

**CITY OF LABELLE  
ORDINANCE NO. 2011-07  
BID PROCEDURES**

**AN ORDINANCE OF THE CITY OF LABELLE, FLORIDA, AMENDING CHAPTER 2 ARTICLE IV OF THE LABELLE CODE; ESTABLISHING CRITERIA AND PROCEDURES FOR DETERMINING QUALIFICATIONS AND RESPONSIBILITY OF A BIDDER BEFORE AWARDING A CONTRACT FOR WORK, SERVICES OR GOODS TO BE PROVIDED TO THE CITY OF LABELLE; ESTABLISHING PROCEDURES FOR THE PERFORMANCE AND AMENDMENTS OF CONTRACTS FOR PROCUREMENTS OF GOODS AND SERVICES TO THE CITY OF LABELLE; ESTABLISHING A BID PROTEST PROCESS; PROVIDING FOR: SEVERABILITY, REPEAL, CODIFICATION AND AN EFFECTIVE DATE.**

Procurement policy.

1. The City of LaBelle is authorized, pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Chapter 166 of the Florida Statutes, to prescribe the manner by which it will procure goods and services.
2. Procurements of goods and services shall be based on fair and open competition, thereby reducing the appearance and opportunity for favoritism, and inspiring public confidence that contracts are awarded equitably and economically. Further, it is essential to the efficient operation of City government that procurements be made without undue delay.
3. The City shall seek competition where feasible in the purchase of materials, equipment and services and thereby to make such purchases at the lowest available net cost to the City, provided that the purchase price is a fair and reasonable price, and to have such materials delivered when and where required. In determining the net cost, price; delivery time; and availability of service may be considered.
4. This Code shall apply to every purchase or procurement of supplies, services and public works by the City, and all City departments, regardless of the source of funds, including state, federal, county assistance monies, except as otherwise specified by law.
5. The City Mayor shall have the purchasing authority, including authority to establish procurement policies and procedures, specifications, award, administer, and terminate contracts necessary to procure goods or services for the City unless otherwise provided in this division. The City Mayor is provided the latitude to exercise sound business judgment and procurement principles while adhering to the requirements of this division.

Sec 2-61- Competitive bidding required for certain procurements; establishment of bidding procedures.

1. Where required by general law, the City shall competitively award contracts in accordance with the provisions of that general law.
2. Otherwise, competitive bids or proposals shall be required for each procurement of \$25,000.00 or more.
3. The City shall develop procedures for all procurements, including procedures for competitive bids, proposals, and negotiations, consistent with the provisions of this division.
4. Revenue generating or concession contracts shall be awarded in accordance with the provisions of this section, except that price shall be evaluated on the basis of the bid or offer that is in the best interest of the City.

Sec 2-62 - Competitive bidding and award of contract.

1. The competitive bidding process shall occur utilizing the following procedure:
  - a. Competitive bids or proposals shall be requested following due public notice. Due public notice shall encourage the submittal of competitive bids or proposals and shall, as a minimum, include a notice in a newspaper of general circulation within the City.
  - b. Unless otherwise provided in this division, the contract or purchase order shall be awarded to the lowest, best and most responsible bidder meeting the needs and requirements of the City, subject to the right of the City to reject any and all bids or proposals. A contract may be awarded in whole or in part, or in portions to more than one bidder.
  - c. When invitations to bid result in only one bid or proposal received, action on the bid or proposal shall not be taken until the City Mayor, or his designee, has reviewed the bid or proposal to determine and justify the basis for determining one or more of the following:
    - i. The award to the sole bidder or proposal is reasonable.
    - ii. The contract should be awarded to the sole bidder or proposer because the bid price can be determined to be a competitive, fair and reasonable price.
    - iii. There is sufficient reason to believe that a rebid of the item will not generate additional competitive bids.
  - d. Competitive bidding requirements shall be met if goods and services are purchased pursuant to:
    - i. A validly executed interlocal agreement establishing cooperative purchasing with other Florida governmental entities; or
    - ii. A contract awarded by the Federal Government or by the State of Florida or its governmental entities.
    - iii. Other contracts or bids received by associations or entities regularly receiving bids for county, state or City official use.

Sec 2-63 - Competitive selection and negotiations.

