

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20040768

1. REQUESTED MOTION:

ACTION REQUESTED: Request exemption from the Lee County Local Bidder Preference Ordinance, Lee County Ordinance No. 00-10 for the Summerlin Road Six Laning Project.

WHY ACTION IS NECESSARY: Board approval is required.

WHAT ACTION ACCOMPLISHES: An exemption from the Local Bidders Preference Ordinance may encourage non-local bidders to compete for this project., thereby providing a greater potential for a lower price by having more bids.

2. DEPARTMENTAL CATEGORY:

2. Transportation

COMMISSION DISTRICT #:

C9E

3. MEETING DATE:

06-29-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE 00-10
- ADMIN. CODE AC-4-4
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT Transportation
- C. DIVISION
- BY: Scott Gilbertson, Director

7. BACKGROUND:

Lee County Ordinance No. 00-10 provides that the Board of County Commissioners may give a preference to local persons, firms or corporations, not to exceed 3% of the bid price. While a bid preference is clearly discretionary, it may hinder national firms from bidding on this project. This project was previously bid on May 12, 2004. All bids received exceeded the budgeted amount for this project. The Department of Transportation and Public Works have rejected all bids. Comments were received from out of town bidders indicating that the 3% local bidder preference discouraged them from bidding this project, hence eliminating the possibility of receiving a lower bid within our budget constraints.

The Department of Transportation is requesting that this project be excluded from the provisions of this Ordinance.

Three percent (3%) on a project this size could approach \$1 million.

Attachment: Lee County Ordinance No. 00-10

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	OM	Risk	GC	
<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>		<i>[Signature]</i>		<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>
						<i>6/15</i>	<i>6/15/04</i>	<i>6/15/04</i>	<i>6-14-04</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *6/14/04*
Time: *4:30 PM*
Forwarded To:

RECEIVED BY
COUNTY ADMIN: *AK*
6/15/04
2:45 pm 567
COUNTY ADMIN
FORWARDED TO: *PR*
6-16-04
2:10 PM

LEE COUNTY ORDINANCE NO. 00-10

AN ORDINANCE OF LEE COUNTY RELATING TO A BIDDING PREFERENCE FOR LOCAL CONTRACTORS AND VENDORS, AS DEFINED; PROVIDING FOR QUALIFICATION; PROVIDING FOR THE PREFERENCE NOT TO EXCEED THREE PERCENT (3%) OF THE BID OR QUOTE AMOUNT; PROVIDING FOR ADMINISTRATIVE PROCEDURES FOR THE ORDINANCE; PROVIDING FOR THE REPEAL OF LEE COUNTY ORDINANCE NO. 94-21; PROVIDING FOR SUPPLEMENTAL AUTHORITY, SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.

WHEREAS, Lee County ("County") is a political subdivision and Charter County of the State of Florida; and,

WHEREAS, the Board of County Commissioners ("Board") is the governing body in and for Lee County; and,

WHEREAS, the Board has the authority to contract for the purchase of goods and services that serve a public purpose, and are in the best interest of the citizens of the County; and,

WHEREAS, the Board has a valid public interest in promoting local industry and enterprise; and,

WHEREAS, Florida law recognizes local bid preferences under certain circumstances, and that the physical location of a bidder's principal place of business is a relevant factor in the public procurement process; and,

WHEREAS, it is not the intent of the Board by the adoption of this Ordinance to prohibit, exclude, discourage or disadvantage persons, firms, businesses or corporations that are non-local in nature from providing goods or services to Lee County as part of the competitive selection process; and,

WHEREAS, it is the intent of the Board to provide the Local Bidder's Preference on an optional basis when facts and circumstances warrant that the County grant the preference amount.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS that:

SECTION ONE: **RECITALS**

1.1 The above preamble is hereby adopted in its entirety as if set out further at length in this section.

SECTION TWO: **DEFINITIONS**

The terms as used in this Ordinance unless otherwise defined herein, shall be defined as those terms are defined in Chapter 287, Florida Statutes, Part One, or shall have their ordinary meaning in common usage.

2.1 "Local Contractor / Vendor" shall mean: a) any person, firm, partnership, company or corporation whose principal place of business in the sole opinion of the County, is located within the boundaries of Lee County, Florida; or b) any person, firm, partnership, company or corporation that has provided goods or services to Lee County on a regular basis for the preceding consecutive five (5) years, and that has the personnel, equipment

and materials located within the boundaries of Lee County sufficient to constitute a present ability to perform the service or provide the goods.

- 2.2 For purposes of the above definition, Lee County shall mean the County as defined by Section 7.36, Florida Statutes.

SECTION THREE: QUALIFICATION AS A “LOCAL CONTRACTOR / VENDOR”

A. PUBLIC WORKS; CONSTRUCTION SERVICES; PRE-QUALIFICATION

- 3.1 Potential contractors and/or vendors to Lee County who desire to be considered for the Local Bidder’s Preference for Public Works Construction Services must be pre-qualified by the County for such consideration.
- 3.2 Qualification as a “Local Contractor / Vendor” shall be made on applications provided by the Public Works Department, Contracts Section.
- 3.3 Upon a finding by the County that the application is sufficient and meets the definitional criteria, the Contractor / Vendor will then be placed on a master list kept by the County, for a period of one (1) year. All applications will be required to be updated and reconfirmed annually on the anniversary of the original application.
- 3.4 Only Contractors / Vendors who are on the County’s “Local Contractor / Vendor List” will be allowed to claim the Local Bidders’ Preference as provided for by this Ordinance for any County Public Works procurement, either for goods or services. The Contractor / Vendor qualification for a “Local Contractor / Vendor” designation shall not be considered as a basis for any Formal Protests of contract awards under the County’s Formal

Procurement Processes.

