

**ORDINANCE NO. 2013-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMOORE  
REPLACING SECTION 10 TO CHAPTER 8 OF TITLE 1  
OF THE LEMOORE MUNICIPAL CODE  
RELATING TO LOCAL PREFERENCES**

**WHEREAS**, the City Council of the City of Lemoore desires to establish local preference for City purchases;

**NOW, THEREFORE**, the City Council of the City of Lemoore does hereby ordain as follows:

**Section 10.** Chapter 8, is hereby replaced in Title 1 of the Lemoore Municipal Code to read as follows:

“Chapter 8”

PURCHASES AND CONTRACTS

**Section**

**1-8-10: LOCAL PREFERENCES:**

Notwithstanding anything to the contrary in this chapter:

**A. Definitions**

“Local City Vendor” means a vendor, contractor, or consultant who has a valid physical business address located within the boundaries of the City of Lemoore, at least six months prior to bid or proposal opening date, from which the vendor, contractor, or consultant operates or performs business on a day-to-day basis, and holds a valid business license issued by the City of Lemoore. Post office boxes are not verifiable and shall not be used for the purpose of establishing such physical address.

“Local 93245 Vendor” means a vendor, contractor, or consultant who has a valid physical business address located outside the City of Lemoore but within the 93245 zip code, at least six months prior to bid or proposal opening date, from which the vendor, contractor, or consultant operates or performs business on a day-to-day basis, and holds a valid business license issued by the City of Lemoore. Post office boxes are not verifiable and shall not be used for the purpose of establishing such physical address.

“Local Vendor” includes a Local City Vendor and/or a Local 93245 Vendor.

“Solicitation” means the City’s process to obtain bids, quotes, or proposals for the purchase of goods or services or public projects.

## **B. Findings**

1. Annually, the City of Lemoore spends a considerable amount purchasing maintenance services, public projects, and professional services. A substantial portion of the funds used to make these purchases come from taxes and fees derived from local businesses.
2. The City Council has determined that funds generated in the community should, to the extent possible, be placed back in the local economy. Retaining local dollars within a community reduces economic export, increases the financial productivity of taxpayer dollars and increases the consumption of local goods and services while fostering a sustainable community.
3. In working towards a sustainable economy, the City Council recognizes that sustainable procurement policies are an important early step on the City's path to a sustainable community. Leveraging the purchasing power of the City to buy local products and services instead of products and services from outside the City, strengthens the local economic activity and employment as well as sets an example that helps foster and maintain a vital economic community for future generations.
4. The City Council has determined that it is in the best interest of the City to give a preference to Local Vendors in making such purchases whenever the application of such a preference is reasonable in light of the dollar-value received in relation to such expenditure.
5. The City Council further finds that this action is necessary to encourage, promote, stimulate, preserve, and grow the local economy.

## **C. Statement of policy**

1. It is the policy of the City to promote employment and business opportunities for local residents and firms on all contracts and give preference to local residents, workers, businesses, vendors, contractors, and consultants to the extent consistent with the law and interest of the public.
2. Local Vendors must otherwise normally qualify to receive the bid pursuant to the City of Lemoore Municipal Code and other applicable law.
3. The provisions of this chapter shall be construed and implemented in accordance with applicable federal and state laws.

## **D. Local Vendor preference in services**

1. In the solicitation of contracts based on evaluation criteria which best serves the needs of the City and provides the City with the highest quality and cost effectiveness (such as services), as provided in this title, the City Council or the City Manager may give a preference pursuant to this chapter to Local Vendors in making such purchase or awarding such contract.
2. The equivalent of a five percent preference will be added to the final evaluated score of each Local City Vendor. If the five percent preference causes the Local City Vendor to have the best overall score, the Local City Vendor may be deemed the vendor that best serves the needs of the City and provides the City with the highest quality and cost effectiveness.
3. The equivalent of a three percent preference will be added to the final evaluated score of each Local 93245 Vendor. If the three percent preference causes the Local 93245 Vendor to have the best overall score, the Local 93245 Vendor may

be deemed the vendor that best serves the needs of the City and provides the City with the highest quality and cost effectiveness.

4. In order for a Local Vendor to be eligible to claim the preference, the Local Vendor must request the preference in the response to the solicitation and provide a copy of its current business license issued by the City.
5. The vendor, contractor, or consultant will also, to the extent legally possible, solicit proposals for subcontractors and subcontractors for work associated with the proposed contract from local firms as opportunities occur and hire qualified local firms whenever feasible.

