

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA DELETING SECTION 2-798(b)(2). - PREFERENCE. OF SECTION 2-798, LOCAL BUSINESS ENTERPRISE PREFERENCE. OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Sec. 2-798 of the City's Code of Ordinances establishes a local business enterprise preference that may be applied to competitive bids, general services, professional services and Requests for Proposals (RFPs). Specifically, Subsection 2-798(b)(2). *Preference*. requires the Office of Procurement ("Procurement" to allow a qualifying local proposer the opportunity to match the price of the highest-ranked proposer if their evaluation score is within five percent of the top score; and

WHEREAS, while this provision may function appropriately within price-driven solicitations such as Invitations to Bid, its application within an RFP, where award is based on weighted evaluation criteria, creates significant procedural conflicts and risks. For these reasons, Procurement recommends amending Sec. 2-798(b). *Preference*. to exclude **RFPs** from the local preference mechanism; and

WHEREAS, the Local Business Enterprise Preference provision

found in Sec. 2-798(b)(2). *Preference.* creates the following issues and conflicts in the competitive bidding process:

- Overrides “best-value” evaluation and final scoring;
- Post evaluation re-ranking creates transparency and fairness concerns;
- Forces price to dominate an evaluation that may not be price-driven;
- Creates significant legal and compliance risks in Federally funded projects;
- Compromises competitive negotiations; and

WHEREAS, removing the Local Business Enterprise Preference from RFPs will:

- simplify the evaluation process;
- reduce administrative burdens;
- eliminate confusion among evaluation committee members;
- provide clearer guidance to proposers; and
- strengthen the defensibility of award decisions;

and

WHEREAS, Procurement recommends the City Commission delete Section 2-798(b)(2). *Preference.* in order to expressly exclude RFPs from eligibility for the Local Business Enterprise Preference and limit the preference to competitive bid solicitations where award is based solely on lowest responsive and responsible pricing; and

WHEREAS, deleting Sec. 2-798(b)(2). *Preference.* from the City's Code of Ordinances preserves the City's commitment to supporting local businesses while ensuring RFPs remain compliant, transparent, fair and aligned with best-practice procurement

standards;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA AS FOLLOWS:

Section 1: That Section 2-798(b) (2)- *Preference.* found in Section 2-798.- *Local business enterprise preference.*, Subdivision II.- *Competitive Bidding.*, Division 3. - *Personal Property Purchasing and Procurement.*, Article VII.- *Financial Matters.*, Chapter 2.- *Administration.* of the Code of Ordinances of the City of Key West, Florida is hereby deleted and Section 2-798(b).- *Preference.* is hereby amended to read as follows**:

" Section 2-798(b).- *Preference..*

(b) *Preference.* In the purchase of or the contract for goods, services, or construction of capital improvements, the city commission or, in the case of purchases and contracts which are not required to be approved by the city commission, the city finance department may give a preference to a responsive and responsible local business enterprise as specified herein. Any required notice of bid or request for proposals for matters subject to the local preference provided for in this section shall contain a provision notifying prospective bidders or responders of the applicability of the local preference.

Except where otherwise provided by this Code, federal or state law or other funding source restrictions, purchases of goods, general services, or professional services by the city may give preference to local businesses in the following manner:

- (1) Under a competitive bid solicitation, when a responsive, responsible nonlocal business submits the lowest price bid, and the bid submitted by one or more responsive, responsible local businesses is within five percent (5%) of the price submitted by the nonlocal business, then

the local business with the apparent lowest bid offer (i.e., lowest local bidder) may have the opportunity to submit an offer to match the price(s) offered by the lowest, qualified and responsive nonlocal bidder within three (3) working days of a notice of intent to award. If the lowest local bidder submits a bid that fully matches the lowest bid from the lowest nonlocal bidder tendered previously, then the award shall be made to such local bidder. If the lowest local bidder declines or is unable to match the lowest nonlocal bid price(s), then the award shall be made to the nonlocal business.

~~(2) For requests for proposals in which objective factors are used to evaluate the responses from vendors and are assigned point totals, if, upon the completion of final rankings (technical and price combined, if applicable) by a selection committee or the city commission, a qualified and responsive nonlocal business is the highest ranked proposer and the ranking of a qualified and responsive local business is within five percent (5%) of the ranking obtained by the qualified and responsive nonlocal business, the highest ranked qualified and responsive local business shall have the opportunity to submit an offer to match the price offered by the highest ranked qualified and responsive nonlocal business within three (3) working days of a notice of intent to award. If such highest ranked local business submits a price that fully matches the price of such highest ranked qualified and responsive nonlocal business, or the original price of the highest ranked local business is equal to or less than that of such highest ranked nonlocal business, then such local business shall proceed to negotiations with the city. If the highest ranked qualified and responsive local business declines or is unable to match the price of the highest ranked qualified and responsive nonlocal business, then the city shall proceed to negotiate with such highest ranked nonlocal business."~~

**At first reading, added language is underlined; deleted language is ~~struck through~~. At second reading, added language is double-underlined and deleted language is ~~double struck through~~.

Section 2: That all Ordinances, or parts thereof, of the City of Key West, Florida in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 3. That this Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

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Read and passed on first reading by the City Commission
at a meeting held this _____ day of _____,
2026.

Read and passed on final reading by the City Commission
at a meeting held this _____ day of _____,
2026.

Authenticated by the Presiding Officer and Clerk of the
Commission on the _____ day of _____, 2026.

Filed with the Clerk on _____,
2026.

Mayor Danise Henriquez _____
Vice Mayor Donald "Donie" Lee _____
Commissioner Lissette Carey _____
Commissioner Aaron Castillo _____
Commissioner Monica Haskell _____
Commissioner Sam Kaufman _____
Commissioner Greg Veliz _____

DANISE HENRIQUEZ, MAYOR

ATTEST:

KERI O'BRIEN, CLERK