

**NOTICE OF PUBLIC HEARING
TOWN OF BABYLON**

PLEASE TAKE NOTICE, that the Town Board of the Town of Babylon will hold a Public Hearing at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst, New York, on the 18th day of May, 2020 at 11:00 a.m., prevailing time, to consider amending Chapter 82 of the Babylon Town Code as set forth in the annexed Exhibit "A".

EXHIBIT "A"

AMEND

ADD

Chapter 82 Bidding Preferences

§ 82-1 Legislative intent.

A. This Town Board hereby finds and determines that millions of dollars' worth of contracts for goods and services are awarded by Babylon Town each year.

B. This Town Board further finds that the current pandemic and resulting economic downturn being experienced by the Town is adversely affecting local businesses through a reduction in business activity and a concomitant loss of jobs.

C. This Town Board further finds and determines that many of these contracts are awarded to individuals or entities that are located outside the Town of Babylon and the County of Suffolk.

D. This Town Board also finds and determines that the award of such contracts to individuals or entities outside the Town of Babylon and the County of Suffolk, at a time when the Town is experiencing a pandemic and economic downturn, tends to exacerbate economic difficulties.

E. Therefore, the purpose of this chapter is to permit Babylon Town to award contracts (which are not subject to General Municipal Law § 103) for goods and services to a bidder other than the lowest responsible bidder where such other bidder maintains a principal place of business within the Town of Babylon, or sells the contracted-for goods which were manufactured within the Town of Babylon, and submits a bid not exceeding 10% more than the otherwise lowest contractors. This chapter would permit award to a bidder other than the lowest responsible bidder where such bidder maintains a principal place of business within the County of Suffolk or sells the contracted for goods which were manufactured within the County of Suffolk and submits a bid not exceeding 5% more than the otherwise lowest contractors.

§ 82-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CONTRACT

Any claim, account, or demand against or agreement, other than a collective bargaining agreement, upon sufficient consideration, with Babylon Town or any divisions, departments, agencies, or entity thereof, express or implied, for the rendering or performance of personal or professional services and shall include extensions, modifications, renewals, or amendments. The term "contract" shall not include any such agreement which is awarded pursuant to General Municipal Law § 103.

LOCATED WITHIN THE TOWN OF BABYLON and LOCATED WITHIN THE COUNTY OF

SUFFOLK

Having a principal place of business physically located within the geographical boundaries of the Town or the county as applicable. In the case of an individual, partnership, association, or proprietorship, it shall mean having an office from which at least a majority of the employees are assigned and at which at least a majority of the employees' work. In the case of a corporation, it shall mean having its principal place of business from which the president or chief executive officer operates on a regular and consistent basis, and the address so designated on its certificate of incorporation, located within the Town or the county, as applicable. In the case of a joint venture, the principal place of business shall be construed as requiring both entities, in the case of a two-party venture, meeting the pertinent test for a principal place of business set forth above and at least a majority of the entities in the case of a multiple-party venture, meeting the pertinent test for a principal place of business set forth above.

PRINCIPAL PLACE OF BUSINESS

The office to which the preponderance and communications is directed, and at which at least a majority of the entity's work force is assigned on a regular basis.

§ 82-3 Competitive bids.

A. Prior to making any purchase of supplies, materials, equipment, or entering into a contract for the provision of services or the construction of public works, other than purchases and contracts subject to General Municipal Law § 103, the Director of Purchasing, acting on behalf of the Town Board, shall provide an opportunity for competition under such rules and regulations as may from time to time be established by state law or local legislation. Contracts that are subject to competitive bidding shall be awarded to the lowest responsible bidder who shall give security for the performance of the contract, if required by the bid specifications. However, the Town Board, or Director of Purchasing, as the case may be, may award such contract to a bidder/other than the lowest responsible bidder, as aforesaid, where such other bidder maintains a principal place of business located within the Town of Babylon, or sells the contracted-for supplies, material, or equipment manufactured and located within the Town of Babylon, and submits a bid not exceeding 10% more than the otherwise lowest responsible bidder. The Town Board, or Director of Purchasing, as the case may be, may award such contract to a bidder, other than the lowest responsible bidder, where such bidder maintains a principal place of business located within the County of Suffolk or sells the contracted for supplies, material or equipment manufactured and located within the County of Suffolk, and submits a bid not exceeding 5% more than the lowest responsible bidder.

B. In the event that the Town Supervisor certifies, in writing to the Town Board that a sudden disaster, such as a hurricane, tornado, flood, blizzard, explosion, airplane crash, earthquake, nuclear war, radiological emergency, war, civil unrest or disobedience, act of God, pandemic, or comparable act has occurred, or in the event that a written declaration of such a disaster is adopted in the form of a resolution by an affirmative vote of at least 2/3 of the entire membership of the Town Board, then the requirement in Subsection **A** of this section may be waived by the Town Supervisor.

C. Any contract entered into in violation of Subsection **A** of this section shall be null and void *ab initio* and Comptroller shall be prohibited from making any payment on any such contract.

§ 82-4 Applicability.

This chapter shall apply to contracts other than those awarded pursuant to General Municipal Law § 103 on or after the effective date of this chapter.

§ 82-5 Severability.

If any clause, sentence, paragraph, subdivision, section or part of this chapter or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this chapter, or in its application to the person, individual, corporation, firm,, partnership, entity, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Dated: May 6, 2020, Town of Babylon

BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON
GERALDINE COMPITELLO, TOWN CLERK