ORDINANCE NO. 50-15

AN ORDINANCE TO AMEND ARTICLE V, DIVISION 2 OF THE FORT SMITH MUNICIPAL CODE TO ADD SECTIONS 2-187 AND 2-188 REGARDING PREFERENCE AMONG MUNICIPAL BIDDERS

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

Section 1: The Fort Smith Municipal Code is amended to add Sections 2-187 and 2-188 to read as follows:

Section 2-187. Definitions.

The following words and phrases shall for the purpose of Section 2-188 have the following meanings:

(1) "Commodities" means all property, including without limitation, equipment, printing, stationery, supplies (to the extent not purchased pursuant to section 2-182(d)), and capital improvements, but excluding leases on real property, real property, or a permanent interest in real property, and exempt commodities and services;

(2) "Firm resident in the city" means any individual, partnership, association, or corporation, whether domestic or foreign, that:

(A) Maintains at least one (1) staffed place of business located within the corporate limits of the city;

(B) For not less than two (2) successive years immediately before submitting a bid, has paid taxes to the county that benefit the city on either real or personal property used or intended to be used in connection with the firm's business; and,

(C) Has a valid business registration/license with the city.

(3) "Lowest qualified bid" means the lowest bid that conforms to the specifications and request for bids.

(4) "City" means the City of Fort Smith;

(5) "Nonresident firm" means a firm that is not included in the definition of a "firm resident in the city"; and

(6) "Services" means labor, time, or effort furnished by a contractor.

Section 2-188.

(1)(A) In the purchase of commodities or services by competitive bidding, a preference of five percent (5%) shall be granted to the lowest qualified bid for a bidder that qualifies as a firm resident in the city.

(B) The maximum monetary amount of any preference granted, regardless of the bid amount or percentage of preference, shall be One Hundred Thousand Dollars ($100,000.00).

(C)(i) In calculating the preference to be allowed, the total amount of each bid of each firm resident in the city who claims the preference shall be reduced by five percent (5%) from the total amount of each bid.

(ii) If after making the deduction, the bid of any firm resident in the city claiming the preference is lower than the bid of the nonresident firm, then the award shall be made to the firm resident in the city that submitted the lowest qualified bid, whether or not that particular firm resident in the city claimed the preference.

(2)(A) The preference provided for in this section only applies in comparing bids when one (1) or more bids are by a firm resident in the city and the other bid or bids are by a nonresident firm.

(B) The preference provided for in this section does not apply to competing bids of firm residents in the city after preferential rejection of the bids of nonresident firms, nor to the situation where all bidders are firm residents in the city.

(C)(i) If any provision or condition of this section conflicts with any provision of federal or state law or any rule or regulation made under federal or state law pertaining to federal grants-in-aid programs or other federal or state aid programs, the provision or condition shall not apply to the state-supported or federal-supported contracts for the purchase of commodities or services to the extent that the conflict exists.

(ii) However, all provisions or conditions of this section with which there is no conflict apply to contracts to purchase commodities or services to be paid, in whole or in part, from federal funds.

(3) The provisions of this section shall apply to public works projects, capital improvements, commodities, materials, equipment, and services procured by the city, including those purchases and contracts for services made pursuant to section 2-182(b) and (c).

(4) When circumstances arise to which this section and Ark. Stat. Ann. § 19-11-259 (regarding preferences among bidders) apply, both the preference provided under this section and the preference provided under Ark. Stat. Ann. § 19-11-259 shall also apply.

(5) To the extent that federal purchasing laws or bidding preferences conflict, this section does not apply to projects related to supplying water or wastewater utility services, operations, or maintenance to a federal military installation by a municipality of the state.

Section 2: Emergency Clause. In order to provide for a preference to be given to local bidders, under certain specific circumstances, as allowed by state statute, and it being necessary to provide for the general welfare of the City's inhabitants, an emergency is hereby declared to exist and this ordinance shall take effect and be in full force from and after July 22, 2015.

PASSED AND APPROVED THIS 21st DAY OF July, 2015.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:

City Attorney

Publish 1 time