-Local Bidder, if the Eligible Local Bidder's price is within five percent (5%) or, \$25,000 whichever is less, of the lowest responsible, responsive Non-Local Bidder's price. When the request seeking proposals is based upon qualifications for a service contract without a price being submitted as a bid when the proposal is submitted, a factor in the evaluation of proposals shall be whether the proposal is submitted by an Eligible Local Bidder. Five percent (5%) of the points to be awarded to a bidder in an evaluation of proposals shall be awarded to an Eligible Local Bidder.

Section 4. Local Preference Eligible Contracts.

The provisions of the Local Preference and Retention of Professional and Other Services Policy shall apply when bids or proposals are sought for the following:

- 1) Contracts for the purchase of apparatus, supplies and equipment costing less than \$30,000;
- 2) Contracts for construction or repair costing less than \$30,000;

- 3) Contracts for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services costing less than \$50,000; and
- 4) Contracts for services (other than contracts for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services).

Notwithstanding the foregoing, the provisions of the Local Preference and Retention of Professional and Other Services Policy shall not apply to contracts involving a project funded by a federal grant unless the grant has specific language which overrides the prohibition of the Grants Management Common Rule which does not allow local preferences and the provisions of the Local Preference Policy shall not apply (i) when bids or proposals are not sought due to an emergency situation or (ii) in special cases when the required expertise or item is not available locally as determined by either the Purchasing Manager or Department Head, or (iii) when the purchase involves an expenditure of less than \$10,000 when the purchase is from a business which qualifies as an Eligible Local Bidder.

Section 5. Qualifications.

In order to qualify for the local preference, an Eligible Local Bidder must complete the Bidder's Certification for Local Preference Form and submit it to the Purchasing Manager with or prior to the submittal of the bid or proposal. A Bidder's Certification for Local Preference Form shall be required to be updated by a bidder (i) when matters certified to in the form have materially changed and (ii) when notified by the Purchasing Manager that a periodic update is required. The Eligible Local Bidder must have paid and be current on any applicable City of Greenville property taxes and, if required by law, any applicable City of Greenville privilege license fees.

When the request for bids involves the bidder submitting a price, in order for a bidder to be an Eligible Local Bidder, the bidder must either:

- (a) Have an office or store from which all or a portion of its business is directed or managed and which is located within the corporate limits or extraterritorial jurisdictional area of the City of Greenville consisting of at least 500 square feet of floor area within a building on property having a non-residential zoning classification; or
- (b) Have an office or store located within the corporate limits or extraterritorial jurisdictional area of the City of Greenville and have at least three (3) employees who are based and working out of said office or store; or

- (c) Have an office from which all or a portion of its business is directed or managed and which is located within a residence within the corporate limits or extraterritorial jurisdictional area of the City of Greenville as allowed by the Zoning Ordinance for a period of at least one (1) year.

When the request seeking proposals is based upon qualifications for a service contract without a price being submitted as a bid when the proposal is submitted, in order for a bidder to be considered as an Eligible Local Bidder, the bidder must either:

- (a) Have an office from which all or a portion of its business is directed or managed and which is located within the corporate limits or extraterritorial jurisdictional area of the City of Greenville consisting of at least 500 square feet of floor area within a building on property having a non-residential zoning classification; or
- (b) Have an office located within the corporate limits or extraterritorial jurisdictional area of the City of Greenville and have at least three (3) employees who are based and working out of said office; or
- (c) Have an office from which all or a portion of its business is directed or managed and which is located within a residence within the corporate limits or extraterritorial jurisdictional area of the City of Greenville as allowed by the Zoning Ordinance for a period of at least one (1) year; or
- (d) Have an arrangement with one or more firms or companies that qualify as an Eligible Local Bidder pursuant to (a), (b), or (c) above to subcontract with said firms or companies to perform at least twenty five percent (25%) of the dollar value of the work to be performed pursuant to the service contract, if the bidder is awarded the contract.

Section 6. Process When Bid Involves Price.

Bids will be evaluated in accordance with the award criteria stated in the request for bids to determine the lowest responsible, responsive bid when the request for bids involves the bidder submitting a price. If the lowest responsible, responsive bid is submitted by an Eligible Local Bidder, then there will be no consideration of the price-matching preference. If the lowest responsible, responsive bid is submitted by a bidder who is not an Eligible Local Bidder and there are no submitted bids from an Eligible Local Bidder that is within 5% or \$25,000, whichever is less, of the lowest responsible, responsive bid, then none of the Eligible Local Bidders will qualify for the price-matching preference. The award will be made to the lowest responsible, responsive bidder.

