Procurement Department
3230 Hwy 319 E, Conway, SC 29526
Phone: 843.915.5380

LOCAL VENDOR PREFERENCE
AFFIDAVIT OF ELIGIBILITY

IMPORTANT: Local Vendor Preference affidavit and required documentation MUST be submitted WITH a vendor's SEALED BID to be considered, per Horry County Council Resolution # 116 - 13.

This form is to be completed in its entirety by the local vendor requesting consideration for the preference and **submitted along with your Sealed Bid**. Incomplete forms may be rejected for local vendor preference evaluation. Attach required documentation to sealed bid.

1. LEGAL NAME OF FIRM: _____

   Mailing Address: _____ Physical Address (if different) _____

   _____ _____

   _____ _____

2. Year your business was established in Horry County: _____
   (attach documentation, as indicated in the instructions below)

3. Business License Number issued by Horry County or applicable municipality:
   _____ Yes _____No Date Issued: _____
   (attach documentation, as indicated in the instructions below)

4. Current Horry County Taxes paid? _____ Yes _____No
   Paid Tax Receipt Number _____ Date Taxes Paid _____

5. For transactions which require sales tax, provide the following Reseller information:
   Reseller Permit Number: _____
   Enter the Company Name and Address as it appears on permit:

   _____

   _____

   _____

6. The business will attribute any sales tax from the contract with Horry County.
   Does your business have more than one office in the State of South Carolina? ___Yes ___No

   If Yes, specify the office location considered as the point-or-sale for sales tax purposes

   _____

7. Are a majority of employees (on payroll of local vendor requesting preference) Horry County residents? _____ Yes _____No

8. Are a majority of independent contractors (engaged by local vendor requesting preference) Horry County residents? _____ Yes _____No

8. Has the vendor applying for the local vendor preference in this affidavit been in default or terminated from any Horry County contract within the last five (5) years? _____Yes _____No

   (A condition of default includes notices from sub-contractors and suppliers who have contracted the local vendor's surety, or Horry County, without successful resolution for contract payment disputes.)

   If "Yes", explain: _____

   _____

Note: Horry County reserves right to demand proof or documentation of any certification or claim contained herein, at any time during resultant contract period. Failure to provide requested information may result in contract termination. Section 13-3-3 of the Horry County Procurement Regulation outlines Horry County's Audit authority.

By signing below, it is understood that all terms and conditions and instructions have been carefully examined before deciding to submit this local vendor preference affidavit. Under the penalty of perjury, the undersigned states that the foregoing statements are true and correct. The undersigned also acknowledges that any person, firm, corporation or entity intentionally submitting false information to the County in an attempt to qualify for local preference may be suspended from bidding on Horry County products and services for a period of at least ninety (90) calendar days, per Chapter 15 of the Horry County Procurement Regulation.

Company Legal Name (Printed) _____ Date _____

Authorized Person's Signature_____

Printed Name & Title _____

Email Address _____ Phone (____) _____

On this_____ day of _____, _____ , before me, the under-signed officer, personally appeared _____ [name(s) of person(s) who made acknowledgment on behalf of the corporation], a corporation/partnership/sole proprietor, and that he/she/they, as such _____ [title of corporate officer or other description of legal capacity], being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself/themselves as _____ [title of corporate officer or other description of legal capacity].

In witness whereof I hereunto set my hand and official seal.

Notary Public _____

My Commission Expires:

HORRY COUNTY, SOUTH CAROLINA LOCAL VENDOR PREFERENCE INSTRUCTIONS FOR APPLICATION

1. Background and Legal Authority

1.1. On October 15, 2013, Horry County Council passed Resolution # 116-13 creating a local vendor preference for qualified Horry County businesses. – This Resolution is attached in its entirety.

1.2. In 2010, Horry County Council passed ordinance # 02-10, Horry County Procurement Code and Regulation effective May 1, 2010 – This Code and Regulation is available on the Horry County web site at: http://www.horrycounty.org/Departments/Procurement.aspx.

2. Definitions, based on legislation referenced above

2.1. "Principle place of business" – Physical location (street address) of Horry County business.

2.2. "Horry County resident employee" – Employee of local vendor that permanently and legally resides in Horry County.

2.3. "Horry County resident sub-contractor" – Subcontractor of local vendor that also has a "principle place of business" in Horry County.

2.4. "Proof" (#2.c of Resolution) – Documentation, as determined by Horry County Chief Procurement Official or County Attorney, required to substantiate local vendor status.

