



Legislation Text

File #: 18-056, **Version:** 1

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SUBJECT: Introduction of Ordinance Regarding Local Business Preference Policy

REPORT IN BRIEF

Considers the introduction of an ordinance allowing for a local preference policy when purchasing goods and services from vendors.

RECOMMENDATION

City Council - Adopt a motion introducing **Ordinance 2485**, an Ordinance of the City Council of the City of Merced, California, amending chapter 3.04 by adding section 3.04.215, "Local Business Preference Policy," to the Merced Municipal Code.

ALTERNATIVES

1. Introduce as requested; or,
2. Introduce with amendments (specified in motion); or,
3. Continue to a future meeting; or,
4. Deny this item.

AUTHORITY

City of Merced Charter, Section 200.

CITY COUNCIL PRIORITIES

As it pertains to stimulating the local economy.

DISCUSSION

The City purchases a variety of supplies and services as a part of doing daily business. In addition to common items such as office supplies, the City purchases landscaping materials, hand tools and various parts and supplies. The City also requires the use of non-professional services such as minor construction, including fencing of properties, towing, signage, City automobile repair, miscellaneous facility repairs and more. While many of these purchases and services are not available from vendors in Merced, others are available locally. Staff currently seeks out local vendors whenever possible.

The City Council asked staff to prepare a policy that would require the City to consider and select local businesses, when appropriate, in an effort to support, stimulate, and boost the City of Merced's local economy. Strategies that promote the use of local vendors and service provider's help retain local dollars within the community and strengthen employment. Upon adoption of the ordinance amending the City of Merced's Municipal Code Chapter 3.04 Purchasing System by adding a new

section, Local Business Preference Policy, Council can adopt a Local Business Preference Policy by resolution. By having the Local Business Preference Policy adopted by resolution it may amended by the Council from time to time without the formalities of an ordinance.

The attached resolution and Local Business Preference Policy will give a competitive preference to local industries and/or companies doing business within the City by requiring that departments consider the locality of industries and/or businesses and their sub-consultants. When more than one business or service provider is considered and they are competitively matched in terms of other criteria, local service providers should be selected. The resolution will be brought to a future meeting for adoption by Council after the attached ordinance is in full effect.

The resolution and Local Business Preference Policy provide that local businesses will be given a 5% local preference for purposes of quantitative comparisons when comparing the prices offered by bidders. Application of the Local Business Preference Policy will be for comparison purposes only when evaluating proposals and will not actually reduce the amount ultimately paid to the successful vendor. This policy will apply in all cases when the City is soliciting proposals for products or services, except as noted below:

- Services provided under a cooperative purchasing agreement.
- 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.
- Construction (public works) contracts or other contracts procured under authority which requires award to the lowest responsible bidder without an exception for a local preference criterion or which otherwise does not allow consideration of a local preference criterion.
- Contracts procured under emergency situations.
- Purchases not made through competitive bidding, pursuant to Section 3.04.210 of the Merced Municipal Code.
- When the City Manager determines that application of this policy would hinder the operational effectiveness or public benefit of the City.

The local business preference established in the policy will in no way inhibit, limit or restrict the right and obligation of the City to compare quality and fitness for use of services proposed for purchase and will compare the qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Nor will the preference established in this policy be construed to prohibit the right of the City from giving any other preference permitted by law. In addition, if the City will be paying sales tax on the purchase, the local business will have to possess a valid resale license from the State Board of Equalization showing evidence of a City of Merced address and the payment of the local share of the sales tax will have to go to the City of Merced. The local business cannot be in default or delinquent on any fee, tax or charge owed to the City of Merced.

The policy will require any vendor or consultant claiming to be a local business to provide a signed declaration when submitting their bid. The City will verify the accuracy of the declaration and will have sole discretion to determine if a consultant meets the definition of "Local Business." A Local Business will be defined as a business or consultant who meets all the following qualifications:

- Has a valid physical address located within the City of Merced from which the vendor or

consultant operates or performs business on a day-to-day-basis;

- Has conducted business in the City of Merced for at least six months prior to submittal of a qualifying bid; and
- Holds a valid City of Merced business license for at least six months prior to submittal of a qualifying bid.

IMPACT ON CITY RESOURCES

N/A

ATTACHMENTS

1. Draft Ordinance
2. Draft Resolution