If the lowest responsible, responsive bid is submitted by a Non-Local Bidder and there are one or more Eligible Local Bidders that submit a bid within 5% or \$25,000, whichever is less, of the lowest responsible, responsive bid, then the Bidder's Certification for Local Preference Form of the Eligible Local Bidder(s) shall be reviewed to determine whether the Eligible Local Bidder's certification is compliant. Additional clarification may be sought of the certification and/or information in an Eligible Local Bidder's certification and additional documentation may be requested if necessary. Failure to supply the requested information will result in the Eligible Local Bidder not receiving a price-matching preference.

If only one Eligible Local Bidder qualifies for the price-matching preference, the Eligible Local Bidder will first be offered the contract award and will have two (2) business days to accept or decline the award based on the lowest responsible, responsive bidder's price. If the lowest responsible, responsive Eligible Local Bidder declines to accept the contract award, then the award is made to the lowest responsible, responsive bidder.

If more than one Eligible Local Bidder qualifies for the price-matching preference, then the qualified Eligible Local Bidders shall be prioritized according to their original bids, from lowest to highest, so that the Eligible Local Bidder who submitted the lowest responsible, responsive bid should get the first opportunity to match the quote of the lowest responsible, responsive Non-Local Bidder. The Eligible Local Bidder will first be offered the contract award and will have two (2) business days to accept or decline the award based on the lowest responsible, responsive Non-Local Bidder's price. If the lowest responsible, responsive Eligible Local Bidder declines to accept the contract award, then the contract should be offered to the next lowest responsible, responsive Eligible Local Bidder and will continue in this manner until either a responsible, responsive Eligible Local Bidder within five percent (5%) or \$25,000, whichever is less, of the lowest responsible, responsive bid accepts the contract award or the award is made to the lowest responsible, responsive bidder if no qualified Eligible Local Bidder accepts the award. If two responsible, responsive Eligible Local Bidders qualify for the price-matching preference and both bid the same amount, then the Eligible Local Bidder which will be offered the contract award will be chosen by lot.

At any time, all bids may be rejected.

Section 7. Process When Considering Qualifications for Service Contracts.

When the request seeking proposals is based upon qualifications for a service contract without a price being submitted as a bid when the proposal is submitted, the request seeking proposals shall state that being local is a factor to be considered in determining the qualifications of the bidder. The proposals will be

evaluated in accordance with an award criteria developed to determine the best qualified responsible, responsive bidder submitting a proposal. The Bidder's Certification for Local Preference Form shall be reviewed to determine whether the Eligible Local Bidder certification is compliant. Five percent (5%) of the points to be awarded to a bidder in an evaluation shall be awarded to each Eligible Local Bidder submitting a proposal. Once the best qualified responsible, responsive bidder submitting a proposal is determined, the price is then negotiated. If an agreement on the price does not occur, then the City will negotiate with the next best qualified responsible, responsive bidder submitting a proposal.

Although being local is a factor in determining the best qualified responsible, responsive bidder submitting a proposal, other factors such as specialized experience and expertise will be a component of the award criteria when determining the best qualified proposal.

At any time, all proposals may be rejected.

Section 8. Solicitation of Bids or Proposals.

Whenever bids or proposals are sought by directly contacting bidders for bids or proposals for a contract for which the provisions of the Local Preference and Retention of Professional and Other Services Policy apply, the request for bids or proposals shall be posted on the City of Greenville's website. Notification of the request for bids or proposals shall also be provided to potential bidders having an office or store located within the corporate limits or extraterritorial jurisdictional area of the City of Greenville which have submitted a Bidder's Certification for Local Preference Form and which offer the item or service sought. Bidders which have submitted a Bidder's Certification for Local Preference Form will also be encouraged to register and utilize the City's eNotifications system which will ensure that they are automatically notified each time a bid is posted on the City's website.

Section 9. False or Substantially Inaccurate or Misleading Certifications.

If at any time during or after the procurement process, the City determines that certifications or information in the Bidder's Certificate for Local Preference Form are false, substantially inaccurate or misleading, the City Manager or designee may:

- (1) Cancel the Eligible Local Bidder's contract and/or purchase order that was awarded based on the preference: The Eligible Local Bidder shall be liable for all costs it incurs as a result of the cancellation and all increased costs of the City that may be incurred by awarding the contract to the next lowest bidder;

- (2) Exclude the bidder from any preference in any future City bidding opportunities for a period of time determined by the City Manager or designee; and/or
- (3) Debar the bidder from doing business with the City for a period of time determined by the City Manager or designee.

Section 10. Procedures for Contracts for Retention of Professional and Other Services

When contracting for professional and other services, the following processes should be followed.

- 10.1 The formal solicitation process shall apply to all professional and other services estimated to cost \$50,000 or more.
- 10.2 The informal solicitation process shall apply to all professional and other services estimated to cost more than \$5,000 but less than \$50,000.
- 10.3 Regardless of formal or informal solicitation process, service contracts up to \$100,000 are approved and executed by the City Manager while service contracts over \$100,000 require City Council approval and execution by the City Manager.