2.5. "Default" – Local vendor who has been terminated or defaulted on a previous Horry County contract. A condition of default also includes notices from sub-contractors and suppliers who have contracted the local vendor's surety, or Horry County, without successful resolution for contract payment disputes.

3. Terms, Conditions and Instructions, based on legislation referenced above

3.1. Applicability

3.1.1. As required in the attached Horry County Council Resolution # 116-13, the second apparent low total bid must be within the percentage, based on the threshold bid amount, and will be applied across-the-board. If local vendor preference is activated, the actual percentage used to match the apparent low total bid will be applied to each line item. The reduced line item amounts will be incorporated into the resultant contract and may be used for change order calculations, as necessary.

3.1.2. Applicability of local vendor preference will apply to only the sealed bid under consideration and be applicable only to its resultant contract.

3.1.3. Apparent low bidder, with or without application of local vendor preference, will be required to be a responsive and responsible bidder.

3.1.4. All bidders of record will be notified when local vendor preference has been properly requested. Such notification will set a deadline for submitting a bid protest based on local vendor preference <u>only</u>. All other objections for

bid protests shall follow Subchapter 15-3 of the Horry County Procurement Regulation.

3.2. Submission of local vendor preference affidavit

3.2.1. Must submit local vendor preference affidavit and required documentation (see below) **as part of your sealed bid** proposal

3.2.2. By submitting a completed local vendor preference affidavit, you are acknowledging and accepting the application of local vendor preference if your total bid is second lowest price within five percent (5%) – or two percent (2%), as applicable – of the lowest price if lowest price is submitted by non-local vendor

3.2.3. By submitting a completed local vendor affidavit with your sealed bid as required will bind your company to meet the "lowest price" bid amount as applicable in 4.2.2 above.

3.2.4. Mistakes in bids are covered by section 11-2-10 of the Horry County Procurement Code and Regulation which is identified as "Code of Ordinances" on this page of the Horry County web site: http://www.horrycounty.org/Departments/Procurement.aspx.

3.3. Documentation to **submit with affidavit as part of sealed bid**

3.3.1. Principle place of business

3.3.1.1. Lease or purchase agreement that shows location and date acquired. Vendor may redact confidential information such as monthly payment amount.

3.3.2. Majority of employees are Horry County residents – certification is part of local vendor preference affidavit.

3.3.3. Majority of independent contractors are Horry County residents – certification is part of local vendor preference affidavit.

3.3.4. All fees and taxes paid in full – certification is part of local vendor preference affidavit.

3.3.5. Applicable business license

3.3.5.1. Photocopy of current Horry County business license or business license from applicable municipality.

3.3.6. All other relevant licenses, permits, and authorizations – these items may be requested, as deemed relevant by Horry County Chief Procurement Official

3.3.6.1. Examples of potentially relevant documentation:

3.3.6.1.1. State of SC general contractor license

3.3.6.1.2. Permits for current projects

3.3.7. Default information – certification is part of local vendor preference affidavit.

COUNTY OF HORRY)
) RESOLUTION R-116 -13
STATE OF SOUTH CAROLINA)

A RESOLUTION AUTHORIZING AND DIRECTING THE AMENDMENT OF HORRY COUNTY'S PROCUREMENT REGULATIONS TO INCLUDE A LOCAL VENDOR PREFERENCE PROVISION.

WHEREAS, Appendix E of the Horry County Code of Ordinances (Procurement Code) provides in Section 103 that amendments to the County's regulations governing procurement, management, control, and disposal of supplies, services, and/or construction to be procured by the County, once approved by way of resolution of Horry County Council, shall be binding in all procurements made by the County, absent existing contract without consent of the parties to be so bound; and

WHEREAS, Horry County desires to further its support of local businesses when awarding contracts for the provision of goods and services to the County by providing for a local vendor preference in its procurement regulations, in an effort to promote local economic activity and stimulus, job creation, and fairness.