1. The City may acquire goods, services and construct public projects through a competitive selection process rather than through the competitive bidding process provided in section 2-663 of this section, by utilizing the procedure set forth in this section 2-664.
2. For those services governed by F.S. § 287.055, the Consultants' Competitive Negotiation Act ("CCNA"), the procedures provided in the CCNA shall be followed.
3. For the construction or improvements to a public building, structure, or other public construction works governed by F.S. § 255.20, or other general law, the procedures provided in that section or other applicable general law shall be followed.
4. For all other procurements utilizing the competitive selection process, including, but not limited to, the selection of advisors, consultants, contractors, or other specialties when either price is not the sole basis of selection or the goods or services cannot be clearly defined, the following procedures shall apply:
  - a. A request for proposals (RFP) or request for qualifications (RFQ) will be prepared and distributed in a manner consistent with subsection (3)(1)(a)[these regulations];
  - b. Each RFP or RFQ shall identify the appropriate evaluation procedures and criteria to be applied to the selection of the best proposal among respondents. The City Mayor, or his designee, shall establish the evaluation criteria;
  - c. As provided in the RFP or RFQ, discussions may be conducted with the best qualified, responsible firms who submit proposals to assure full understanding of, and conformance to, the solicitation requirements. Qualified firms shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted through negotiations after submissions and prior to award for the purpose of obtaining best and final offers, subject to award by the awarding authority.
  - d. The City shall award a contract to the most qualified person or firm, meeting the specifications set forth in the RFP or RFQ, subject to the right of the City to reject all proposals. A contract may be awarded in whole or in part, or in portions to more than one qualified proposing person or firm.
    - i. The City may award a contract for the design and building of a project utilizing the procedures set forth in F.S. § 287.055(9).
    - ii. The City may award contracts for construction management utilizing the procedures set forth in F.S. § 255.103 and § 287.055.

Sec 2-64 - Design-build and construction management.

The City may authorize a design-build contract for the design and construction of public projects. For contracts utilizing the competitive proposal selection process, the provisions of F.S. § 287.055 shall govern. For contracts utilizing a qualifications based selection

process and meeting the dollar threshold requirements of F.S. § 287.055, then the provisions of F.S. § 287.055 shall govern.

#### Sec 2-65 - Exemptions.

Requirements for competitive bids or proposals may be exempt from the provisions of section 2-663 and 2-664 for the following:

1. An emergency procurement or service to replace, reconstruct or repair damaged facilities or equipment when such damage or destruction constitutes an emergency because it creates:
  - a. An immediate danger to the public health or safety.
  - b. A need to protect against further loss or damage to property. An interruption of an essential governmental service.
2. Procurements greater than \$50,000.00 made pursuant to section 2-65(1) above shall have written approval by the mayor, or in the absence of the mayor, the vice mayor, with copies of the written approval provided to the City council at the next available council meeting.
3. Where the vendor will extend the prices and terms of a previously awarded contract awarded in accordance with requirements of this division for a period no greater than one year.
4. Utility services, such as, but not limited to, water, sewer, electrical, and cable television.
5. Public art or other products or services of an artistic nature.
6. For repair, maintenance, remodeling, renovation, construction or demolition of a single project not involving an increase in the size and type of an existing facility.
7. For telecommunications systems and information technology, including data processing equipment, systems software, and reproduction equipment.
8. Contracts with instructors who conduct City-operated, fee-based activities (example: adult education classes) or individuals or organizations who participate in or provide, theatrical productions or other special events.
9. For sole source procurements when:
  - a. The parts or accessories are an integral repair or accessory compatible with existing equipment and are the only parts or accessories that can be used.
  - b. The procurement is identical to the existing product or service to ensure consistency in results where either: inventory of parts are not cost, space, or time effective; the product or service is standardized; and the acquisition of an alternate produce or service would require considerable time and expense to evaluate.
  - c. The goods or service is proprietary or prototype.
10. When the nature of the purchase or service is considered to be in the best interest of the City as determined by the awarding authority as provided in this division.
11. Procurement of real property.
  - a. The City Mayor, or his designee, may negotiate acquisition of real property. For acquisitions of real property in which exemption from the

provisions of F.S. § 119.07(1) [Public Records] is utilized, then the provisions governed by F.S. § 166.045, as amended, shall apply.

- b. The acquisition of real property shall require the approval of City council.

#### Sec 2-66 - Award of contract and change orders.

1. Except as otherwise provided in this division, contracts for the procurement of goods or services in excess of \$50,000.00 on a single purchase or a per annum basis shall be awarded by the City council.
2. Except as otherwise provided in this division, contracts for the procurement of goods or services that do not exceed \$50,000.00 on a single purchase or per annum basis may be awarded by the City Mayor.
3. Contracts exceeding a period of three years shall be authorized by City council, regardless of value.
4. The City council shall approve all professional legal services exceeding \$25,000.00.
5. Change orders and contract amendments are subject to the following:
  - a. For contracts authorized by City council, the City Mayor may approve change orders or contract modifications provided that the cumulative contract does not exceed 25 percent of the original contract.
  - b. The City Mayor may approve change orders or contract modifications for contracts of less than \$50,000.00 provided that the cumulative contract and change orders do not exceed \$50,000.00.
  - c. The 25 percent threshold shall apply to both individual change orders or contract modifications and the net total of change orders and contract modifications issued on a particular contract.
  - d. Prior to the issuance of a change order or contract modification, the City Mayor shall determine:
    - i. The circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed;
    - ii. The change is germane to the original contract as signed; and,
    - iii. The change order or contract modification is in the best interest of the City and authorized by law.
  - e. If the City has awarded a contract and an option exists or is offered to the City to extend the period of the contract, the City Commission shall determine if such extension is in the best interests of the City.