**E. Local Vendor preference in purchases and public works contracts**

1. Pursuant to the Public Contracts Code, public projects (i.e., public works construction) must be awarded to the lowest responsive, responsible bidder with certain exceptions. In the bidding of, or letting for procurement of goods and public projects, the City Council or the City Manager may give a preference pursuant to this chapter to Local Vendors in making such purchase or awarding such contract.
2. If the vendor that submits the lowest responsive bid or quote is not a Local City Vendor as defined herein, the lowest responsive bid or quote submitted by a Local City Vendor that is within five percent (5%) of the lowest bid or quote may be deemed to be the lowest bidder. If the low bid for the project is \$250,000 or under, the bid may be awarded to the local bidder outright. However, if the low bid is over \$250,000, said Local City Vendor may elect to reduce its bid or quote to match the bid or quote of the lowest bidder, in writing, within one business day (excluding weekends and holidays) of being notified of their status by the City.
3. If the vendor that submits the lowest responsive bid or quote is not a Local Vendor as defined herein, the lowest responsive bid or quote submitted by a Local 93245 Vendor that is within three percent (3%) of the lowest bid or quote may be deemed to be the lowest bidder. If the low bid for the project is under \$250,000, the bid may be awarded to the local bidder outright. However, if the low bid is \$250,000 or over, said Local 93245 Vendor may elect to reduce its bid or quote to match the bid or quote of the lowest bidder, in writing, within one business day (excluding weekends and holidays) of being notified of their status by the City. For the purposes of matching, the total local bid will be reduced to the amount of the low bid, and each line item of the local bid will be reduced by the percentage difference between the low bid and the local bid.
4. If the lowest Local Vendor within the indicated percent of the lowest bid or quote does not elect to reduce its bid or quote to match the bid or quote of the lowest bidder, then the next lowest Local Vendor shall be given the opportunity to match the bid or quote of the lowest bidder as set forth above, providing that this Local Vendor is also within five percent (5%) or three percent (3%), as applicable, of the lowest bid or quote that has been deemed responsive.
5. In all of the above scenarios, local bidders within City limits are given priority over local bidders outside of City limits but inside the 93245 zip code.
6. In order for a Local Vendor to be eligible to claim the preference, the Local Vendor must request the preference in the solicitation and provide a copy of its current business license issued by the City.
7. The vendor, contractor, or consultant will also, to the extent legally possible, solicit proposals for subcontractors and subcontractors for work associated with

the proposed contract from local firms as opportunities occur and hire qualified local firms whenever feasible.

#### **F. Exceptions to Local Vendor preference policy**

The local preference set forth in this chapter shall not apply to the following purchases or contracts:

1. Supplies, equipment, and services provided under a cooperative purchasing agreement;
2. Purchases or contracts which are funded in whole or in part by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of a local preference;
3. Purchases made or contracts let under emergency or noncompetitive situations;
4. Application of the Local Vendor preference to a particular purchase, contract, or category of contracts for which the City Council is the awarding authority may be waived at the City Council's discretion

#### **G. Quality and fitness**

The local preference set forth in this chapter shall in no way be construed to inhibit, limit or restrict the right and obligation of the City Council and the City Manager to compare quality and fitness for use of services proposed for purchase and compare the qualifications, character, responsibility, and fitness of all persons, firms, or corporations submitting bids or proposals. In addition, the preferences set forth in this chapter shall in no way be construed to prohibit the right of the City Council or the City Manager from giving any other preference permitted by law.

#### **H. Application**

The Local Vendor preference provided in this chapter shall apply to new contracts for services first solicited on or after October 1, 2013. This chapter shall be implemented in a manner consistent with otherwise applicable provisions of this title.

#### **I. Verification of Local Vendor preference eligibility**

Any vendor, contractor, or consultant claiming to be a Local Vendor shall so certify in the bid, in writing to the City Manager. The City Manager shall not be required to verify the accuracy or any such certifications, and shall have sole discretion to determine if a vendor, contractor, or consultant meets the definition of "Local Vendor." The decision of the City Manager declaring that any person or business is not a Local Vendor shall be subject to appeal pursuant to the provisions of Section 1-5-3.

#### **J. Enforcement**

1. The information furnished by each bidder requesting a Local Vendor preference shall be submitted to the purchasing officer under penalty of perjury.
2. No person or business shall knowingly or fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Vendor for the purpose of this chapter.
3. No person or business shall willfully and knowingly make a false statement, whether by affidavit, report, or other representation, to a City official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Vendor.

4. A business which has obtained City certification as a Local Vendor by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:
  - A. Pay the City any difference within the contract amount and what the City's costs would have been if the contract had been properly awarded;
  - B. Be ineligible to transact any business with the City for a period of not less than three (3) months and not more than twenty-four (24) months as determined in the sole discretion of the City Manager. The City Manager shall also have the right to terminate all or any part of any contract entered into with such person or business.
5. The penalties identified in subsection 4 shall also apply to any business that has previously obtained proper certification and, as a result of a change in its status would no longer be eligible for certification, fails to notify the City of this information prior to responding to a solicitation or accepting a contract award.

The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Lemoore held on the 6<sup>th</sup> day of August, 2013 and was passed and adopted at the Regular Meeting of the City Council held on the 20<sup>th</sup> day of August, 2013 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
/s/  
William Siegel, Mayor

ATTEST:

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/s/  
Kristie Baley  
City Clerk