NOW, THEREFORE, BE IT RESOLVED that the Horry County Procurement Regulations are hereby amended to include the following provision:

A. Local Vendor Preference

1. A responsive and responsible local bidder who is within a certain percentage of the lowest non-local bidder, may be given the opportunity to match the bid submitted by the non-local bidder and thereby be awarded a contract, if the following conditions are met.

    a. The apparent low bidder on a formal sealed bidding procurement (commodity value over $25,000, but not exceeding $100,000, as a Tier 4 process, Horry County Procurement Regulation section 11-2) is NOT a local vendor (see below for definition of "local vendor") *and* the next apparent low bidder *is* local *and* the local bid is within 5% of apparent non-local low bid, then the local vendor has the opportunity to meet the apparent low non-local bid. The local vendor must perform as specified in the invitation to bid at the price bid by a non-local vendor assuming the difference is 5% or less. Consideration for an award will include the willingness and ability of the local bidder to perform fully at the reduced bid amount.
    b. The apparent low bidder on a formal sealed bidding procurement (commodity value over $100,000, but not exceeding $10,000,000 as a Tier 4 process, Horry County Procurement Regulation section 11-2) is NOT a local vendor (see below for definition of "local vendor") *and* the next apparent low bidder *is* local *and* the local bid is within 2% of apparent non-local low bid, then the local vendor has the opportunity to meet the apparent low non-local bid. The local vendor must perform as specified in the invitation to bid at the price bid by a non-local vendor

assuming the difference is 2% or less. Consideration for an award will include the willingness and ability of the local bidder to perform fully at the reduced bid amount.

c. Contracts awarded using a local vendor preference must still comply with all the same terms and conditions of the bid documents. The same due diligence will be performed regardless if the apparent low bidder is local or non-local. Horry County will not award a contract to a non-responsive or non-responsible bidder.
d. Bidders must include an executed "local vendor preference" affidavit form and submit it with their sealed bid. All items declared in the local vendor preference affidavit must be current at the time the form is submitted. Bidders *will not* be permitted to submit the local vendor preference affidavit *after* the sealed bids have been publically opened. If the local vendor preference affidavit is not included as part of the local vendor's sealed bid, the bidder will not be permitted to request the preference.
e. Preference will be applied on the *total* bid amount, including sales/use tax, shipping, handling, and any other fees.
f. Local vendor preference *cannot* be applied to any sealed bid process that has any federal or state grant dollars attached to it, or otherwise if prohibited by law.
g. Should the lowest responsive and responsible local bidder not exercise its right to match the bid as granted herein, the next lowest qualified local bidder shall have that right and so on.
h. The right to exercise the right to match a non-local bidder's bid shall be exercised within 24 hours of notification of the right to match that bid.
i. Local preference shall not apply to goods or services provided under a cooperative purchasing agreement or similar "piggyback" contract, or any bid announcement which specifically provides that the general local preference policies set forth herein are suspended due to unique or extraordinary circumstances or where such suspension is required by law or determined to be in the best interests of the County as determined by the Chief Procurement Officials.

2. To qualify as a "local vendor", the following must be met:

   a. Vendor must have a current physical business address (as a principal place of business), located and in operation (regularly conducting business) in Horry County for the last three (3) years, and maintain such throughout the term of any contract with the County.
   b. The majority of employees/independent contractors of the vendor must be "legal" and "permanent" full-time Horry County residents.
   c. Vendor is in good standing with the State of South Carolina and Horry County Government. Proof shall be submitted as part of sealed bid, and shall include:
      - All fees, taxes, etc. must be paid in full *prior* to due date of sealed bid and submittal of affidavit.
      - Horry County (or applicable municipality) business license must be obtained *in advance* of requesting local vendor preference. Copy shall be submitted as part of the local vendor preference affidavit.
      - All other relevant licenses, permits, and authorizations are in hand.

d. Vendor has not defaulted or been terminated from a previous Horry County contract within the last five (5) years. A condition of default includes notices from sub-contractors and suppliers who have contacted the local vendor's surety, or Horry County, without successful resolution for contract payment disputes.

B. Review by Council

To enable it to appropriately monitor the effect of such regulation on the procurement of goods and services by the County, Council will conduct a review of such regulation on an annual basis.

AND IT IS SO RESOLVED.

Dated this 15th day of October, 2013.

HORRY COUNTY COUNCIL

Mark Lazarus

Mark Lazarus, Chairman

Harold G. Worley, District 1

Brent J. Schulz, District 2

Marion D. Foxworth, III, District 3

Gary Loftus, District 4

Paul D. Price, Jr., District 5

Robert P. Grabowski, District 6

James R. Frazier, District 7

Carl H. Schwartzkopf, District 8

W. Paul Prince, District 9

Jody Prince, District 10

Al Allen, District 11

Attest:

Patricia S. Hartley

Patricia S. Hartley, Clerk to Council