#### Sec 2-67 -Bid protests and bidder sanctions.

1. Bid protests. Unless waived by the City, the protest period shall end upon award of the contract.
2. Who May File A Protest  
Any actual or prospective bidder, proposer, offeror or contractor who is aggrieved in connection with a solicitation or award of bid or contract may file a protest with the Deputy City Clerk. Protests relating to cancellation of

invitations to bid and protests relating to the rejection of all bids are not permitted.

### 3. Time For Filing

If a protest is submitted by a prospective or actual bidder, it must be filed within seven (7) calendar days after such aggrieved person knew or should have known of the facts giving rise thereto, provided the bid award or contract has not been approved by the City Commission, or the contract has not been fully executed if City Commission approval is not necessary. A protest is deemed filed when received by the Deputy Clerk..

### 4. Form of Protest

A protest must be in writing and filed with the Deputy Clerk 481 W HICKPOCHEE AVE, LaBelle FL, 33935. A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived and may not be raised on appeal. The protesting party may submit with the protest any documents or information deemed relevant.

### 5. Procedures

- A. The City Mayor, or his designee, shall attempt to settle or resolve protests. The Mayor, or his designee, shall render a decision, in writing, within seven (7) calendar days following receipt of the protest.
- B. Any person aggrieved by the decision of the Mayor, or his designee, may appeal to the City Commission within seven (7) calendar days from the date of the Mayor's, or his designee, written decision. Said appeal shall be in writing and shall state with specificity the grounds therefore and also the action requested of the City Council. The appeal is deemed filed when received by the Deputy City Clerk.
- C. Decisions of the City Mayor, or his designee, concerning contracts which require City Commission approval, may be appealed to the City Commission by submission to the City Clerk of a written request for hearing within seven (7) calendar days from the date of the City Mayor's, or his designee's, written decision. The written request shall state with specificity the grounds for the appeal and also the action requested of the City Commission. The appeal is deemed filed when received by the Office of the Deputy City

Clerk. A final decision under this section shall be conclusive and shall represent the position of the City.

In the event of a timely protest and/or appeal, the City shall not proceed further with the solicitation or with the award of the bid/contract unless the City Commission, after consultation with the head of the using department, decides by resolution, to award the bid/contract without delay in order to protect the public health, welfare or safety.

6. Bidder sanctions.

- a. Bidders, contractors, and other proposing parties may be debarred, suspended or otherwise sanctioned from doing business with the City for any of the following reasons:
  - i. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
  - ii. Conviction under state or federal statutes of embezzlement, theft, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a City contractor.
  - iii. Conviction under state or federal anti-trust statutes arising out of the submission of bids or proposals.
  - iv. Civil finding of guilt of activity contained in 1., 2., and 3. above.
  - v. Violation of contract provisions, as set forth below:
    1. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract.
    2. Unauthorized withdrawal of a submitted bid or proposal after opening.
    3. A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contract or other contract violation. Failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
    4. Any other cause that may affect responsibility as a City contractor, including, but not limited to, debarment by another governmental entity for any cause listed in this policy.
- b. After reasonable notice to the person or company involved and reasonable opportunity for that person or company to be heard, the City Mayor or designee is authorized to debar, suspend or otherwise sanction a person or

- c. Notice of decision. A copy of the decision to debar or suspend a vendor shall be mailed or otherwise furnished immediately to the debarred or suspended vendor.
- d. Finality of decision. A decision to debar or suspend a vendor shall be final and conclusive, unless the debarred or suspended vendor appeals the decision of the Mayor to the City council via the office of the City attorney no greater than ten days after receipt of the notice to debar or suspend. Written appeal shall be submitted with a required \$500.00 filing fee. Council will hear the appeal de novo and take final action.

Sec 2-68 - Disposal of surplus.

The City Mayor, or his designee, shall be responsible for the sale or disposition of surplus by a method or methods deemed to be most advantageous, provided that no employee of the owning or disposing user department shall be entitled to purchase any such surplus. All surplus items with an estimated fair market value of \$50,000.00 or more must be declared surplus by a resolution of the City council before disposal of said surplus item.