INFORMAL SOLICITATION PROCEDURES:

- 10.5 Solicitation of professional and other services between \$5,000 and \$49,999 may be in the form of requests for proposals or an informal bid that requires the department to attempt to obtain at least three (3) informal proposals/quotations from any Eligible Local Bidders or any other qualifying firms. Good faith efforts shall be made to obtain proposals, bids or quotations from any qualifying minority and women-owned businesses, per the City's MWBE policy. The informal bid procedure should not be used when such a contract requires a substantial scope of services. Informal bids, proposals or quotations should be submitted in writing from the vendor and transmitted with the purchase requisition or contract.

FORMAL SOLICITATION PROCEDURES

- 10.6 All formal solicitations of professional and other services greater than \$50,000 must be approved in advance by the City Manager.
 - 10.6.1 Following authorization by the City Manager, a written request for proposals shall be developed by the Department Head or other individual as designated by the City Manager.

- 10.6.2 Requests for proposals shall be distributed to all potential bidders and/or service firms in the field of endeavor within the Greenville area (the corporate limits and extraterritorial jurisdictional area of the City of Greenville) which have submitted a Bidder's Certification for Local Preference Form and which offer the items or service sought. If the Department Head believes that the type of service required is not available in the Greenville area, the Department Head will report to the City Manager on the type of services needed and why he/she believes no qualified firms are available in the Greenville area. The Department Head will also report to the City Manager if he/she believes that there are no MWBE vendors which offer the items or services sought. The City Manager may authorize solicitation for proposals from a wider area as necessary to obtain proposals from qualified firms and also to comply with the MWBE policy requirements. The request for proposals shall also be posted on the City's website. Any firms who wish to be directly notified of solicitations may also register to use the eNotifications system featured on the website to ensure receipt of all relevant solicitations.
- 10.6.3 The request for proposals shall set a deadline for receipt for proposals, no earlier than two weeks for professional services and one week for other service contracts, from the date of distribution of the request and shall identify the individual(s) and office(s) including addresses, which are responsible for receiving the proposals.
- 10.6.4 The following elements shall be identified in the request for proposals as necessary items in an acceptable proposal:
- 10.6.4 (a) A detailed description of previous similar projects including photographs and locations where applicable, costs, initiation and completion dates, and any special design considerations for the desired services including necessary preliminary studies;
- 10.6.4 (b) Clients for whom similar services were provided and the appropriate individual who may be contacted as a representative of each client;
- 10.6.4 (c) Services team composition with specific reference to individuals who would be associated with the team and their particular responsibilities;
- 10.6.4 (d) Time schedule with the firm can follow for initiation and for various stages through completion;
- 10.6.4 (e) Proposed service fees (except for contracts governed by the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes); and
- 10.6.4 (f) Any special considerations of the project and any other pertinent data.
- 10.7 In evaluating proposals, a determination of the "qualified firm" will consider the following:


- 10.7.1 Qualifications of the project team members assigned to the project;
- 10.7.2 Time schedule for providing services;
- 10.7.3 The level of work performed by a project team on previous assignments which are generally similar to the proposed project; and,
- 10.7.4 Previous client satisfaction level.
- 10.8 The Department Head shall prepare a recommendation to the City Manager which includes the following:
 - 10.8.1 A list of all firms to which the request for proposals were mailed;
 - 10.8.2 A list of all firms submitting proposals;
 - 10.8.3 A list of the top three (3) firms and their location, with appropriate justification for each;
 - 10.8.4 If the proposals received do not meet the requirements for the project, the Department Head recommendation shall state why this is the case and will propose an alternative for obtaining satisfactory proposals.
 - 10.8.5 The approval process for selected service firms and the execution of related contracts is as follows:
 - Contracts Over \$100,000
- 10.9 The City Manager shall consider the recommendation of the department head and shall recommend selection of a firm to the City Council.
 - 10.9.1 The City Council shall authorize the City Manager to negotiate an appropriate agreement, including service fees, with the selected firm.
 - 10.9.2 The City Manager shall report on the negotiations to the City Council for final approval prior to awarding the contract for services.
 - 10.9.3 Execution of the contract shall take place following the City Council approval and services shall be provided in accordance with the contract and pertinent City of Greenville Standard Procedures.

Section 11. That all resolutions and clauses of resolutions in conflict with this resolution are hereby repealed, including Resolution No. 056-13 and Resolution No. 057-13.


Section 12. That this resolution shall become effective for requests for bids or proposals issued on or after July 1, 2015.

This the 8th day of June, 2015.




Allen M. Thomas, Mayor

ATTEST:


Carol L. Barwick, City Clerk