3.5 If an application for a “Local Contractor / Vendor” designation is denied by the Public Works Contracts Section, the applicant may then appeal such decision to the County Manager for review and further consideration, and if denied by the County Manager, the applicant may appeal such decision to the Board of County Commissioners, who shall hear such appeal at a regular Board meeting, and whose decision shall be final.

B. PURCHASING DEPARTMENT; GOODS AND SERVICES

3.6 The Purchasing Department will utilize the following methodology for qualifying businesses as “Local Contractor / Vendors”.

3.7 For formal written quotations or bids (one-step and two-step processes), the Purchasing Department will evaluate, confirm and award the status to any business seeking consideration as a “Local Contractor / Vendor” by either:

- i) reviewing the Local Contractor / Vendor status during the Evaluation Phase, for one-step Formal Quotations or Bids, or
- ii) reviewing the Local Contractor / Vendor status during “Step One” of the process, for two-step Formal Quotations or Bids.

3.8 Any appeal brought by a business denied the “Local Contractor / Vendor” designation by the Purchasing Department, shall follow the procedures as set forth in Section 3.5, above.

SECTION FOUR: **APPLICATION OF THE “LOCAL CONTRACTOR / VENDOR” PREFERENCE**

- 4.1 The Local Contractor / Vendor Preference may be awarded to qualified parties submitting either Formal Bids or Formal Quotes as defined in the Lee County Purchasing Manual or the Lee County Public Works Contracts Manual for Construction Projects, as applicable.
- 4.2 The Local Contractor / Vendor Preference shall not exceed three percent (3%) of the total Formal Bid, or Formal Quote, for the County’s purchase of either services or goods.
- 4.3 The County reserves the exclusive right to exercise the option as to whether or not to apply the “Local Contractor / Vendor” Preference to any procurement. Additionally, the County will state whether or not the Local Contractor / Vendor Preference will apply as a part of the disclosures in the County’s RFQ or RFB documents.
- 4.4 The County reserves the exclusive right to compare, contrast and otherwise evaluate the qualifications, character, responsibility and fitness of all persons, firms, partnerships, companies or corporations submitting formal bids or formal quotes in any procurement for goods or services when making an award in the best interests of the County.

SECTION FIVE: **ADMINISTRATIVE PROCEDURES**

- 5.1 The Board hereby authorizes and directs that appropriate County Administrative Staff develop and implement all necessary procedures, forms and documents for the respective departments to carry out the

expressed purposes and intent of this Ordinance.

- 5.2 The Board also hereby authorizes the County Manager and designee(s) to apply the provisions of this Ordinance to County procurements below the Formal Bid or Formal Quote level, as they may be defined from time to time, and as facts and circumstances may warrant.

SECTION SIX: **REPEAL**

- 6.1 Lee County Ordinance No. 94-21 is hereby repealed in its entirety upon the effective date of this Ordinance, and shall be of no further force or effect.

SECTION SEVEN: **SUPPLEMENTAL AUTHORITY**

- 7.1 This Ordinance shall be deemed to provide an additional and alternative method for the procurement of County goods and services and shall be regarded as supplemental and additional to the powers conferred by other laws, and shall not be regarded as in derogation of any County powers now existing or which may hereafter come into existence. This Ordinance, serving a public purpose and being desirable for the welfare of the inhabitants of the County, shall be liberally construed to effect the purposes as stated herein.

SECTION EIGHT: **SEVERABILITY**

- 8.1 If any portion of this Ordinance is for any reason held or declared to be unconstitutional, invalid or void, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision herein shall be held to be inapplicable to any person, property or circumstances, such

holding shall not affect its applicability to any other person, property or circumstances.

SECTION NINE: **CODIFICATION**

9.1 It is the intention of the Board and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Lee County, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

SECTION TEN: **EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its filing with the Office of the Secretary of the Florida Department of State:

The foregoing Ordinance was offered by Commissioner Coy, who moved its adoption. The motion was seconded by Commissioner Manning, and being put to a vote, the vote was as follows:

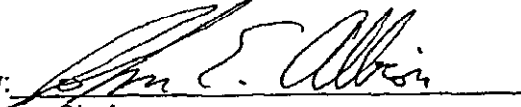
JOHN MANNING	<u>AYE</u>
DOUGLAS ST. CERNY	<u>AYE</u>
RAY JUDAH	<u>ABSENT</u>
ANDREW COY	<u>AYE</u>
JOHN ALBION	<u>ABSENT</u>

DULY PASSED AND ADOPTED this 23rd day of May, 2000.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

By: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: 
Chairman

APPROVED AS TO FORM:

By: 
Office of the County Attorney