

ORDINANCE RE: A BUSINESS WITH ITS PRINCIPAL PLACE OF BUSINESS LOCATED WITHIN THE TOWN OF STONINGTON HAVING BIDDING PREFERENCE OVER A NON-TOWN BASED BUSINESS

BE IT HEREBY ORDAINED BY THE LEGAL VOTERS OF THE TOWN OF STONINGTON IN LAWFUL MEETING DULY ASSEMBLED THAT THE FOLLOWING ORDINANCE BE ESTABLISHED BY THE TOWN OF STONINGTON:

SECTION I. DEFINITIONS

Whenever in this ordinance the following terms are used they shall be the meaning respectively ascribed to them in this section.

- a. **TOWN-BASED BUSINESS** - A business, the principal place of business of which is located within the Town of Stonington. A business shall not be considered to be town-based business unless evidence to establish that said business has a bona fide principal place of business in Stonington is submitted with each bid submitted by said business. Such evidence may include satisfactory proof of ownership of or a long-term lease of the real estate at which the principal place of business is operated or payment of property taxes to the Town of Stonington on the personal property of the business to be used in performance of the bid. A "town-based business" shall be required to maintain such status throughout the term of any contract with the Town of Stonington. Failure to maintain such status shall constitute grounds for the town to revoke said contract at its sole option. A business shall not be considered to be a town-based business if at the time of the bid award the business is delinquent in the payment of any real estate, personal property taxes or water and sewer charges.
- b. **BIDDER** – A person, firm or corporation submitting a competitive bid in response to a solicitation.
- c. **BID/PROPOSAL** – The submission of prices by persons, firms or corporations competing for a contract to provide buildings, facilities, supplies, materials, equipment, contractual services or any other facilities, goods or services.
- d. **AWARDING** – The decision by the (commission, agency or department of the state/political subdivision) to offer a contract to a bidder.

SECTION II. DETERMINATION OF THE LOWEST RESPONSIBLE BIDDER

Except as provided in Section IV, in every instance of purchase or contract advertised for bid as to which a qualified town-based business is a bidder, the lowest responsible bidder shall be determined in the following order:

- a. Provided that such town-based business meets all requirements set forth in Section I(a) and Section III, where all bids submitted for purchases or contracts exceed Five Thousand and 00/100 (\$5,000.00) Dollars but are less than Five Hundred Thousand and 00/100 (\$500,000.00) Dollars, any qualified town-based business which has submitted a bid not more than ten (10%) percent higher than the bid of the otherwise lowest responsible bidder may be awarded the bid provided that such town-based business agrees to accept the award of the bid at the amount of the bid of the otherwise lowest responsible bidder.
- b. Provided that such town-based business meets all requirements set forth in Section I(a) and Section III, where all bids submitted for purchases or contracts exceeding Five Hundred Thousand and 00/100 (\$500,000.00) Dollars but are less than Five Million and 00/100 (\$5,000,000.00) Dollars, any qualified town-based business which has submitted a bid not more than five (5%) percent higher than the bid of the otherwise lowest responsible bidder may be awarded the bid provided that such town-based business agrees to accept the award of the bid at the amount of the bid of the otherwise lowest responsible bidder.

- c. Provided that such town-based business meets all requirements set forth in Section I(a) and Section III, where all bids submitted for purchases or contracts exceeding Five Million and 00/100 (\$5,000,000.00) Dollars any qualified town-based business which has submitted a bid not more than three (3%) percent higher than the bid of the otherwise lowest responsible bidder may be awarded the bid provided that such town-based business agrees to accept the award of the bid at the amount of the bid of the otherwise lowest responsible bidder.
- d. Whenever more than one qualified town-based business has submitted a bid within the required percentage amount to qualify it as the lowest responsible bidder pursuant to Section II (a), (b) and (c) herein, the town-based business which has submitted the lowest bid shall be considered the qualified town-based business for purposes of receiving the award of the bid at the amount bid by the lowest responsible bidder.

SECTION III. IMPLEMENTATION OF TOWN-BASED BUSINESS PREFERENCE

Any bidder town-based business capable of meeting the requirements of a town-based business as defined herein responding to a bid solicitation shall be required to submit a town-based business Affidavit Form signed by an authorized representative of the bidder of the bid submittal. Failure to submit a town-based business affidavit on the form approved by the Town of Stonington will result in disqualification of town-based business status and loss of any preference given to a town-based business on the part of such bidder as to its bid.

SECTION IV. RESTRICTIONS ON USE OF TOWN-BASED PREFERENCE

Section I (a) and Section III shall not apply in all instances where a bid requires a cooperative purchasing agreement or arrangement between the town and another municipality or municipalities; in cases of grants or loans provided by the State of Connecticut or the United States of America or where precluded by state or federal law or other ordinance of the Town of Stonington.

SECTION V. EFFECTIVE DATE

This Ordinance shall become effective fifteen (15) days after publication in a newspaper having a substantial circulation in within the Town.

Adopted – June 30, 2010

Effective – July 21, 2010