

## ORDINANCE

**AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH PROVIDING THAT THE CODE OF ORDINANCES, CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA BE AMENDED BY REVISING CHAPTER 10 “FINANCE AND TAXATION”, ARTICLE III PROCUREMENT METHODS OF CITY CODE BY AMENDING SECTIONS 10-53 (1)(d), 10-54 (2) AND 10-55 (5), AND TO ADD SECTION 10-59 “LOCAL VENDOR PREFERENCE”**

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, THAT:**

Sec. 10-53. Purchasing methods.

(1) (d) *Basis for award.* Simplified purchases are awarded to the proposer or quoter who offers the best value to the city. Depending on the product or service being purchased and the needs of the city, best value is obtained by basing the award on price or a combination of price with price-related factors, other evaluation factors, or both. Award may be made to other than the lowest offeror and shall be subject to the provisions of 10-59. Rationale for making other than low price award will be documented in the appropriate files. In instances of equal prices and all other evaluation factors being equal, and no local proposer is involved, award will be made by drawing lots and documented in the appropriate files.

Section 10-54. Use of sealed bidding.

(2) *Award of contract-Sealed bids.* The purchasing agent shall have the authority to award contracts resulting from sealed bids; provided, however, these contracts are not awarded without prior approval of the city manager. The purchasing agent shall determine that a prospective contractor is responsible and that the prices offered are fair and reasonable before awarding the contract. The award of a contract based on lowest evaluated price alone can be false economy if there is subsequent default, late deliveries or other unsatisfactory performance resulting in additional contractual or administrative costs. While it is important that sealed bid purchases be made at the lowest price, this does not require award to a supplier solely because that supplier submits the lowest offer. The award shall also be subject to the provisions of 10-59.

Section 10-55. Use of sealed proposals (negotiation).

(5) *Contractor selection.* Following receipt of the best and final offers, the contract will be awarded to the offeror (contractor) whose proposal offers the best value to the city, considering the price, price-related and other evaluation factors identified in the solicitation. Depending on the basis of award in the solicitation, award may be made to other than the lowest price and the award shall also be subject to the provisions of 10-59.

**Section 10-59. Local vendor preference.**

(1) A vendor shall be deemed a local vendor for the purposes of this section if such vendor is an individual, partnership, association or corporation that is authorized to transact business within the State, maintains an office in North Myrtle Beach, and maintains a representative inventory or commodities within the City on which the bid is submitted, and has paid all taxes, fees, and other charges duly assessed.

(2) This option allows the lowest local bidder whose bid is within five-percent (5%) of the lowest non-local bidder to match the bid submitted by the non-local bidder and thereby be awarded the contract. This preference shall apply only when (a) the total dollar purchase is \$10,000 or more; (b) the vendor has a physical business address located and operating within the limits of North Myrtle Beach and has been doing business in the City for a period of twelve (12) months or more; and (c) the vendor provides proof of payment of all applicable City of North Myrtle Beach taxes and fees if so requested.

(3) Should the lowest responsible and responsive City of North Myrtle Beach bidder not exercise its right to match the bid as granted herein, the next lowest qualified City of North Myrtle Beach bidder shall have that right and so on. The right to exercise the right to match the bid shall be exercised within one (1) business day of notification of the right to match the non-City of North Myrtle Beach bidder's bid. A business day is defined as all days excluding Saturday, Sunday, as well as all city holidays.

(4) In order to qualify for the local preference authorized by this section, the vendor seeking same shall be required to submit with its bid a statement containing relevant information which demonstrates compliance with the provisions of this section. This statement shall be on a form provided by the City purchasing department and shall be signed under penalty of perjury. Failure to provide such affidavit at the time the bidder submits its bid shall constitute a waiver of any claim for preference.

(5) Local preference shall not apply to the following categories of contracts: (a) goods or services provided under a cooperative purchasing agreement or similar "piggyback"

contract; (b) purchases or contracts which are funded, in whole or in part, by a governmental or other funding entity, where the terms and conditions of receipt of the funds prohibit the preference; (c) purchases or contracts made pursuant to a noncompetitive award process, unless otherwise provided by this section; or (d) any bid announcement which specifically provides that the general local preference policies set forth in this section are suspended due to the unique nature of the goods or services sought, the existence of an emergency as found by either the City Council or city manager, or where such suspension is, in the opinion of the city attorney, required by law.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE CITY OF NORTH MYRTLE BEACH SOUTH CAROLINA:**

**Section 1.** Council authorizes the amendments as provided above.

**Section 2.** This ordinance shall become effective upon the date of passage.

**DONE, RATIFIED AND PASSED THIS THE 4<sup>th</sup> DAY OF JUNE, 2012**

\_\_\_\_\_  
Mayor Hatley

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ATTEST:

\_\_\_\_\_  
City Clerk

REVIEWED:

\_\_\_\_\_  
CITY MANAGER