



BILL NO. B-14

ORDINANCE NO. 2009-16

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTION 4-108 OF THE FRESNO MUNICIPAL
CODE, RELATING TO LOCAL PREFERENCE IN THE
PURCHASE OF MATERIALS, SUPPLIES AND EQUIPMENT.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 4-108 of the Fresno Municipal Code is amended to read:

SECTION 4-108. LOCAL PREFERENCE IN CONTRACTS REQUIRING
COMPETITIVE BIDDING. Except for those contracts funded by the federal or state
government when such funding would be jeopardized because of this preference, the Council
authorizes the Purchasing Manager to extend a preference to a local business as expressly set
forth herein.

(a) For purposes of this subsection, "local business" shall mean a business
with a fixed primary or branch office either (i) within a twenty-five mile radius of
Fresno City Hall, located at 2600 Fresno Street in the City of Fresno, or (ii) within
the County of Fresno; and which fixed primary or branch office was established prior
to the city inviting bids for the respective purchase. [Whenever the bid amount of the
lowest responsive and responsible bid exceeds five hundred thousand dollars
(\$500,000.00), the]The Purchasing Manager, in the evaluation of any and all
competitive bids for the purchase of materials, supplies, and/or equipment pursuant
to Charter Section 1208, shall extend a five percent (5%) preference consistent with
each of the following: [subsection (c) below.]

Adopted 4/7/09
Approved 4/9/09
Effective 5/10/09



[(b) For purposes of this subsection, "local business" shall mean a business (i) having a total of one hundred or fewer employees, an average annual gross receipts of twelve million dollars (\$12,000,000.00) or less over the three calendar years immediately prior to the year in which city is inviting bids for the respective purchase, and having a valid small business certification issued by the State of California; (ii) with a fixed primary or branch office either within a twenty-five mile radius of Fresno City Hall, located at 2600 Fresno Street in the City of Fresno, or within the County of Fresno; and (iii) which fixed primary or branch office was established prior to the city inviting bids for the respective purchase. Whenever the bid amount of the lowest responsive and responsible bid is less than or equal to five hundred thousand dollars (\$500,000.00), the Purchasing Manager, in the evaluation of any and all competitive bids for the purchase of materials, supplies, and/or equipment pursuant to Charter Section 1208, shall extend a five percent (5%) preference consistent with subsection (c) below.

(c) The preference in (a) and (b) above shall be extended consistent with each of the following:]

(1) The amount of the preference shall be equal to the amount of five percent (5%) applied to the lowest responsive and responsible bid; provided, however, in no event shall the amount of the preference exceed the sum of twenty-five thousand dollars (\$25,000).

(2) If the bidder submitting the lowest responsive and responsible bid is not a local business, and if a local business has also submitted a



responsive and responsible bid, and, with the benefit of the preference, the local business's bid is equal to or less than the original lowest responsive and responsible bid, the city shall award the contract to the local business at its submitted bid price.

(3) The bidder shall certify, under penalty of perjury, that the bidder qualifies as a local business. The preference is waived if the certification does not appear on the bid.

~~(b)~~(d) For purposes of this subsection, "local business" shall mean a business with a fixed primary or branch office [either (i)] within a twenty-five mile radius of Fresno City Hall, located at 2600 Fresno Street in the City of Fresno, [or (ii) within the County of Fresno;] and which fixed primary or branch office was established prior to the city inviting bids for the respective purchase. The Purchasing Manager, in the evaluation of any and all competitive bids for any public work of improvement pursuant to Charter Section 1208, shall extend a one half of one percent (0.5%) preference for a local business in award of the contracts whenever the amount of the preference, as determined in subsection ~~(e)~~(e)(1) below, is less than or equal to one thousand dollars (\$1,000).

~~(e)~~(e) The preference in ~~(b)~~(d) above shall be extended consistent with each of the following:

(1) The amount of the preference shall be equal to the amount of one half of one percent (0.5%) applied to the lowest responsive and responsible bid.



(2) If the bidder submitting the lowest responsive and responsible bid is not a local business, and if a local business has also submitted a responsive and responsible bid, and, with the benefit of the preference, the local business's bid is equal to or less than the original lowest responsive and responsible bid, the city shall award the contract to the local business at its submitted bid price.

(3) The bidder shall certify, under penalty of perjury, that the bidder qualifies as a local business. The preference is waived if the certification does not appear on the bid.

SECTION 2. If any section, subsection, subdivision, paragraph, sentence or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, paragraph, sentence and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences or phrases had been declared invalid or unconstitutional.

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SECTION 3. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the 7th day of April, 2009.

AYES : Borgeas, Brand, Dages, Perea, Westerlund, Xiong, Sterling
NOES : None
ABSENT : None
ABSTAIN : None

Mayor Approval: April 9, 2009
Mayor Approval/No Return: N/A, 2009
Mayor Veto: N/A, 2009
Council Override Vote: N/A, 2009

REBECCA E. KLISCH
City Clerk

BY: Rebecca E. Klisch
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: Stacie L. Melikian . 3/25/09
Stacie L. Melikian Date
Deputy



April 8, 2009

Council Adoption: 4/07/09
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR ASHLEY SWEARENGIN

RECEIVED

FROM: REBECCA E. KLISCH, CMC
City Clerk

RECEIVED APR 10 PM 1:08
CITY CLERK, FRESNO CA

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 4/7/09, Council adopted the attached Ordinance No. 2009-16 entitled **Amend FMC re: local small business preference in City procurement**, Item No. **1M**, by the following vote:

Ayes	:	Borgeas, Brand, Dages, Perea, Westerlund, Xiong, Sterling
Noes	:	None
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before April 20, 2009. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Ashley Swearengin, Mayor

Date: 4/9/09

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes	:
Noes	:
Absent	:
Abstain	: